



## OFFICE OF THE CONTRACTOR GENERAL JAMAICA



Goods • Services • Works

**OCG** **27<sup>th</sup>**  
ANNUAL REPORT





Any reply or subsequent reference to this communication should be addressed to the Contractor-General and the following reference quoted:-

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**JAMAICA, W.I.**

April 27, 2015

The Hon. Michael Peart, MP  
Speaker of the House of Representatives  
Houses of Parliament  
Gordon House  
81 Duke Street  
Kingston

Senator the Hon. Floyd Morris  
President of the Senate  
Houses of Parliament  
Gordon House  
81 Duke Street  
Kingston

Dear Honourable Speaker and Honourable President:

In accordance with the provisions of Section 28 (2) of the Contractor General Act, I have the good honour to submit, to you, One Hundred and Ten (110) copies of the Twenty-Seventh Annual Report of the Independent Parliamentary Commission of the Contractor General of Jamaica for calendar year 2013.

As you will recall, Section 28 (3) of the Contractor General Act mandates that Reports of the Contractor General "... shall be submitted to the Speaker of the House of Representatives and the President of the Senate who shall, as soon as possible, have them laid on the Table of the appropriate House."

I, therefore, so respectfully advise and avail myself of this opportunity to renew to you the assurance of my highest considerations.

Very respectfully yours,

Dirk Harrison (Signed)

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Dirk Harrison  
Contractor General





# OFFICE OF THE CONTRACTOR-GENERAL

ANNUAL REPORT 2013

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## THE OFFICE OF THE CONTRACTOR GENERAL – AN OVERVIEW

The Contractor General is an Independent Commission of the Parliament of Jamaica, which was established by the Contractor-General Act in 1986, which was promulgated on the 7<sup>th</sup> day of October of 1983. The Contractor General is appointed by the Governor General, by instrument under the Broad Seal, after consultation with the Prime Minister and the Leader of the Opposition. Once appointed, a Contractor General serves for a period of seven (7) years, in the first instance and where re-appointed, holds office *“for periods not exceeding five years at a time.”*

Pursuant to Section 4 (1) of the Contractor-General Act, the Contractor General monitors the award and implementation of Government of Jamaica (GOJ) contracts, with the aim of ensuring that such awards are made impartially and on merit and that *“the circumstances under which contracts are awarded or terminated do not involve impropriety or irregularity.”* Further, the Contractor General is mandated under the same section to ensure that contracts awarded are implemented in accordance with the agreed terms. The Contractor General also monitors *“the grant, issue, suspension or revocation of any prescribed licence...”*

Sections 15 (1) and 16 of the Contractor-General Act, gives a Contractor General, the discretionary power to formally investigate any matter associated with the award of Government contracts, the issuance of Government licences and permits, procurement procedures and the registration of Contractors.

The Contractor General is supported by staff employed to the Office of the Contractor General (OCG), in accordance with Section 13 (1) of the Contractor-General Act. Outside of its monitoring function, the powers of the Office are limited to investigating allegations and where necessary, making referrals to the relevant authorities for further action, pursuant to Section 21 of the Contractor-General Act. The OCG therefore functions as an Ombudsman and a referee.

As Ombudsman, the OCG discharges its mission and core operating functions through three (3) operating Divisions; namely, the Inspectorate Division (ID) which is divided into (i) the Construction Unit and (ii) the Non-Construction Contracts, Licences and Permits Unit, the Special Investigations Division (SID), and the Technical Services Division (TSD), which also functions as the Secretariat of the National Contracts Commission (NCC). These Divisions are ably supported by two (2) additional Divisions; namely, the Corporate Services Division (CSD) and the Information Systems Division (ISD).

The OCG provides technical and administrative support to the NCC through the TSD, thus enabling the NCC to effectively execute its functions as mandated under Section 23 of the Contractor-General Act.

Being cognisant of our role in ensuring that the Government procurement procedure is free of impropriety and irregularity and thus meets the highest standards, the OCG has declared this commitment in its Mission Statement, which states that:

*“The Mission of the Office of the Contractor General is to effectively discharge the requirements of the Contractor-General Act and, in so doing, to:*

- *Monitor and investigate the award and implementation of contracts, licences, permits, concessions and the divestment of government assets;*
- *Improve and make fair and equitable, the system of awarding contracts, licences, permits, concessions and the divestment of government assets;*
- *Ensure that all public sector agencies give the widest possible opportunity to qualified persons to bid for contracts and divestments or to apply for licences and permits;*
- *Create a positive image of the public procurement process by promoting integrity, professionalism, transparency, efficiency and, in so doing, to thereby engender public confidence.”*

The current Contractor General is Dirk Harrison, Attorney-at-Law and former Deputy Director of Public Prosecutions in the Office of the Director of Public Prosecutions, Jamaica. Mr. Harrison was sworn into office on February 25, 2013 and officially took up office on March 1, 2013. Mr. Harrison is the fifth (5<sup>th</sup>) Contractor General of Jamaica.

#### **PREVIOUS CONTRACTORS GENERAL:**

- Mr. Ashton Wright (October 1986 - June 1991)
- Mr. Gordon Wells (June 1991 - June 1998)
- Mr. Derrick McKoy (August 1998 - August 2005)
- Mr. Greg Christie (December 2005 - November 2012)

#### **ACTING CONTRACTORS GENERAL**

In accordance with Section 10 (1) of the Contractor-General Act, the following individuals were appointed to act as Contractor General pending the formal appointment of a Contractor General:

- Mr. Maurice Henry (June 1998 - August 1998)
- Mr. Steve Sherman (August 2005 - November 2005)
- Mr. Craig Beresford (November 2012 - February 2013)

## THE CONTRACTOR GENERAL'S INTRODUCTORY REMARKS

The Commission of the Contractor General of Jamaica is mandated under Section 28 (2) of the Contractor-General Act, to “*submit to Parliament an annual report relating generally to the execution of his functions...*” This, the 27<sup>th</sup> Annual Report of the Commission of the Contractor General, is being submitted to the Honourable Houses of Parliament of Jamaica, as a report on the operations of the Office of the Contractor General (OCG) during the calendar year 2013.

Having received feedback in relation to the packaging of the Annual Report of 2012 regarding the inclusion of sections of the Annual Report on Compact Disc (CD) instead of in hardcopy form as in previous years, the OCG has again included a CD with each hard copy of its Annual Report. As with the Annual Report for 2012, the CDs contain details of projects monitored, Summary Tables and Charts related to the OCG's operations during 2013. The hardcopy of the Annual Report therefore contains the Executive Summaries for all Divisions within the OCG. It should be here noted that packaging the Annual Report in this way has resulted in a less costly undertaking in relation to the publication and printing of the subject Report.

What exactly is corruption? The definition offered by the Commission for the Prevention of Corruption (CPC) in its “Guide to the Corruption (Prevention) Act 2000 & Regulation 2002,” defines Corruption as “*the misuse of public office for private gain for the benefit of the holder of the office or some third party.*” Transparency International (TI), the premier international organisation reporting on the combatting of corruption, defines corruption as “*the abuse of entrusted power for private gain.*” TI further states that corruption “*hurts everyone who depends on the integrity of people in a position of authority.*” Corruption of course has to be viewed through the lens of the cultural/social context of the respective country. More importantly, it is important to state that different entities may adopt different definitions, i.e., the United Nations, Transparency International, the World Bank. Consequently, a definition being referred to must be read in the context that it might not have or be of universal application.

In nearly all jurisdictions however, fighting corruption is a mammoth task by any measure. The fact that different organisations are established to counter different forms of corruption within the same territory, speaks to the magnitude of its permeation into societies. Locally, the ugliness of corruption has seemingly seeped into the psyche of Jamaicans who continue to have a difficulty with accepting certain actions as being corrupt; simply because it has become a social norm. In some instances however, persons deliberately perform acts of corruption, as ultimately, the rewards are worth (and far outweigh) the risk. In the minds of many, certain forms of corruption are acceptable, as they have existed and have ‘worked’ for many from time immemorial. As such, why change it? The general sentiment is that unless one is directly affected negatively by the act of corruption, then it is a non-issue.

It is not ‘lost on me’ that in many instances, some Jamaicans fail to see their deliberate actions as corrupt, out of ignorance as to what constitutes corruption through a deliberate act or choosing not to discern right from wrong and/or not feeling compelled to being bound by rules, laws or regulations. This reality, coupled with the fact that some practices are not subject to punishment in our society, would likely result in some persons believing that certain practices are acceptable norms and beyond incrimination.

It is perceived that corruption has cost Jamaica tremendously over the years, as millions is presumed to have been lost owing to varying acts of corruption. To put it into the context of procurement, it should be noted that the GOJ Procurement Policy is governed by seven (7) *Key Principles*; namely, (1) Value for Money, (2) Economy, (3) Efficiency, (4) Equity, (5) Fairness, (6) Transparency/Accountability (Ethical Standards) and (7) Reliability. An impartial process would therefore allow for all procurement principles to be observed and measured.



Where an entity is awarded a contract without being made to compete against other qualified Bidders, there is no way to determine whether the principles of procurement were achieved. Further, where a Bidder is furnished with information intimate to the process, which allows them to have an advantage over all other Bidders, then the integrity of the process is compromised and confidence in legitimate processes is lost, should same be discovered.

Where political persuasion influences whether one's Bid on a procurement opportunity is successful or where contracts are awarded to Contractors who are not qualified or skilled in certain areas, then there is reason for concern. Clearly, where it concerns Works contracts, if the successful Contractor is unable to perform the works in accordance with industry standards, then monies would be lost, as the works performed generally result in remedial works having to be carried out to address the purported 'completed' works. In such a case, the remedial Works would not be budgetted for, it becomes the expense of the citizens of the nation. There are of course multiple other ways in which procurement processes have been undermined but I shall not get into the details here. Suffice it to say that corruption or its perception in varying forms can take place at any stage of a procurement process.

Once a Contract has been formally awarded, even where it has been found that same was improperly awarded, the powers of termination do not reside with me. While I am aware that reversing the status quo would require changes in law to address possible implications and also dictate the circumstances under which such action could be taken, I am of the view that termination of improperly-awarded contracts should be seriously considered. Where this is the case, Government entities would ensure that greater care is taken in undertaking the procurement activity at all stages of the process. Where a contract is terminated, depending on the circumstances, the opportunity should be either re-tendered or the other previously submitted eligible Bids fairly re-evaluated and due consideration being made in the awarding of the contract.

Further, where it is found that a Contract was improperly awarded, the Officer(s) responsible should be held accountable, once it is determined that the actions of the Officer(s), in awarding the Contract, was deliberate and meant to eliminate the possibility of any other Bidder being awarded the Contract.

## **COMPLAINTS AND APPEALS PROCESS**

Currently, the OCG receives on average, five (5) complaints on a monthly basis, all alleging irregularity in procurement processes. Complaints are generally reported by Bidders, potential Bidders or concerned citizens. Once a recommendation is made relative to 'correcting' any missteps, the onus is on the public body to act in accordance with the recommendation. The fact, however, that the matter is brought to their attention, generally results in most public bodies complying with the recommendations proffered by the OCG.

It should be here noted that the procurement process in Jamaica, though having a mechanism for complaints to be received and for appeals to be made relative to any procurement process, the mechanism is not utilised to its fullest extent. It would appear that Contractors and potential Contractors are not aware of the complaints/appeal process in its entirety. In this regard, I hereby use this opportunity to direct Contractors and Procuring Entities alike to Part VIII (*Review and Appeals Process*), Sections 29, 30, 31 and 32 of the GOJ Public Sector Procurement Regulations (2008), which outlines the process in detail.

In summary, a disgruntled Contractor or prospective Contractor may initially lodge a complaint with the Procuring Entity. Where the decision by the Procuring Entity is not deemed to be satisfactory, the complainant may then escalate the complaint to the NCC. If the decision arrived at by the NCC is still found to be unsatisfactory by the complainant, then the complaint may be further escalated to the Procurement Appeals Board. Section 32 (2) of the said Regulations states that, "...*Should the NCC and the Procuring Entity fail to comply with the recommendations of the Procurement Appeals Board, the Contractor may institute proceedings for judicial review.*" The process is also outlined in Volume 1, Section 2.5 (Complaints and Appeals) of the GOJ Handbook of Public Sector Procurement Procedures (hereinafter referred to as 'The Procurement Handbook').

The OCG routinely and impartially reviews each and every complaint received to determine whether there is any merit. The internal process established by the OCG, allows for a comprehensive analysis of the respective procurement processes and based on the findings, makes recommendations where necessary. In this regard, there are instances where it is determined that there is no merit to complaints received, for example, the complainant failed to consider all variables which were outlined in the Evaluation Criteria, notwithstanding the fact that they may have submitted the lowest Bid. It is to be pointed out however, that based on the nature of the complaint or concern, the matter in question is either handled by the coordinator of the Enquiry Management portfolio within the Inspectorate Division or is escalated to the Special Investigations Division for a more comprehensive review.

In some jurisdictions outside of Jamaica, Bidders who feel that they have been disenfranchised during a procurement process, have the option of protesting the contract award, resulting in immediate action which affects the progress of the process. In the United States for instance, the filing of a protest to the relevant agency, halts the subject procurement process automatically, where the contract has not been awarded. Conversely, where there has been an award, the filing of a protest prevents the awarded Contractor from implementing the Contract. Where it is determined that the procuring entity 'erred' in awarding the Contract, a recommendation is generally made regarding remedial action to be taken. This often results in the procurement opportunity being re-tendered. It should be noted however that in all instances, conditions are attached.

Where a protest is successful, 'monetary damages' in terms of possible 'lost profits' are not awarded. However, there have been instances where 'protesters' have been reimbursed for the amounts expended in preparing the respective Proposal and sometimes the costs associated with protesting the award, to include Attorney fees. The logic behind this stance is that there is no guarantee that the protester would ultimately be deemed the preferred Bidder and actually 'win' the contract once the procurement opportunity is re-tendered, hence 'lost profits' cannot be claimed.

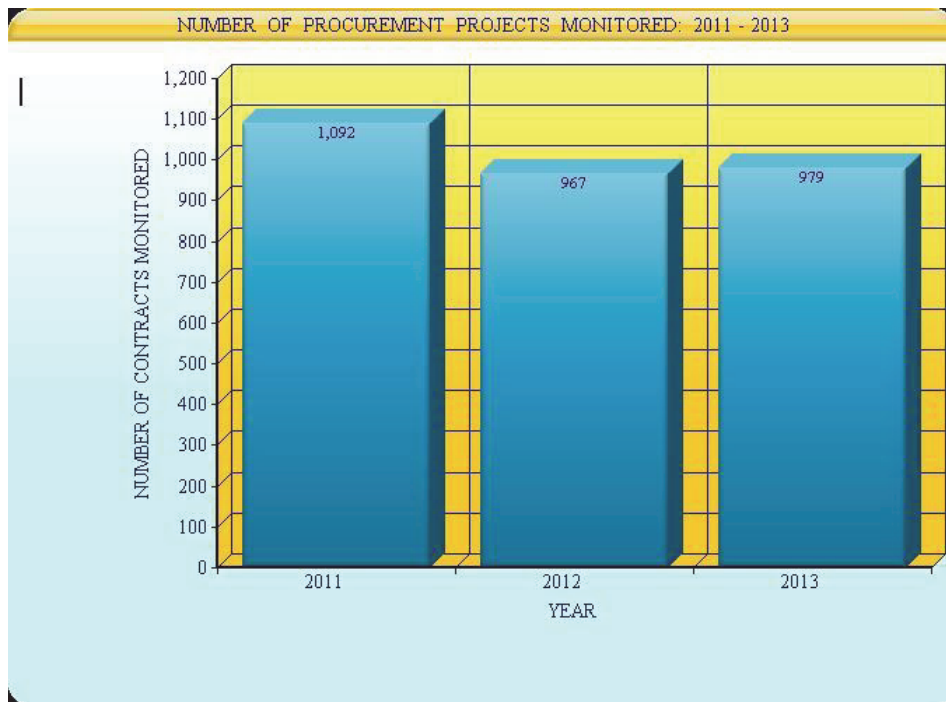
France, is a study in contrast, whereby, along with compensation for costs associated with preparing the Bid, the system allows for unsuccessful Bidders to obtain compensation for 'loss of profit' where it is determined that the procuring entity was at fault in awarding the contract to an 'undeserving' Contractor. It should be pointed out that in France, the complainant simply has to prove: (i) a breach of a procurement provision during the tendering procedure, (ii) loss and (iii) a causal link between the two (2), to be awarded damages. The legal system in France thus favours the Claimant, as under French Administrative Law, any form of breach of the law is deemed as a fault. Naturally, several factors are considered in arriving at whether any compensation is due to the complainant/Claimant.

'The Integrity Commission Act, 2014', which is the Act that will govern the impending Single Anti-Corruption Agency, once established, proposes stiffer penalties for those found guilty of committing acts of corruption. Fines and prison terms are set to be significantly increased and as such, it is my hope that the revised penalties will encourage fair and transparent procurement practices and strongly discourage manipulated outcomes.

## **CONTRACT MONITORING**

The year 2013 saw the OCG monitoring the process of a total of nine hundred and seventy-nine (979) procurement opportunities undertaken by public bodies. Of the 979 procurement opportunities monitored, six hundred and four (604) were non-construction opportunities, while the remaining three hundred and seventy-five (375) were construction-related. This number surpasses that monitored in 2012 but clearly is a small fraction of the procurement opportunities undertaken by government bodies in 2013.

The Chart below illustrates the number of procurement projects monitored by the OCG between 2011 and 2013:



Like all public bodies, the OCG operates with limited resources, including human resources. The OCG therefore tries to monitor as many procurement opportunities as is possible.

It is to be here noted that monitoring of procurement processes is undertaken by the Inspectorate Division by a total of ten (10) Inspectors, with five (5) assigned to Works-related (Construction) contracts and five (5) to Non-Works (Non-Construction) contracts.

These ten (10) Inspectors also have the added responsibility of managing and monitoring assigned Portfolios. The Portfolios managed by the Inspectorate Team in 2013 include, GOJ Asset Divestment opportunities, GOJ Land Divestment opportunities, Public Private Partnerships, Quarterly Contract Awards (QCA), GOJ Prescribed Licences, Constituency Development Fund (CDF) projects, Works Quality Management and the Enquiry Management portfolio, which looks into complaints/allegations of impropriety or irregularity in GOJ procurement processes. Special programmes/projects undertaken by the GOJ such as the Jamaica Development Infrastructure Programme (JDIP), the Jamaica Emergency Employment Programme (JEEP) and the Major Infrastructure Development Programme (MIDP) are also monitored by the very Inspectors.

As a norm, once matters of concern arise in relation to any stage of a procurement process, this Office communicates the concern to the offending public body. Over the years, the Office during its monitoring, has identified multiple instances of deviation from the GOJ procurement procedural guidelines and in all cases, communicated same to the respective public bodies and made recommendations regarding corrective action to be taken.

Details of select procurement opportunities/projects monitored by the Inspectorate Division are highlighted in this Report under Appendices III to VI, which may be found on the accompanying Compact Disc to this Report.

## Public Bodies' Non-Adherence to GOJ Procurement Procedures

During its monitoring activities in 2013, it was recognised that some public Procuring Entities continue to either disregard or are ignorant to the GOJ procurement stipulations. The areas of concern in this regard are as follows:

1. The Non-Utilisation or Improper utilisation of the Standard Bidding Document
2. Improperly-prepared or no Evaluation Criteria included in Bidding Document
3. The Non-Preparation of Comparable Estimates
4. The Non-Disclosure of Comparable Estimates at Tender Opening Ceremonies
5. Improperly-conducted Tender Opening Ceremonies
6. The failure of Public Bodies to utilise the GOJ-approved Bid Receipt and Bid Opening forms or where modified, to account for critical areas of disclosure during opening of Bids/Tenders
7. The failure of Public Bodies to establish Evaluation Committees
8. The failure of Public Bodies to obtain documented Head of Entity Approval of contract award recommendations
9. The failure of Public Bodies to prepare Contract documents

Standard practice is that where deviations are identified, the OCG formally communicates with the offending public body, advising them of same and recommending remedial action to be taken by them in addressing the matter(s) in keeping with The Procurement Handbook. It is however of great concern that some public bodies are seemingly not at the required level to conduct a proper procurement exercise. The MoFP and to a lesser extent, the OCG, have over time, been conducting information sessions in one form or another to keep GOJ Procuring Entities abreast of standard practices in procurement. It is however not lost on the OCG that the information which is being shared with public bodies is contained in The Procurement Handbook, which it is presumed is used by all GOJ procurement personnel.

Further, where Procuring Entities are unsure of the way forward in undertaking procurement activities, it is always advisable to make contact with procurement personnel in parent Ministries or other public bodies for guidance.

While the OCG tries to assist Procuring Entities where clarification is required in undertaking procurement exercises, I wish to use this forum to remind these entities that the primary role of the OCG is to monitor the procurement process from inception through to completion and also to conduct investigations into procurement processes where it is alleged that impropriety or irregularity are involved.

Where Procuring Entities consult with the OCG for advice or guidance in undertaking certain activities in relation to procurement, this Office, depending on the nature of the request, and so as not to be in conflict with its mandate, generally refers public bodies to the Procurement and Asset Policy Unit (PAPU) within the MoFP. The OCG has however, often been forced to listen to procurement personnel regularly lamenting about their inability to reach persons in the Unit and where they are successful in doing so, the response is never generally timely. This unit (PAPU) too has been affected by human resource constraints, which ultimately affects the extent to which they can assist external procurement personnel on a daily and timely basis. It is for this reason that I recommend that procurement personnel within and across Public Entities, establish working relationships with each other and assist each other where clarification or guidance is required. This of course will only be of value where the relevant parties being consulted are *au fait* with 'proper' and current procurement procedures.

In light of the foregoing state of affairs, it is becoming increasingly clear that PAPU is woefully under-staffed to carry out their mandate effectively. While they are to be commended for their achievements to date under the circumstances, it cannot be that public bodies are left to fend for themselves in navigating the 'procurement maze', as, during our monitoring it has been noted that not all procurement personnel are educated in 'proper' procurement practices. As such, they will require assistance from-time-to-time, until they are able to function independently.

### **The Non-Construction Contracts, Licences And Permits Unit Of The Inspectorate Division**

The Non-Construction Contracts, Licences and Permits (NCCLP) Unit, monitored a total of six hundred and four (604) procurement undertakings through varying stages during 2013. This represents a marginal increase over last year's figure of six hundred (600). The Unit also has responsibility for the management of certain Portfolios which are outside of the core procurement activities undertaken by public bodies. The main Portfolios managed and/or monitored by the Unit are: GOJ Asset Divestments, GOJ Land Divestments, Public Private Partnerships, GOJ Prescribed Licences and Enquiry Management, which treats with complaints/allegations of impropriety or irregularity in GOJ procurement processes. The Quarterly Contract Awards (QCA) Portfolio is also managed by the NCCLP Unit.

In 2013, the Non Construction Unit monitored a total of thirty-two (32) Asset Divestment and sixty-three (63) Land Divestment opportunities. The processes of three (3) Prescribed Licences were also monitored, along with four (4) Public Private Partnerships. Further, the Enquiry Management Portfolio saw a total of fifty-five (55) new procurement-related complaints being received in 2013. This was in addition to sixty-three (63) complaints which were brought forward from 2012, bringing the total number of complaints on record for 2013, to one hundred and eighteen (118).

Summary Reports of monitoring activities undertaken by the Unit, as well as details pertaining to the named portfolios may be found in the section of this Report which is entitled "*Monitoring of Non-Construction Contracts, Licences, Permits and Concessions.*" It is to be noted that portfolio monitoring reports represented in this Annual Report are for those undertakings which saw significant activity during 2013 and not all documented items on record for each portfolio. Further, details pertaining to the Asset and Land Divestment undertakings reported on for 2013 may be found in Appendices IX and X respectively, which are included on the compact disc attached to this Report.

#### Quarterly Contract Awards (QCA) Submissions

In relation to the QCA Portfolio, public bodies are required to submit to the OCG on a quarterly basis, particulars of all contracts awarded by them, which are in excess of J\$500,000.00. Reports are submitted to the OCG by way of its Web Portal. In this regard, the OCG saw 100% reporting compliance from public bodies in all quarters of 2013. All information submitted by public bodies is added to the QCA Consolidated Database as is.

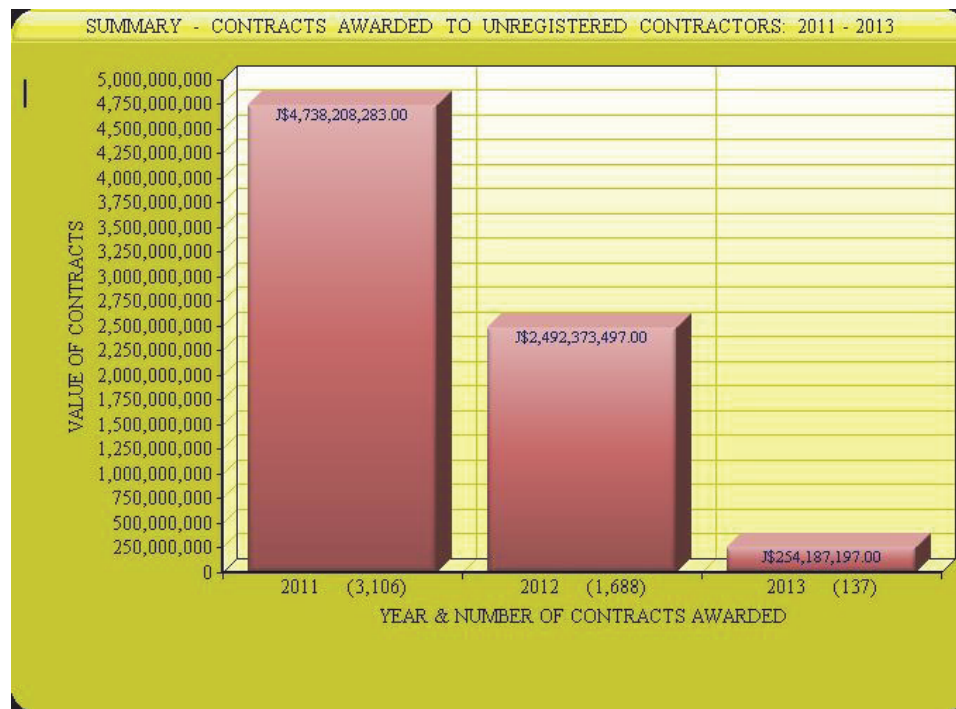
Based on the information submitted by public bodies, 8,622 contracts were reported in 2013, at a total value of J\$45,445,481,023.75. Of this amount, J\$36,185,554,551.17 represented Goods and Services contracts, with the remaining J\$9,259,926,472.58 representing Works contracts. Additional statistics pertaining to contract information submitted through the Web Portal may be found in Appendix XI which is included on the aforementioned compact disc.



### Procurement Breaches Identified Through the Review of QCA Submissions

Reports submitted via the Web Portal revealed breaches of the GOJ procurement stipulations in the award of contracts in 2013. Among the breaches noted by the OCG, was the engagement of one hundred and thirty-seven (137) unregistered Contractors by public bodies, amounting to J\$254,187,197.38. This is significantly lower than that which was reported in 2012 when a total of one thousand six hundred and eighty-eight (1688) contracts were awarded to unregistered Contractors at a combined value of J\$2,492,373,496.64, having come down from three thousand one hundred and six (3,106) in 2011, which amounted to J\$4,738,208,283.00. Though reduced in numbers, it is a grave concern that public bodies continue to award contracts to Contractors not registered with the NCC to conduct business with the GOJ.

The Chart below illustrates the number of contracts awarded to Unregistered Contractors between 2011 and 2013, along with the related Contract Values:



Another breach identified, was the failure of public bodies to obtain the requisite approvals prior to awarding Contracts within particular threshold values. For instance, it is a requirement for public bodies to seek and obtain prior approval from the NCC for the utilisation of the Limited Tender procurement methodology, for amounts in excess of J\$15M. In this regard, the OCG noted five (5) instances where the NCC was not engaged in the process as required.

In accordance with GOJ procurement stipulations, Head of Entity approval for the utilisation of the Direct Contracting procurement methodology is permissible up to a maximum value of J\$5M. Where this value is exceeded, the pre-approval of the NCC is required. It was however observed that there were seventy-one (71) instances of public bodies breaching this requirement, thus not obtaining the prior approval of the NCC under the circumstances.

It is to be noted however, that amendments made to The Procurement Handbook in early 2014, particularly addresses the engagement of unregistered Contractors under specific circumstances. The requirement for the prior approval of the NCC for the utilisation of the Direct Contracting procurement methodology has also been addressed. In this regard, stakeholders are advised to consult Appendix 6 of Volume 2 of The Procurement Handbook for the necessary details.

## Land Divestment

The OCG, as part of its mandate, through the Inspectorate Division, monitors the divestment of Government lands. Details of select divestment undertakings are documented in Appendix X, which is included on the accompanying Compact Disc to this Report.

Further to the issues identified in relation to select procurement projects being monitored by the OCG, there are also concerns related to the divestment of Government lands.

My primary concern is with the fact that there is yet to be an official Land Divestment Procedural document which guides the divestment of Government-owned lands. That being the case, public bodies have had to craft their own procedures, with the hope that the process undertaken will be deemed transparent and aboveboard. The *'Draft Policy Framework and Procedure Manual for the Divestment of Government-Owned Lands'* has been in existence for several years; however, same is yet to be passed into Law. This Office is aware that the document has gone to Cabinet for its approval on several occasions and has been reviewed and returned for further revision. It is the OCG's considered view that the approval of this important document is to be fast-tracked as a matter of priority to allow for uniformity of process across public land divesting entities.

Notwithstanding the foregoing, the OCG during its monitoring, has noted instances where Cabinet Approval has been pending for a considerable number of years on certain land divestment opportunities. In this regard, reference is made to properties being divested by Factories Corporation of Jamaica (FCJ), where the divestment of at least two (2) properties has been awaiting Cabinet Approval since 2011. In addition, the sale process for another divestment by the FCJ that had been awaiting Cabinet Approval was terminated owing to the lengthy delay. The OCG noted letter dated November 5, 2013 from the Attorneys representing the then Purchaser, which stated in part, *"This is to advise that it is a condition precedent to the sale of the above property that Cabinet grant its approval. Deposit was paid in June 2011 and to date you have not obtained Cabinet approval. The Purchaser has instructed me that they wish to withdraw from the purchase and have the deposit refunded to them which I have done."* The matter was subsequently withdrawn from those pending Cabinet Approval and the deposit refunded. The properties in question are Lot 11 Hague Industrial Estate, Trelawny, Lot 1 Corletts Road, Spanish Town, St. Catherine and Lot 138C & E Boundbrook, Port Antonio, Portland, respectively.

The state of affairs relative to the lengthy delay in approving the referenced property sales is deeply concerning, as, as demonstrated in the case of the Boundbrook property, the other two (2) sales could potentially suffer the same fate, and should this occur, the Purchasers could not be faulted for having lost interest.

In October 2013, the National Water Commission (NWC) advertised nine (9) properties for divestment. The Opening Ceremony for Offers received was conducted on November 26, 2013. The NWC under cover of letter dated November 26, 2013, in response to the OCG's request for information pertaining to the divestments, advised that the Offers received had not been evaluated, as Ministerial Consent for divestment of the properties had been requested on November 18, 2013 and was being awaited. The status of the divestments remained unchanged as at December 31, 2013. The lands referred to, are: Lot 147 Poinciana Close, Orange Bay Country Club, Hanover, Windsor Road, Spanish Town, St. Catherine, Coleyville, St. Andrew, Lots 34, 36, 37, 38, 40 and 41 Hermitage Dam Road, Red Gal Ring, St. Andrew.

While it is noted that there is no official process governing the divestment of State lands, I here submit that I am of the belief that it would have been more prudent for the NWC to have sought Ministerial consent prior to advertising the properties for sale. That said, there is no telling when same will be granted and in the meantime, prospective purchasers will be expected to wait patiently until Ministerial consent is obtained.

In addition to the foregoing matters that are of concern to the OCG, it has been noted that Government properties are being divested without the use of current Valuation Reports. The OCG has noted Valuation amounts from 2010 being utilised as benchmark figures for property divestments. For instance based on information submitted to the OCG, the aforementioned properties located on Hermitage Road, Coleyville and Poinciana Close which were advertised by the NWC in 2013, had Valuation Reports dated 2010, while that for the Windsor Road property was dated 2011.

While there is no official valuation period to be considered for property divestment, owing to the absence of a GOJ Manual on the divestment of State lands, it is my considered view that a Valuation conducted three (3) years prior should not be utilised to determine the current value of a property, let alone, be used as the actual value of the property, as same is dated and is highly unlikely to reflect the true value of the property. Standard practice is for property Valuations to be between six (6) months to one (1) year old to be considered valid and acceptable. It is therefore being recommended that until the GOJ Procedures Manual for land divestment is approved and implemented, this period be adopted.

### **The Construction Unit Of The Inspectorate Division**

The Construction Contracts Unit monitored a total of three hundred and seventy-five (375) procurement undertakings through varying stages during 2013. This is a slight increase when compared to the 2012 figure of three hundred and sixty-seven (367).

Like the NCCLP Unit, the Construction Unit along with its regular monitoring duties, has responsibility for the management of certain portfolios. The main Portfolios managed and/or monitored by the Unit are: Constituency Development Fund (CDF) projects, Works Quality Management and select programmes/projects undertaken by the GOJ, such as the Jamaica Development Infrastructure Programme (JDIP), the Jamaica Emergency Employment Programme (JEEP) and the Major Infrastructure Development Programme (MIDP). The Unit also closely monitors Contract Cost Overruns and Variations (CCOV).

Owing to the nature of the Unit, Inspectors are required to, as often as our resources allow, be in the field visiting Work Sites and also attending scheduled Site Meetings. These are critical aspects of the procurement and contract implementation processes and serve to aid Inspectors in (1) properly monitoring assigned projects, (2) allowing for intimate knowledge of the projects and (3), identifying any matter of concern relative to the Works being performed.

### **Contracts Awarded Utilising the Emergency Contracting Procurement Methodology**

The Unit undertook a special assignment which required certain public bodies to submit details of contracts awarded utilising the Emergency Contracting procurement methodology. The exercise was undertaken in an effort for the OCG to gain an appreciation of how these entities were utilising the methodology and in so doing, if same was being done in accordance with the GOJ procurement procedure. The response also allowed for the OCG to ascertain the values of the contracts awarded.

The public bodies from which the referenced information was requested were: Petrojam Limited, National Water Commission, National Works Agency, National Solid Waste Management Authority, The National Housing Trust, The Ministry of National Security and the Ministry of Local Government and Community Development (including all Parish Councils and Municipal Offices). Details of the individual submissions by each entity may be found in the section entitled "*Monitoring of Construction Contracts*" of this Report pertaining to the subject Unit. Based on the information submitted to the OCG, a combined value of approximately J\$2.02 Billion was either expended or awarded as contracts by the entities.

Amendments made to The Procurement Handbook in early 2014, address the matter of contracting under emergency circumstances and as such, stakeholders are encouraged to visit Section 1.1.5, Volume 2 of The Procurement Handbook.

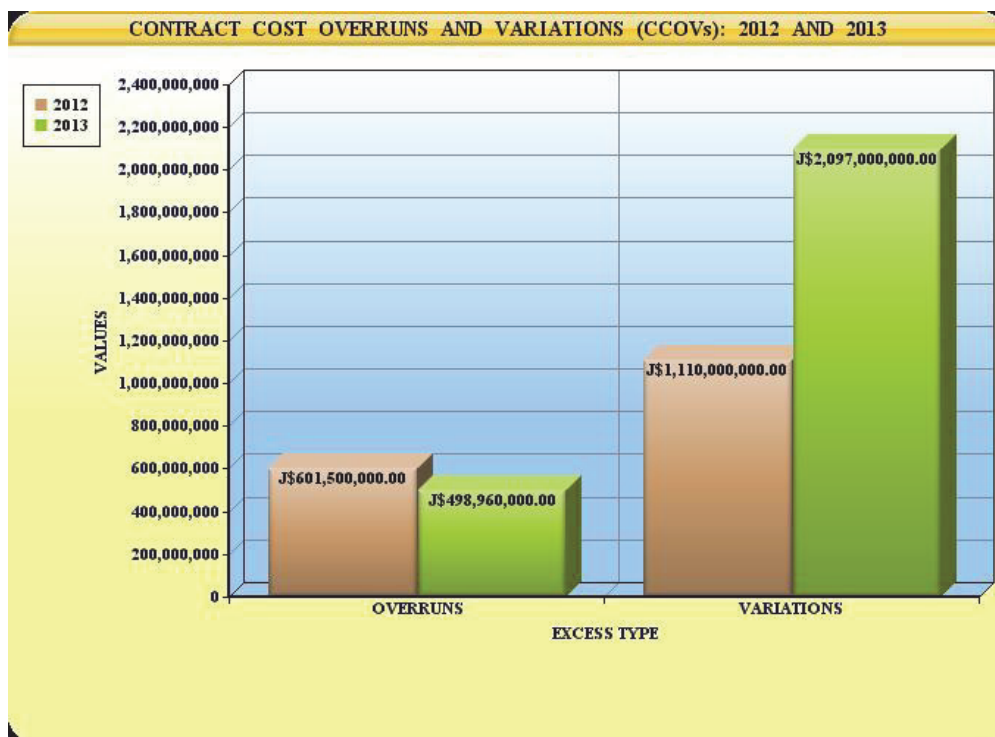
### Contract Cost Overruns and Variations

With regard to Contract Cost Overruns and Variations (CCOV), a total of two hundred (200) public bodies were requisitioned for information pertaining to the procurement of goods, services and works valuing in excess of J\$500,000.00 in 2013.

Of the 200 entities requisitioned, one hundred and one (101) reported contracts with an approximate combined value of J\$19 Billion, with occurrences of CCOV at a combined value of approximately J\$2.59 Billion.

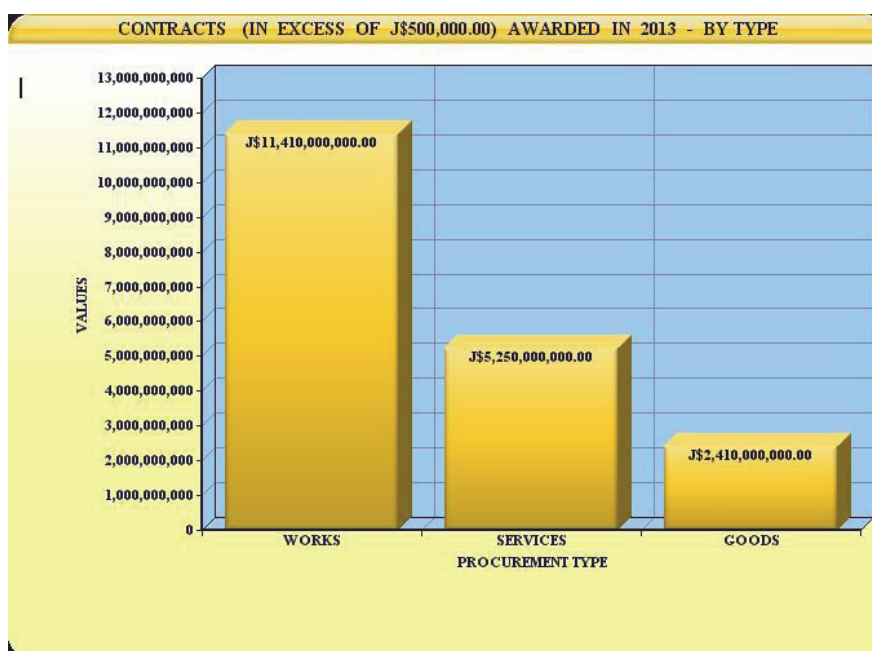
Of this amount, approximately J\$499.0 Million was for Contract Cost Overruns, while approximately J\$2.1 Billion was for Contract Variations.

The Chart below illustrates the values of CCOVs for Contracts awarded in 2013, which were in excess of J\$500,000.00:

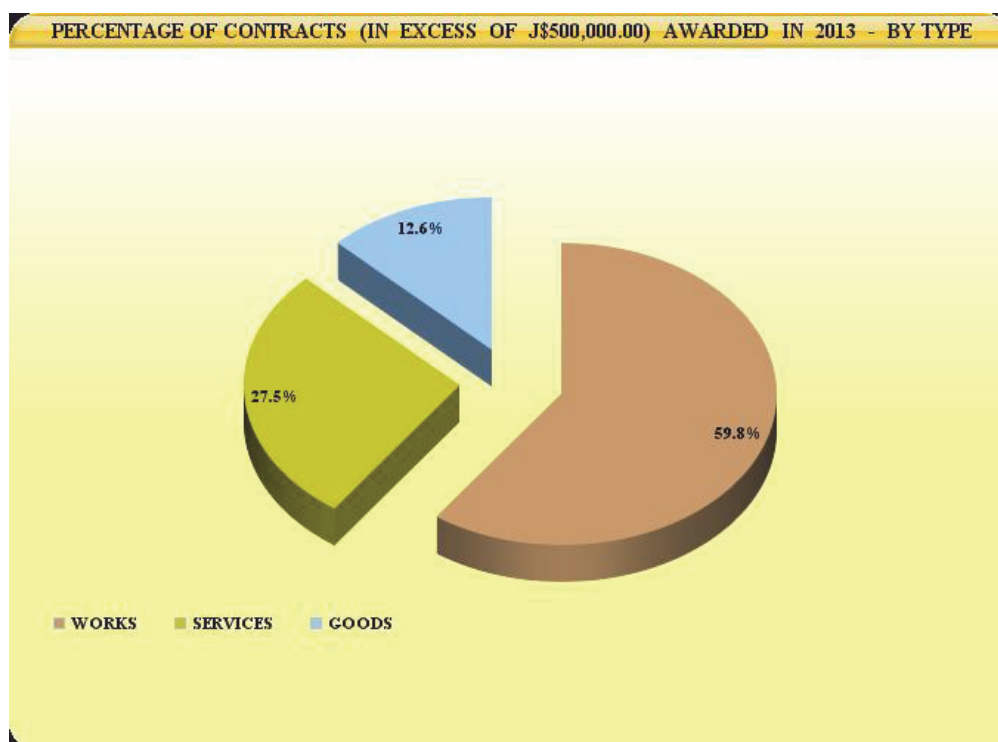


Works Contracts accounted for J\$11.41 Billion (59.8%), Services Contracts, for J\$5.25 Billion (27.5%) and Goods Contracts, J\$2.41 Billion (12.6%).

The Chart below illustrates the combined value of Contracts awarded in 2013, which were in excess of J\$500,000.00:



The Chart below illustrates the percentage of Contracts awarded in 2013, which were in excess of J\$500,000.00:



Summary Reports of monitoring activities undertaken by the Unit, providing further details pertaining to the named Portfolios and more detailed information on CCOVs may be found in the section of this Report which is entitled '*Monitoring of Construction Contracts*'. Additionally, certain major projects and undertakings of national import are specially highlighted in the said section.



### Circulars Pertaining To Procurement Issued By The Ministry Of Finance And Planning In 2013

In December 2013, the Ministry of Finance and Planning (MoFP) issued *Circular No.: 33*, which served to remind public bodies that Procurement Notices were to be published through the Jamaica Information Service (JIS). The Circular read in part:

*"The JIS is solely responsible for the issuance of GOJ procurement notices via the Public Procurement Page. No Procuring Entity is to advertise procurement opportunities outside of this facility."*

The Circular further stated that:

*"... Procurement Notices ...must also be publicized as follows:-*

- a) On the respective Procuring Entity's website or on its Portfolio Ministry's website; and*
- b) The Office of the Contractor General's (OCG) Government of Jamaica Electronic Procurement Notice Board...*

*Failure to adhere to the directives contained in this Circular will constitute a breach of the GoJ Public Sector Procurement Regulations, 2008"*

This directive from the Ministry was as a result of this Office writing to said Ministry which functions as the Manager and Owner of the GOJ Public Sector Procurement Procedures, advising them that the OCG through its monitoring, had noted that public bodies had not been complying with the dictates of *Circular No.: 28*, which was issued in October 2013 and were instead publishing Procurement Notices directly. *Circular No.: 28* served to centralise the publication of Procurement Notices by public bodies, thus mandating all public bodies to advertise procurement opportunities through the JIS.

In spite of the issuance of both Circulars however, the OCG found itself having to write to several public bodies, advising them of the contents of said Circulars, while at the same time informing them of their having breached the directives contained therein. In all instances in this regard, the offending public bodies stipulated, that they were ignorant to the existence of the Circulars and subsequently adhered to them only as a result of this Office making them so aware.

The MoFP has been consistent in including in its Circulars, that *"Permanent Secretaries, Heads of Department, Chief Executive Officers and Heads of Procuring Entities are advised to bring this circular to the attention of all affected personnel"* or a variation of same. In addition to being forwarded to Ministries of Government, Circulars are also published on the website of the MoFP once issued. However, in spite of this, the OCG has noted other instances of procurement personnel within public bodies not being aware of Circulars issued by the MoFP in relation to procurement matters.

In light of the foregoing, it is advisable that Heads of Entities ensure that someone is identified internally to occasionally check the Ministry's website for any newly-issued Circulars specific to procurement. In so doing, the relevant parties will be kept abreast of any amendments or advisories in relation to procurement matters.

### Procurement Processes Monitored Which Are Of Concern To The OCG

I have taken the liberty of here highlighting a few projects monitored, which were of concern to the OCG during 2013. Though the processes related to the progress of these procurement undertakings have been documented in detail in the referenced Appendices, the issues identified are worth highlighting, as they are of concern, to say the least.

My aim here is not to embarrass or discredit any Government institution but to bring to the attention of all concerned, the importance of proper planning and due diligence relative to all aspects of proposed procurement undertakings. It is hoped that the respective organisations have since put the necessary measures in place to guard against similar occurrences and that other entities will note the deficiencies indicated and take steps to ensure that the same 'errors' are not made by them.

1. Ministry of Justice – Consultancy Services for Justice Square – Demolition Works and Interior Construction at 52-54 King Street, Kingston

*The details of the preliminary stages of this project may be found on Pages 580-582 (Reference Number: PPCM-552) of the OCG's Annual Report of 2011 and is indicated as GCM-5552 in this, the Annual Report of 2013.*

Monitoring of this procurement opportunity by the OCG commenced in 2010, however the Tender process was undertaken in 2009 and the Limited Tender procurement methodology, which was approved by the National Contracts Commission (NCC), was utilised to invite eight (8) potential Bidders. At the submission deadline, three (3) Tenders were received and subsequently evaluated. Upon evaluation, Harold Morrison + Robert Woodstock Associates Limited was recommended and subsequently awarded the Contract in the amount of J\$52,110,000.00, after negotiations. It should be here noted that the Comparable Estimate for the project was J\$52,600,000.00 and the original amount proposed by the successful Consultant was J\$55,110,000.00.

The OCG noted that though the Consultant commenced offering its services in July 2009, the Contract was signed on November 24, 2009. This observation was communicated by the OCG to the Ministry, and we were advised that the Consultants were informed that Cabinet Approval of the contract award had been obtained and as such, *"they accepted in good faith our request to commence the process..."*

The OCG further noted that a completion date **was not** indicated in the Contract. The then Project Manager indicated that the duration of the Consultant's Contract was contingent on the completion of Works by the Contractors for the various phases, of which there were three (3).

The OCG also noted with concern, the payment terms of the Consultant's Contract, which specified a "Cost of Services Ceiling" of thirteen percent (13%) of the final construction cost of the project. This concern was further heightened upon receipt of a Project Update Report in March 2011, which indicated that the Consultant informed the Ministry that the Construction Phase had advanced with cost estimates for Phase 1 amounting to \$698,476,552.54 (the cost estimates were the cumulative proposed contract prices of the selected construction Contractors). The construction cost had increased from the original estimate of J\$402,000,000.00, to an estimated J\$698,676,552.54. Based upon the payment terms of the Consultant's Contract, the Consultant's fees would amount to an estimated sum of J\$90,801,851.83.

The OCG, in an effort to gain a better appreciation of the Terms and Conditions of the subject Contract, invited representatives of the Ministry to a meeting in April 2011. Based on the matters arising out of said meeting, the OCG in August 2011 wrote to the Ministry, outlining thus:

- "i. There are no provisions outlined in the Contract, for the management of variations in the Consultant's contract, in light of potential increases in the construction costs for the project;*
- ii. No payment schedule was included, which would guide the MOJ in the administration of payments to the Consultant;*
- iii. The Contract document does not distinguish the scope of work to be included in Phase 1 and Phase 2 of the project; and*

- iv. *No project milestone schedule was included, which would guide the progress of the Consultant's deliverables and the construction phase of the project*

*....given the variable nature of the aforementioned payment terms... the value of the Contract was intrinsically unrestrained and does not allow for the levels of control which are required for proper budgeting.*

*...the OCG questioned the MOJ's ability to respond to the increase in the cost of the project and, by extension, to the estimated increase in the Consultant's fees.*

*...Having regard to the foregoing, the OCG strongly recommends, that the MOJ carefully reviews the conditions of contract for all future procurement opportunities of this nature, with particular reference to the Terms of Payment."*

In light of the estimated amount which was to be paid to the Consultant, the Ministry in July 2011, requested the endorsement of the Contract Variation, as indicated above.

The NCC, upon receipt of the referenced letter, requested further and better particulars, which were provided. The matter was considered by the NCC in October 2011, which recommended that the Ministry negotiate a reduced percentage based on the significantly increased scope of works.

However, the Ministry advised the NCC in November 2011, that *"...a meeting was convened with the Consultant/Architect on November 4, 2011. After very lengthy discussions, the Consultant/Architect agreed to negotiate on future works; however, there is no change to the percentage on works already completed and billed to the Ministry of Justice. Therefore, the fee of \$90,801,591.83 stands ..."*

In light of the foregoing, the NCC, at its meeting held on November 23 2011, offered its 'no objection' to the aforementioned amount for work already completed. Cabinet Approval was received on December 5, 2011.

The OCG, in keeping with its monitoring activities continued to request updates on the Consultancy Contract over time. It was noted that the information received from the Ministry, in large part, was in relation to the construction aspect of the project. As such, direct communication was made with the then Project Manager to clarify the matter. However, upon once again receiving construction-related information from the Ministry, under cover of letter dated August 28, 2013, which was in response to the OCG's request of August 14, 2013, the OCG wrote to the Permanent Secretary under cover of letter dated October 16, 2013, stating the Ministry's failure to satisfy the OCG's request and thus requested information specific to the Consultant.

The Ministry submitted a Status Report specific to the Consultant as requested, along with supporting documentation, under cover of letter dated October 31, 2013.

The following statements are extracted from the Ministry's response and brings into sharp focus, the monitoring **(or lack thereof)** of the Consultant's performance by the Ministry and the questionable Terms under which the Consultant was engaged

- "o ...based on complaints received from end users...it is clear that expectations were not being met.*
- o During the design and planning of the project there are issues that are normally considered, in best practice, that were clearly not considered...*
- o ...it is the opinion of the Ministry that the consultants fell short of what can be considered, reasonable expectations.*

- o ... the consultants should have provided the leadership required of them as professionals in their field; as it became clear to the Ministry, shortly after construction had started, that the proposed phasing was poorly conceived...
- o Of concern to the ministry however, was the day to day supervision of the project, and so it was recommended to the consultants that a Clerk of Works be appointed...The consultants took the view that the Ministry should undertake that appointment. A clerk of Works was never appointed.
- o Insufficient detail on payment certificates for Contractors on site
- o Complaints from contractors regarding unresponsiveness of consultants
- o It is the opinion of the Ministry that, with respect to the Contract between the Consultants and the Ministry, there were many areas of weakness.
- o It is felt that insufficient attention was paid to advising the Ministry about changes in the project budgets, and the impact that those changes would ultimately have on Professional fees. There is no record to show that they fulfilled their obligation to inform the Ministry when critical financial milestones in the life-cycle of their contract were reached.
- o Despite many attempts the consultants have always been unwilling to renegotiate fees on a project that has seen final construction estimates in the order of four (4) times the figures originally projected.

... Where in the opinion of the Ministry, the consultants have done a satisfactory job with the administration of the construction contracts; the Ministry's view that the administration of their own contract and the fulfilling of their responsibilities to the Ministry were unsatisfactory."

The Ministry further stated that the Consultants had produced work which was "aesthetically pleasing to all those who have had the opportunity to see it. However, there are areas of functionality... that in the Ministry's opinion, are not adequate."

Based on the foregoing, the OCG on December 18, 2013, enquired of the Ministry, *inter alia*, what, if any action had been taken by the Ministry against the Consultant in relation to its unsatisfactory performance and whether legal advice had been sought by the Ministry in negotiating with the Consultant.

In response, the Ministry advised that the contract with the Consultant was terminated on October 9, 2013 and that the Consultancy aspect of the project was taken over by the Project and Allied Services Unit within the Ministry. The OCG was further advised that, "No legal support was procured by the Ministry to assist in the negotiation of the contract." The Ministry advised however, that advice was sought from both its Internal Audit and Legal Services Units in settling the Contract.

As at December 31, 2013, a total of J\$112,271,382.02 had been paid to the Consultant and there was an outstanding balance of J\$14,623,624.20. Upon final payment, the total amount will therefore be J\$126,895,006.22.

## 2. National Water Commission - Procurement of an Integrated Water Management System (IWMS)/Supervisory Control And Data Acquisition (SCADA) System - KMA Water Supply Improvement Programme

The details of the preliminary stages of this project may be found on Page 467 (Reference Number GCM-7392) of the OCG's Annual Report of 2012 and is indicated as PPCM -15121 in this, the Annual Report of 2013.

The subject procurement opportunity was originally for the Kingston and St. Andrew System and was advertised in July 2012. However, the Scope of Works was subsequently expanded into an island-wide system and as such, the original submission deadline was extended from September 11, 2012 to October 18, 2012. The Projected/Budget was also increased from US\$9,500,000.00 to US\$18,000,000.00, owing to the change in the Scope of Works.

Seven (7) Tenders were received at the submission deadline, which were evaluated. The evaluation of the Technical Proposals had two (2) stages, Stage 'A1' was based on literature submitted in relation to the proposed system and Stage 'A2' involved physical on-site visits to overseas facilities where Bidders had their respective proposed systems installed. This stage allowed National Water Commission (NWC) personnel to witness the operation of Integrated Water Management System (IWMS)/Supervisory Control and Data Acquisition (SCADA) systems, to determine their suitability for the NWC.

Three (3) Tenders were deemed non-responsive upon completion of Stage A1 and as such, were not considered for the second stage of the Technical Evaluation. The second stage of the Technical Evaluation saw visits being made to four (4) overseas facilities to observe on-site operations of the systems.

Upon completion of the Technical Evaluation, only two (2) advanced to the opening of the Financial Proposals. The Inter-American Development Bank (IDB) granted its Non-Objection in February 2013. The evaluation process for Financial Proposals was completed in March 2013, upon which the Tender attaining the highest score was recommended for the award of contract. Procurement Committee approval was obtained in March 2013.

Documentation obtained by the OCG indicates that the recommendation for contract award was submitted to the NWC's Board of Directors, upon receipt of which, they communicated their concerns to the Management Team. Among the concerns expressed by the Board were the:

- *"Scale/Cost of implementation*
- *NWC's readiness for SCADA*
- *Risk of implementation as it relate [sic] to other works that may be required at the facilities where SCADA is to be implemented*
- *Security at some of the proposed facilities*
- *Purpose of the audit in the RFP"*

In an effort to satisfy the concerns highlighted by the Board and to gain an appreciation of the SCADA System, a second Site Visit was conducted to facilities in Florida, USA, with similar systems. Two (2) members of the Board as well as NWC Management personnel visited the Sites.

Subsequent to the referenced Site Visits, the NWC in an Addendum to the Evaluation Report, advised thus:

*"With respect to concerns regarding the NWC's readiness of SCADA [sic] and the expectations from the audit, it was contemplated that either an individual Consultant or internal resources of the NWC could be utilised to do a preliminary audit. Efforts were made to engage a Consultant and we received IDB's non objection in July 2013 for this; however it was subsequently felt that an individual would not be able to conduct such an audit as one person would not possess expertise in the different technical areas required to satisfactorily address the concerns.*



*Subsequently, a rapid desk study was undertaken by NWC personnel to provide a status of the facilities. Resource constraints however did not make it feasible for NWC to do a thorough audit of all the facilities in a timely manner. The efforts to address the concerns delayed a decision being taken by the Board.*

*After further consideration of all the issues, the NWC's Board did not approve the IWMS/SCADA procurement at its meeting on November 6, 2013. They expressed concerns regarding the approach to implementation as proposed as well as the scale of the implementation."*

Based on the Board's deliberations, the subject procurement process was aborted.

3. Ministry of Youth and Culture - Construction of Youth Information Centre and National Youth Service Training Centre, 42 Young Street, Spanish Town

*The details of this procurement undertaking are indicated as PPCM - 4401 in this, the Annual Report of 2013.*

The subject procurement opportunity was for the construction of a Youth Information Centre, and National Youth Service Training Centre which comprises a two-storey structural steel and concrete framed building with concrete and steel foundation, block and steel and gypsum infill walls and roof of concrete on metal deck, mechanical services for air conditioning/ventilation and plumbing for toilets and kitchenette along with electrical and data services.

The procurement opportunity was advertised for a second time in April 2011; the previous process having been terminated. Five (5) Tenders were received at the submission deadline in May 2011, which were evaluated and the contract subsequently awarded to Rogers Land Development Limited in January 2012, in the amount of J\$70,801,165.00. The project commenced on February 20, 2012 and was scheduled to be completed on January 30, 2013.

Documents obtained by the OCG indicate that errors and omissions in the Bill of Quantities (BQ), along with unforeseen and new Works, resulted in two (2) significant Variations totalling J\$18,876,160.47, which increased the Contract Sum to J\$89,667,325.00. The process related to the corrections to the BQ and approval of the Variations which took approximately six (6) months to be completed, was a major contributor to the delays experienced over the period.

The following were cited by the Ministry as being among the major challenges experienced in relation to the project:

1. Unforeseen Architectural challenges which had to be corrected before Works could proceed;
2. Omissions from the BQ and inadequate Architectural details, which resulted in the true cost of the project being understated and ultimately in Variations which had to be approved by Cabinet;
3. Resource constraints on the part of the Contractor which translated to:
  - a) Expiration of the Contractor's Performance Bond and Insurance, the renewal of which took approximately three (3) months, during which time no work could be done on site;
  - b) Contractor's inability to purchase required materials and supplies;
  - c) Unsatisfactory response time (on occasion) to queries and processing of Claims on the part of the Architect and the Project Manager (Construction);

- d) The protracted time taken by the Ministry to sign-off on the Cabinet Submission and forwarding same to the Cabinet Office for approval. As such, *"...No items of work included in the variations could be implemented until approval was received (December 2, 2013; PIU notified December 23, 2013)."*

The Ministry informed the OCG that, *"the NWA advised against terminating the Contract in mid-2013 (when it became apparent that the Contractor was experiencing resource constraints) on the grounds that:*

- a. *at the time the problem was widespread for Grades 1 and 2 contractors and*
- b. *the potential costs of terminating the contract and finding another contractor would further escalate the cost of the project."*

The Ministry further reported that, in light of the foregoing, they initiated the use of direct payments (to Suppliers) from the PIU (treated as payments to the Contractor). The Project Management Team (NWA) was reconfigured and a revised approach to the supervision of the project was undertaken.

As at December 31, 2013, the project was significantly behind schedule owing to the challenges experienced.

4. Ministry of Transport, Works and Housing - Jamaica Development Infrastructure Programme (JDIP) - Fern Gully Restoration & Rehabilitation Programme , Stage III, Civil Works

*The details of this procurement undertaking are outlined in PPCM-8452 in this, the Annual Report of 2013.*

The subject procurement opportunity *involved the construction of reinforced concrete storm water drains, box culverts, pedestrian sidewalks, protective handrails and the rehabilitation of the existing asphaltic concrete roadway.*

This, the Fern Gully Restoration and Rehabilitation Project is one of the major projects under the Jamaica Development Infrastructure Programme (JDIP), for which China Harbour Engineering Company Limited (CHEC) is the main Contractor.

On August 20, 2009, the Contract was signed between the then Ministry of Transport and Works (MTW) and CHEC. Y.P. Seaton & Associates Company Limited (YPS) was engaged as the Sub-Contractor for the Works to be carried out on the project. The work was divided into two (2) phases and was reported to have been executed concurrently.

At the end of 2012, the National Works Agency (NWA) reported that, *"the works in the Fern Gully were fraught with challenges ranging from land acquisition issues, dust issues, the inclement weather and complaints from Tourism interests in the town of Ocho Rios... The construction of the culverts, as well as the rehabilitation of Milford Road is progressing as vehicular traffic can once again use the road. As for the progress of works, this is estimated to be 71% complete and under a revised programme is projected to be completed by the end of February 2013."* It is to be noted that Works on the project was suspended between January 2012 and May 2012.

Details in relation to the Works undertaken on the subject project prior to 2013, is outlined in PPCM-8452, which may be found on pages 234-235 of the Annual Report of 2012.

Documents obtained by the OCG indicate that during 2013, progress on the project was significantly behind schedule owing to challenges faced by the Contractor and the failure of to fulfill certain obligations. For instance, it was noted that at the Site Meetings of May 2, 2013, June 6, 2013, July 4, 2013 and up to the final Site Meeting for 2013 on October 3, 2013, the Contractor was reminded to undertake Works related to the patching of Breadnut Hill. Similarly, the Contractor was repeatedly reminded that the concrete joints in Stage II of the project needed to be sealed. Matters related to the relocation of NWC pipes were also cause for concern as progress of same was repeatedly reported as being protracted. There were also issues pertaining to the quality of the works performed, particularly as it relates to finishing. It was further noted that the NWA Resident Engineer/Meeting Chairman, at all Site Meetings, expressed concern regarding the general slow progress of the Works.

At the Site Meeting of September 5, 2013, the project was estimated at 94% complete. The Final Site Meeting for 2013 was held on October 3, 2013.

In a letter which was dated December 27, 2013, the OCG wrote to the NWA regarding the *“Fern Gully Restoration and Rehabilitation Project, ‘Take-Over Inspection’”* which was conducted on November 7, 2013. The OCG stated, *inter alia*, that:

*“...during the referenced activity, the OCG’s representatives observed that a significant amount of the finishes to the sides and inverts of the reinforced concrete ‘U’ drains appeared rather coarse... the OCG requested that the NWA ‘(a) indicate the Contract specifications as it regards finishes to the sides and inverts of the reinforced concrete ‘U’ drains, (b) indicate the type of finish to the sides and inverts of the reinforced concrete ‘U’ drains, for which the Contractor was paid, (c) if finish b is not as per Contract, state whether said Contract specifications were changed... Additionally, the OCG noted that in general, the majority of the concrete works to the reinforced concrete ‘U’ drains, were aesthetically unappealing, and... respectfully requests that the NWA impress on its representatives the need to ensure that good quality works, inclusive of finishes, is attained in the execution of any project under its purview.”*

The expected response date was January 10, 2014.

As at December 31, 2013, the NWA reported that the project was substantially completed on November 7, 2013 and the ‘Taking Over Certificate’ had been issued for both Stage II and Stage III of the Project. Both stages were in the Defects Liability Period which is scheduled to end on November 6, 2014.

The NWA reported that the main issues that negatively impacted the progress of the project were: (a) delays experienced between January and May 2012 and again between January and March 2013, (b) the general slow progress of the Works by the Sub-Contractor due to cash flow challenges, (c) rock excavation and (d) the relocation of the NWA pipes along the alignment of the 2.5m x 1.5m U-Drain from May to October 2013. There were no Material or Labour Fluctuation Costs reported.

Documents obtained by the OCG, indicate that nineteen (19) Variation Orders were approved up to December 31, 2013 and that the Contractor had not submitted any formal request for an Extension of Time. The NWA had however received revised Work Programmes. Of significant note, is that the Contractor did not submit any official correspondence explaining the suspension of the Works during 2012. Further, no Labour or Material Fluctuation Costs were reported.

##### 5. Ministry of National Security – The Development of Secure Internet Portal and Website for the Ministry of National Security

*The details of this procurement undertaking are outlined in PPCM - 5782 in this, the Annual Report of 2013.*

This project was previously reported on in the Annual Report of 2011 as PPCM-5782 and may be found on page 583.

The Contract for Phases I and II was awarded in 2006 to Illuminat (Jamaica) Limited. Phase I was for the Provision of a Turnkey Solution to the Jamaica Constabulary Force (JCF) and the Department of Correctional Services (DCS) and Phase II was for the Provision of Data Entry Services. Phase III - Development of Secure Internet Portal and Website for the Ministry of National Security was awarded to IBM World Trade Corporation in June 2008, with a scheduled completion date of July 18, 2009.

Significant delays have been experienced on this project for varying reasons. A Status Report on the project indicated that as at December 31, 2013, the Ministry reported that “...*phase I of the Portal Project has been completed. However, there is no schedule for the completion of phase II at this time. There continues to be a myriad of issues surrounding the implementation of phase II despite the contracts with Illuminat (Jamaica) Limited now being closed out.*” Documents obtained by the OCG indicate that IBM World Trade Corporation has been contracted to complete Phase II of the project. The MNS further reported that “...*all activities are now on hold pending policy directive and discussions with Fiscal Services Limited.*”

Though not highlighted here in detail, I wish to also call attention to the following procurement undertakings, the processes for which are equally concerning and which are detailed in this Annual Report as:

- The Design and Construction of the Air Traffic Control Tower at the Norman Manley International Airport in Kingston (OCG Reference No PPCM-7092)
- The Design and Construction of the Air Traffic Control Tower at the Sangster International Airport, Montego Bay, St. James (OCG Reference No PPCM-11192)

These projects and the related issues were highlighted in detail in the Annual Report of 2012 and are also mentioned under the section of this Annual Report entitled ‘*Monitoring of Construction Contracts*’.

The issues associated with the cases highlighted above are of concern. I am of the considered view that had certain action been taken by the public bodies concerned, much of the noted issues could have been avoided. It cannot be overemphasised that close monitoring of Contractors to ensure that agreed terms and conditions are being met is to be a matter of priority in procurement undertakings. Also, all possible variables in the drafting of Contracts are to be carefully considered, along with the preparation of Tender Documents.

On another note, the OCG wishes to express its concern with regard to the due diligence (or lack thereof) conducted by public bodies prior to commencing the subject procurement processes. This, given the extent of the human and financial resources expended on the respective projects on the part of both the potential Contractors and the Procuring Entities alike, which, in my view, could have been avoided, had all variables been considered and diligently reviewed prior to embarking on such undertakings.

The procurement processes did not only affect the Public Bodies but also the Bidders who would have invested a considerable amount of money, time and effort into submitting the best possible Tender, in an effort to be considered for the award of contract. They, in some instances would have won a contract but would be later faced with challenges over which they had no control and would have in other instances, had resources which could have been otherwise utilised for the continued growth and development of their respective businesses.

The OCG recognises that there are instances where the contracted party ends up benefitting from contracts, at the expense of the Government, owing to the untidy way in which the process was undertaken and also the conditions attached to the Contract, which favours the Contractor. The public body would have, in all instances, have been at fault owing to the approach taken to the undertaking of the procurement opportunity.

In the foregoing regard, the OCG hereby implores all public bodies to ensure that proper planning is undertaken for all future procurement opportunities and where there is doubt of any kind, terminate the process at the earliest stage possible and review the approach being taken. In addition, once contracted, public bodies need to closely monitor not just the process but also the Contractor/Consultant and the agreed deliverables to ensure that all commitments are being met and at the required level and stages. In all instances, the Contractor and public body alike should be made to be accountable for their actions. With such an approach, the fallout will be less debilitating in the long run and the concept of value for money will be honoured.

### **THE CORPORATE SERVICES DIVISION**

The Corporate Services Division (CSD) is comprised of the Human Resource Management Department, the Registry, the Office Management Department and the Finance and Accounting Department.

In 2013, eight (8) new staff members joined the OCG. The staff complement at the end of December 2013 was sixty-one (61), which was two (2) less than the staff complement of sixty-three (63) approved posts.

Training of staff is a priority for the OCG and as such, staff benefitted from participation in forty (40) training opportunities in 2013, which were relevant to the mandate of the OCG and included seminars and workshops locally and internationally. The feedback from participants has been positive in all instances and in keeping with our ongoing commitment to personal and professional growth of staff, this Office will continue to seek out worthwhile training opportunities. Details on training opportunities undertaken by the OCG staff in 2013 may be found at Appendix XII which is on the compact disc attached to this Report.

Further information in relation to the operations of the CSD during 2013, may be found in the section of this report, entitled '*Corporate Services Division*'. The section also includes detailed information on budget and expenditure.

### **THE INFORMATION SYSTEMS DIVISION**

Along with providing technical support, the ISD also maintains the websites of the OCG and the NCC. In this regard, the OCG's website was improved, thus making it more user-friendly and including information which was not previously included. Some areas of the website are interactive. The OCG Web Portal and the Procurement Notice Board are two such features on the website.

The Web Portal allows public bodies to report all contracts awarded on a quarterly basis, which are of a value in excess of J\$500,000.00. The URL to access the Web Portal is: <http://www.ocg.gov.jm/ocg/view/qca-consol> and all public bodies are required to report contracts via this medium. Public Bodies are reminded that, in keeping with *Circular No.: 33*, which was issued by the Ministry of Finance and Planning (MoFP) in December 2013, they are required to post Procurement Notices on the OCG's Procurement Notice Board. The URL for the Notice Board is <http://procurement.gov.jm>.

The OCG also launched a Twitter Account in 2013, allowing for timely dissemination of information to its stakeholders. The Twitter handle is @OCGJamaica and all are welcome to follow the Office and stay informed.

## **THE TECHNICAL SERVICES DIVISION**

The Technical Services Division (TSD) as mentioned earlier, functions as the Secretariat of the National Contracts Commission (NCC) by providing administrative and technical support. The Team also performs monitoring duties, as they sit as observers at NCC Sector Committee meetings, to ensure fairness and transparency in the approval process. The TSD Team numbers eleven (11) in total.

The NCC is made up of eight (8) Commissioners, including a Chairman and the tenure of each Commission lasts seven (7) years, upon completion of which, a new Commission is appointed. The tenure of the previous Commission ended in May 2013 and a new Commission was appointed to serve to May 2020. The current Chair of the NCC is Mr. Raymond McIntyre, who, along with one (1) other Commissioner, was returned from the previous Commission.

A total of forty seven (47) meetings were convened by the NCC in 2013.

### **The Contractor Registration Process**

In March 2013, the NCC, through the Office of the Cabinet engaged a Consultant to review the Contractor Registration System and to develop a Contractor Performance Management Programme. The contract was scheduled for completion in May 2013 but was extended to December 31, 2013.

Notwithstanding the pending review of the registration process, the TSD in 2013, implemented several measures to reduce the application processing period for Contractors desirous of being registered with the NCC to provide Goods, Services or Works to the GOJ.

Among the measures implemented, was the development of a supplemental document to the Application Form for Grades 1 to 4 Contractors, which provides clarification and guidance in completing the relevant Application Forms. The expectation is that the introduction of the supplemental document will allow for the submission of more accurately completed and comprehensive Applications for registration with the NCC.

The ongoing efforts of the TSD, on behalf of the NCC to improve upon the processes already in place, will ultimately result in Applicants not only experiencing a quicker but also an easier process.

Customer Service continues to be an area of priority for the OCG and in this regard, measures to enhance the customer experience in all areas are continually being explored.

### **Number of Contract Award Recommendations Endorsed by the NCC and Associated Aggregate Value**

There was a decline in the number of applications for registration approved in 2013, when compared to 2012. A total of 931 applications for the provision of Goods and Services were received and of that number, 881 approved for registration in 2013, down from 1397 in 2012. Conversely, 202 applications were approved for registration for the provision of Works (Grades 1-5) in 2013, down from 235 in 2012. It is to be noted that no new applications were received for the registration of Grade 5 Contractors.

The reduction in the number of applications was due primarily to the increased registration validity period of 18 months, up from 12 months. The revised registration period became effective as at March 31, 2012.

There was however, an increase the number of endorsed contract award recommendations by the NCC, along with an increase in the overall value of contract award recommendations which were endorsed by the NCC. In this regard, 568 contract award recommendations were endorsed by the NCC at a combined value of J\$32,381,633,026.00; an increase over 2012 figures of 512 endorsed recommendations, at a value of 24,232,961,653.00.

## **NCC Sector Committees**

There are eight (8) NCC Sector Committees. The role of these committees entail reviewing and approving contract award recommendations submitted by public bodies, which value in excess of J\$15,000,000.00, prior to same being forwarded to the NCC for endorsement. A combined total of 113 meetings were convened by the Sector Committees in 2013 and 341 recommendations were reviewed.

More detailed information on the activities of the TSD, the NCC and the NCC Sector Committees may be found in the section of this report entitled '*Technical Services Division*'. The section details Contractor Registration information, contract award recommendation endorsements by the NCC broken out into varying components and information relative to NCC Sector Committees.

## **THE SPECIAL INVESTIGATIONS DIVISION**

One of the many roles of this office is the conduct of investigations into matters of concern in relation to procurement/contract award/divestment processes undertaken. In this regard, the Special Investigations Division (SID) in 2013, concluded four (4) special investigations, for which formal reports were prepared and laid before Parliament.

The four (4) Reports of Investigation which were published were for:

1. The Divestment of the Government of Jamaica's Forty-Five Percent (45%) Stake in Jamalco - *Ministry of Science, Technology, Energy & Mining (MSTEM) , Formerly Ministry of Energy & Mining (MEM)*
2. The Circumstances Surrounding Suspected Sham Contractors who were Awarded Millions of Dollars of Contracts by the National Housing Trust (NHT) - *The National Housing Trust (NHT)*
3. Right to Supply 360 Megawatts of Power to the National Grid - *The Office of Utilities Regulations (OUR)*
4. The Award of Contract(s) to Construct/Repair and to Rent Shops at the Spalding Market - *Clarendon Parish Council*

## **Referrals Made**

Based upon the Findings from two (2) of the above Reports, a total of eight (8) formal Referrals were made to the relevant State authorities by the OCG in keeping with Section 21 of the Contractor-General Act.

Of the eight (8) Referrals made, five (5) were to the Director of Public Prosecutions (DPP), two (2) to the Auditor General and one (1) to the Commissioner of Police. Four (4) of the five (5) Referrals made to the DPP, were in relation to the Special Investigation conducted into the '*Award of Contract(s) to Construct/Repair and to Rent Shops at the Spalding Market - Clarendon Parish Council*', while the other Referral to the DPP was pertaining to the Special Investigation conducted into the '*Circumstances Surrounding Suspected Sham Contractors who were Awarded Millions of Dollars of Contracts by the National Housing Trust (NHT) - The National Housing Trust (NHT)*'.

In relation to the two (2) Referrals made to the Auditor General, one (1) was in relation to the Special Investigation conducted into the matter pertaining to the erection of the shops in the Spalding Market, while the other was in relation to the NHT matter indicated above. The Referral made to the Commissioner of Police was also in relation to the NHT matter.

A Summary of the Referrals made, including the nature of the respective Referrals, represented in Spreadsheet format, may be viewed in the section of this Report entitled '*Special Investigations Division*'. The complete Reports of Investigation may be viewed utilizing the link provided in the section of this Report entitled Special Investigations Division.

## **Recommendations Made**

The OCG, upon conclusion of its investigations, continues to make recommendations for corrective action to be taken by the relevant authorities and the offending public bodies alike. The recommendations made, if seriously considered, accepted and put into practice, could greatly improve the procurement process in Jamaica.

Among the recommendations made in 2013 was that:

*"... Executive Agencies and Procuring Entities take a more proactive and aggressive role in developing, implementing and enforcing effective risk management systems, checks and balances and other appropriate management systems, in an effort to mitigate against any possibility of collusion, fraud and corruption; as well as to ensure that government contracts are awarded to legitimate and competent Contractors and based on merit and impartiality."*

In relation to the acceptance of Offers from potential investors by Public Entities, the OCG recommended that:

*"... there must be strengthening of the relevant due diligence systems which are employed by Public Bodies, upon the receipt of applications/offers which are received by investors and to ensure that there is a high level of scrutiny in such processes which are being undertaken by Public Bodies."*

*The OCG is of the considered opinion that communication with investors is not to be undertaken outside of a formal process, as this will affect the probity, fairness and transparency which is required to ensure that value for money is obtained."*

All recommendations made pertaining to each investigation concluded may be found in the body of the respective reports. The referenced Reports of Investigation may be viewed in their entirety on the OCG's website at URL: <http://www.ocg.gov.jm/ocg/view/investigation-reports>.

## **JAMAICA'S PLACEMENT IN INTERNATIONAL SURVEY REPORTS**

### **World Economic Forum - Global Competitiveness Report**

The World Economic Forum publishes its [Global Competitiveness Report annually](#). It *"provides a useful portrait of a nation's economic environment and its ability to achieve sustained levels of prosperity and growth. In doing so, the Report continues to be one of the most respected assessments of national competitiveness."*

The data is drawn from two main sources; namely, international organisations and national sources. Data is also drawn from the World Economic Forum's annual Executive Opinion Survey. The data provides an insight into the economic and business environment of the subject countries and is used to calculate the Global Competitiveness Index (GCI). The data gathered also informs other industry-specific reports published by the World Economic Forum, including The Global Information Technology Report, The Travel & Tourism Competitiveness Report, The Global Enabling Trade Report, The Gender Gap Report, and The Financial Development Report.



In its 2012-2013 Global Competitiveness Report, ranked Jamaica at 97 out of 144 countries on its Global Competitiveness Index, with a score of 3.8, where a score of 1 is the lowest possible score and 7, the highest. Of the sixteen (16) *“most problematic factors for doing business”* in Jamaica, Corruption is ranked at number three (3), surpassed only by *“Crime and theft”* in first place and *“Access to financing”* ranked at number 2. The other areas identified are ranked between number four (4) to sixteen (16) as follows: *Tax rates, Inefficient government bureaucracy, Poor work ethic in national labor force, Tax regulations, Inflation, Inadequately educated workforce, Policy instability, Inadequate supply of infrastructure, Government instability/coups, Insufficient capacity to innovate, Poor public health, Foreign currency regulations and Restrictive labor regulations.*

The 2011-2012 Report ranked Jamaica at 107 out of 142 countries with a score of 3.8 and the 2010-2011 Report, 95 out of 139 countries, with a score of 3.9. It should be noted that the data gathered *“are used for the elaboration of the renowned Corruption Perceptions Index and the International Bribe Payers Index published by Transparency International as well as a number of academic publications.”*

### **Transparency International - Corruption Perception Index (CPI)**

Transparency International, each year publishes its Corruption Perception Index (CPI) Report. The CPI *“measures the perceived levels of public sector corruption in countries worldwide, scoring them from 0 (highly corrupt) to 100 (very clean).”*

In 2013, Jamaica was again poorly ranked at 83<sup>rd</sup> place, out of a total of 177 countries surveyed, having obtained a score of 38. The reality is that in spite of measures put in place to stem the level of corruption, Jamaica has not seen any significant improvement in its ranking over the years. The fact that the score obtained has remained unchanged is, in my view, nothing to be proud of. The fact that we are not at the bottom of the scale is not to be considered either. What needs to be done is for those in authority to do ‘everything’ in their powers to see Jamaica’s ranking improve significantly.

### **Transparency International – Global Corruption Barometer (GCB)**

Transparency International publishes its Global Corruption Barometer (GCB) annually and in 2013, one hundred and seven (107) countries were surveyed. The GCB *“examines how corruption features in people’s lives around the world.”* The GCB also *“addresses people’s direct experiences with bribery and details their views on corruption in the main institutions in their countries”* and also *“provides insights into how willing and ready people are to act to stop corruption.”*

With respect to whether corruption is perceived to have ‘increased’, ‘decreased’ or remained unchanged, Jamaica fell in the category where it is deemed that ‘No Change’ had occurred. Further, in response to whether they had ever paid a bribe, 10-14% of respondents claimed to have done so.

Respondents were asked to indicate the most corrupt institutions in their respective countries and based on the results indicated in the Report, Political Parties and the Police Force were deemed the most corrupt institutions in Jamaica, followed by Parliament/Legislature.

Jamaicans though perceived as being indifferent to corruption and its implications, are not necessarily proud of the country’s reputation in relation to corruption. Many, though not in support of corruption, would prefer to be discreet with their opposition to same. This was one of the things addressed in the subject survey. Respondents were asked whether they would get involved in the fight against corruption and in what way. Interestingly, a whopping 97% of respondents indicated a willingness to get involved in the fight against corruption. They however indicated that the medium through which they would most participate in making a difference, was through the signing of a Petition. The other possible anti-corruption media for involvement were to *‘Join a protest’*, *‘Join an organisation’*, *‘Pay more’* and through *‘Social Media’*. Jamaican respondents also fell in the 81% -100% category for believing that ‘ordinary people have the ability to make a difference’.

Bribery, as defined by Transparency International, is *"The offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal or a breach of trust."* In relation to bribery, 12% of respondents in Jamaica reported having paid a bribe to at least one (1) of eight (8) services. The eight (8) services indicated in the survey, were: The Police, The Judiciary, Registry, Land, Medical, Education, Tax and Utilities. While this percentage is relatively low, any desire to celebrate same is to be tempered, as it is to be borne in mind that the question was specific to the 'paying' of bribes.

The results of these surveys are troubling to say the least and no Jamaican can honestly be proud of the reality. An 'a-political, anti-self and pro-Jamaican approach' has to be taken and unless that is the mindset of the powers that be, I see no light at the end of the tunnel for our upliftment or improvement in this regard.

## **CLOSING REMARKS**

2013 has been a year of accomplishments and challenges of different kinds. In spite of the obstacles faced, this Office continues to honour its mandate. However, the reality is that in order to effectively counter the challenges faced, more resources, both human and financial, are needed.

While it is recognised that the financial constraints under which the nation operates are harsh, I am of the view that certain services require more flexibility relative to critical staffing needs and financial support. The OCG continues to be constrained by staffing deficits which ultimately affects the extent to which its mandate is fulfilled. If the Government is serious about confronting the monster of corruption consuming the nation, it would serve the interest of all concerned to provide the necessary resources to do so.

The perception of the extent of corruption in Jamaica is high. Unfortunately many Jamaicans, if asked, could speak to having knowledge of acts of corruption in one (1) form or another. Though some may prefer to not speak to it, the truth is that corruption is a very expensive habit to maintain. The longer we take to act decisively, the more it will end up costing us as a nation. It is for this reason that I implore the powers that be to invest more significantly into the fight against corruption. This plea is not just for the OCG but also all the other entities waging war against corruption in its varying forms.

As yet another year comes to an end, there are two (matters) on the horizon which will test the objectives of the relevant authorities with respect to the extent of their commitment to fighting corruption, specifically as it relates to procurement.

Firstly, there is the matter of the separation of the OCG from the NCC. This move is inevitable and necessary but how this newly-established entity will operate and the parameters within which it will function ultimately, is to be seen. It is my sincere hope that they will operate with the same autonomy as is currently the case. Further, I trust that the construct of the model will not water down the power of the OCG. We need to legislate for issues and not personalities.

The other matter in question, is the establishment of a Single Anti-Corruption Agency. While I have no objection in principle with the proposed agency, time will tell whether the mandate of the agency will incorporate the current duties of the OCG and even strengthen the reach and authority of such an agency. It remains to be seen, whether the pre-contract monitoring of procurement opportunities will be 'limited' in any way and also, whether the structure, policies and procedures of such an agency will be conducive to effectively countering corruption in meaningful ways. It is no secret that the pre-contract stage of any procurement process is the most vulnerable to acts of corruption. It is therefore imperative that this stage be closely monitored to guard against any such occurrence.

It is my considered view that should the duties being performed by the OCG be in any way diminished instead of strengthened, then the whole exercise in establishing a single agency would be an exercise in futility. The objective of countering corruption would thus be lost and would beg the question as to whether the agency was simply established to 'appear' to fight corruption, when in reality, the measures implemented to do so, are ultimately retrograde steps. The parameters within which those employed to this super agency will work, along with the method of leadership, will determine the effectiveness of the agency.

On another note, 2013 saw the OCG Team being privy to several training opportunities locally and overseas. Some of these exercises were facilitated by external stakeholder groups and individuals and as such, I wish to publicly express my gratitude to all who made these training and developmental sessions possible.

The office continues to be bolstered by the support it has received from members of the public over the years. In this regard, I wish to take this opportunity to thank those persons who have taken the time to express their support for and gratitude to the office through varying media. It is gratifying to know that the people whose interest we represent have found it necessary to reach out to us to make us aware of the extent to which the work we do is appreciated. There is no doubt in my mind that without such support, the work that we do would have been far more challenging in all respects. Your support for the OCG is appreciated and has been invaluable.

The public is being encouraged to continue to communicate with the OCG in relation to its role. In this regard, you are being reminded that there are several media available to communication with the Office; these include by way of telephone at any of the listed numbers, via electronic mail at [general@ocg.gov.jm](mailto:general@ocg.gov.jm), via the OCG's website at [www.ocg.gov.jm](http://www.ocg.gov.jm), where varying options to communicate with the Office may be accessed depending on the nature of the communication required. For instance, persons may report incidents of impropriety to the OCG by way of the URL, <http://www.ocg.gov.jm/ocg/webform/report-impropriety>, where an electronic form is to be completed regarding same.

There is also a Post-Contract Works Quality Complaint Form available on the website at URL: <http://www.ocg.gov.jm/ocg/webform/post-contract-works-quality-complaint-form>. This form is exclusively for persons who have observed deficiencies in the quality of completed infrastructure works which was undertaken by any Government Agency. Further, submission of queries or requests for feedback pertaining to matters relevant to the role of the OCG, may be done via <http://www.ocg.gov.jm/ocg/webform/query-general-feedback-form>. In communicating with the OCG through any of the abovementioned media, please be reminded that the party passing on information to this Office is under no obligation whatsoever to disclose their actual identity. I venture however to encourage you that in communicating with the OCG, please provide as much information as is possible to allow for timely and informed follow-up by the Office.

In addition to the foregoing, the website also has Web Applications which are specific to certain functions of the Office and are related primarily to public bodies. Currently, the OCG Web Portal allows for public Procuring Entities to report on a quarterly basis, all contracts awarded in excess of J\$500,000.00 (Quarterly Contract Awards – QCA). In order to access the Portal, public bodies have to request by email, a unique access password to log into the system by way of <https://portal.ocg.gov.jm/owp/qca>. The information submitted is published as is and as such, the onus is on the public body to ensure the accuracy of the information posted.

Like the QCA Database, the Prescribed Licence Information Database (PLID) is updated and maintained by the public body. Procuring Entities are required to report by way of the Database, all Prescribed Licences issued by them over a period of time. The accuracy of the information submitted is therefore the duty of the respective public bodies. To access the PLID, please visit URL: <http://www.ocg.gov.jm/ocg/page/prescribed-licence-information-database-public-body-access>. The public has viewing only access to the PLID system.

The Procurement Notice Board is another Web Application accessible by way of the OCG website. The Notice Board allows Public Procuring Entities to post and maintain Procurement Notices. Like the other Applications, a unique access password is required by the public body to access the system. In keeping with Circular Number 33 issued by the Ministry of Finance and Planning in December 2013, all public bodies are required to post Procuring Notices on the OCG's Procurement Notice Board, as well as in other specified areas. The Procurement Notice Board may be accessed at URL: <http://www.procurement.gov.jm/procurement/>. Viewing only access of the Notice Board is possible for the general public. Contractors may also sign up to receive email notifications of Procurement Notices which fall in categories for which they have an interest.

The OCG remains highly concerned about the high level at which corruption is perceived in our society. It is my considered view that enough is not being done to get to the root of the problem and that surface remedies are being applied. Changing the society's view of corruption has to be an aggressive and deliberate undertaking. The solution should not simply be putting measures in place to deter would-be perpetrators and where identified, have them face the Courts. The effort has to commence with educating the public on the perils of corruption. The truth is that corruption is for the most part, a matter of moral values and personal decisions taken for or against being morally and ethically-upstanding.

That said, it is therefore important to appeal to the moral compass of each member of society. In this regard, it is imperative that 'lessons' and anti-corruption sensitisation commence in the schools at the primary level and continue through to the post-primary and secondary levels, while at the same time, sensitising the adult population through other media. To this extent, I strongly support the move to re-introduce Civics into the education system. It is my view that appreciation for and love of country through education, along with consistent sensitisation relative to corruption and its ill-effects, will serve to instill some amount of pride in each Jamaican and will also challenge each person to do the morally right thing when faced with choices.

The truth is that it makes no sense for us to sit and wait on the other man to do the right thing. It ultimately starts with us doing the right thing and rejecting that which is not in keeping with our stated values. A 'corruption-challenged' person generally finds comfort in commingling with persons of like nature. If such a person is hard-pressed to find someone else who embraces corruption, they will eventually seek to do the right thing. A corrupt person rarely makes progress without the support of another of like manner. It is therefore up to each of us to stand up for Jamaica and to scorn those who are intent on being immoral.

I take this opportunity to remind all Jamaicans in this period of challenges to meditate on the words of our National Anthem, which is a prayer for our fair isle of Jamaica. Challenge yourselves to repeat it every day and internalise the meaningful words therein. Positive change will not happen overnight and in order for there to be positive change, all hands have to be on board. We all have to stand together and reject corruption and criminality in all forms, bearing in mind the generations to come and what they will be faced with in the future. If what we propose to leave to them is a country rife with corruption and criminality, along with indifference for doing the right thing in all cases and against the odds, then our very existence should be questioned. In spite of the ills faced, I think all Jamaicans wish for peace and prosperity. This cannot and will not be achieved with the current state of affairs. We each have to play our part to fix it. To get it right.

I wish to close by thanking the dedicated and hardworking staff of the OCG who have worked tirelessly to uphold the mandate of this office, even when faced with challenges. I applaud their efforts and wish us all success as we move forward, even with the uncertainties surrounding the impending changes. Again I thank the people of Jamaica for your support and on behalf of all the members of staff of the OCG, I commit to continuing the hard work of fighting this ugly monster of corruption that threatens to swallow our beautiful island.

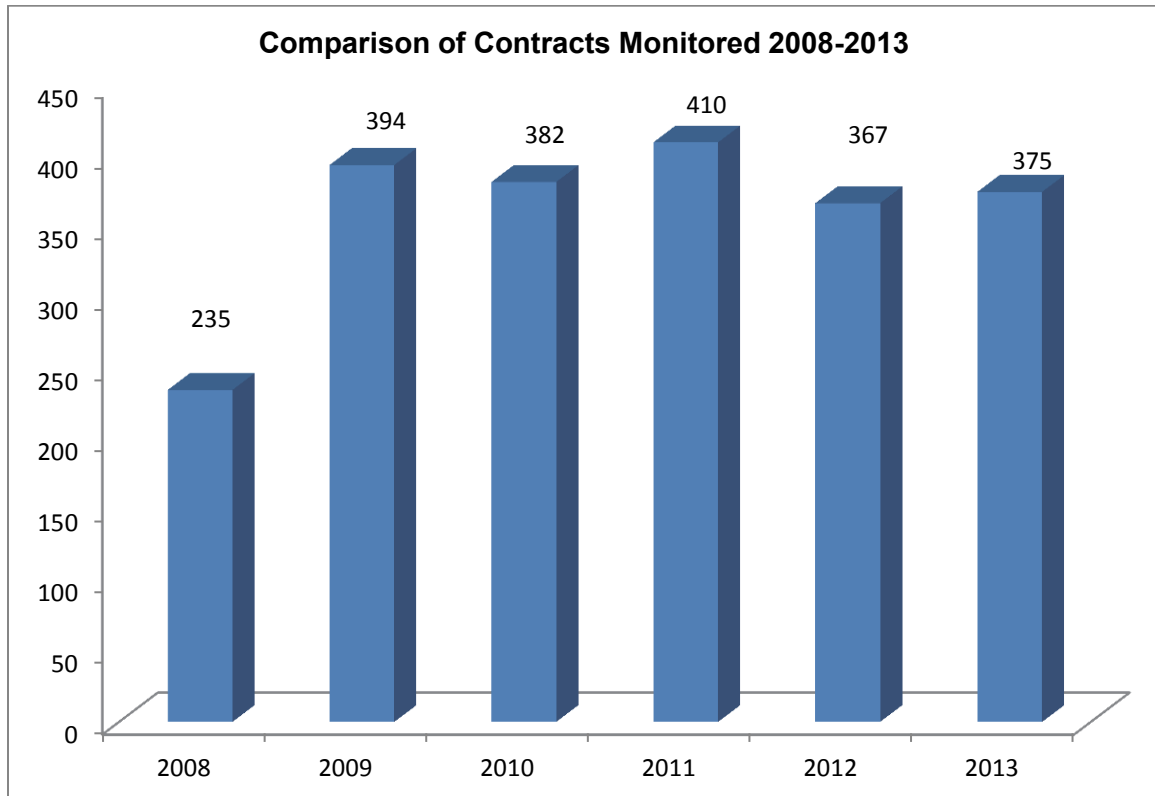
Dirk Harrison  
Contractor General

## MONITORING OF CONSTRUCTION CONTRACTS

During the 2013 calendar year, the Construction Contracts Division of the Office of the Contractor General (OCG) monitored the Pre and Post Contract stages of three hundred and seventy five (375) contracts. As such, there was a 2.2 % increase in the number of works contracts which were monitored for the year 2013, in comparison to the previous year, in which three hundred and sixty seven (367) contracts were monitored.

It must be noted that the National Contracts Commission (NCC), during the year, endorsed a total of one hundred and eighty (180) works contracts, which had an aggregate value of J\$11,769,078,879.00, of which fifty six (56) were monitored by the Construction Contracts Division.

**Chart 1: Comparison of Number of Construction Contracts Monitored 2008-2013**



## CONTRACTING UNDER EMERGENCY CIRCUMSTANCES

By way of a letter which was dated January 28, 2014, the OCG wrote to the following Public Bodies in an effort to get a full understanding of the manner in which the Emergency Contracting procurement methodology was being utilised:

- Petrojam Limited;
- National Water Commission;
- National Solid Waste Management Authority;
- Ministry of National Security;
- The National Housing Trust;
- National Works Agency; and
- The Ministry of Local Government and Community Development (and by extension, all Parish Councils/KSAC).

The referenced letter stated, *inter alia*, that, “The Office of the Contractor General (OCG), ... hereby requests information with respect to contracts which were awarded utilizing the captioned procurement methodology between the period January 1, 2011 to December 31, 2013.”

Additionally, the Public Bodies were requested to submit the following information on a spreadsheet that was provided by the OCG:

1) Name of Contractor; 2) Description and Location of Works; 3) Engineer’s Estimate; 4) Justification for use of Emergency Contracting Procedure; 5) Contract Award Date; 6) Project Start Date; 7) Project Scheduled Completion Date; 8) Project Completion Date; 9) Original Contract Sum; 10) Final Contract Sum; 11) Variation Sum; 12) Expenditure to Date; 13) Justification for Variation; and 14) Remarks.

Detailed hereunder, are particulars of the responses obtained from the Public Bodies.

**Table A: Public Bodies Response to Contracting Under Emergency Circumstances – 2011 to 2013**

Public Body	Comparable Estimate	Original Contract Sum	Final Contract Sum	OCG Comments
	J\$	J\$	J\$	
Petrojam		392.64M	403.50M	A review of the data has shown that the majority of the projects were completed within the original contract sum and scheduled time. The justifications were plausible for the projects for which variations were applicable.
National Water Commission (NWC)		4.3B	1.63B (Expenditure to date)	A review of the information has shown that the data was sparse and incomplete for the projects that were reported.
National Solid Waste Management Authority (NSWMA)		0.00		No response was received from the Entity.
Ministry of National Security		973.2M	978.1M	A review of the data has shown that the majority of the one hundred and seven (107) projects reported were construction related, electrical works or procurement of vehicles. In most instances the project was completed within the original contract sum and scheduled time.
National Housing Trust		448.6M	446.7M	A review of the data has shown that the sixteen (16) projects reported were Civil Works or Service related. They were also completed as scheduled and within the contract sum.
National Works Agency (NWA)		1.4B	1.45B	Data presented for the period under review has shown contracts or expenditure of approximately J\$1.45B for the fourteen Parish Offices, with St. Catherine and Hanover, with expenditure of approximately J\$277.6 and J\$12.0M, as the highest and lowest respectively. The data further shows St. Catherine and St. Andrew as the Parish Offices with expenditure surpassing J\$200.M, and Portland, St. Mary, Clarendon, St. Thomas and St. Elizabeth with expenditure surpassing \$100.0M. The remaining Parish Offices has expenditure ranging from J\$12.0M to J\$95.5M.
Ministry of Local Government and Community Development		192.4M	192.4M	Seven (7) Local Authorities, namely: St. Ann, St. Elizabeth, St. Mary, Hanover, St. James, Westmoreland and Clarendon Parish Councils and the Portmore Municipal Council, have indicated that no contracts were awarded. The data represents works by three (3) Parish Councils namely: Portland, St. Thomas and Manchester; The KSAC did not submit a report.

Data submitted by the Public Bodies indicated that approximately J\$5.13 billion was either expended or awarded as contracts to carry out emergency works. At the time of submission to the OCG, the data indicated that with the exception of the NWC, the works were completed.

The data further indicated that a significant amount of the works undertaken was related to building construction, civil works or for services rendered, including the hireage of equipment.

### Variations and Cost Overruns

The GoJ Handbook of Public Sector Procurement Procedures defines a cost overrun as, "...an increase in the contract sum resulting from escalation in the price of labour and/ or material" and a variation as "...a change to the deliverable(s) under a contract caused by an increase or decrease in the scope of work to be performed, amount/type of goods to be supplied or services to be provided, and must be directly related to the specific contract."

### PUBLIC SECTOR CONTRACT COST OVERRUNS AND VARIATIONS (CCOV)

Last year, the OCG requisitioned one hundred and ninety eight (198) Public Bodies of which one hundred and thirteen (113) or fifty seven percent (57%), indicated that there were no cost overruns or variations encountered during the 2012 period. Two hundred (200) Public Bodies were requisitioned this year and of these, ninety nine (99) or 49.5% indicated that neither cost overruns nor variations emanated from the procurement of goods, works or services during the reporting year 2013. This represents a seven point five percent (7.5%) increase in Entities reporting occurrences of cost overrun or variations.

The information requested was relevant to all projects of value greater than J\$500,000.00, for which monetary disbursements for Cost Overruns and/or Variations were made during the calendar year 2013, irrespective of the date of contract award. In this regard, the CCOV data which was submitted by the Public Bodies indicated that the combined goods, works and services contracts valued approximately J\$19.0 billion of which cost overruns and variations were approximately J\$499.0 million and J\$1.96 billion, respectively.

The results of the submissions are as follows:

**Table B: Contract Cost Overruns and Variations (CCOV)**

Type of Contract	Total Contract Value (J\$)	Total Value Cost Overrun (J\$)	Total Value Variation (J\$)	% Cost Overrun	% Variation
Goods	2.41B	47.66M	548.74M	1.98	22.80
Works	11.41B	350.57M	762.04M	3.07	6.68
Services	5.25B	100.73M	786.40M	1.92	14.97
Goods/Works /Services	19.07B	498.96M	2.097B	2.63	11.04

Of the Goods, Works and Services contracts awarded, works contracts represent the highest value of approximately J\$11.41B or 59.83%, services J\$5.25B or 27.53% and goods J\$2.41B or 12.64%.

The data also shows that the procurement of Works with 3.07% as having the highest percentage of cost overruns followed by Goods and Services with approximately 1.98 % and 1.92% respectively. The data indicated that Goods contracts had the highest variations, with approximately 22.8%, followed by Services, then Works with 14.97% and 6.68% respectively. In the foregoing regard, the OCG is reiterating the recommendation in its 2012 Annual Report, that in order for the Entities to significantly reduce the occurrence of cost overruns and variations associated with these contracts, a greater level of diligence needs to be undertaken at the pre-contract stage of the procurement process and there needs to be greater supervision during the implementation stage of the contract.

### **CCOV FOR GOODS, WORKS AND SERVICES EXCEEDING J\$5 MILLION**

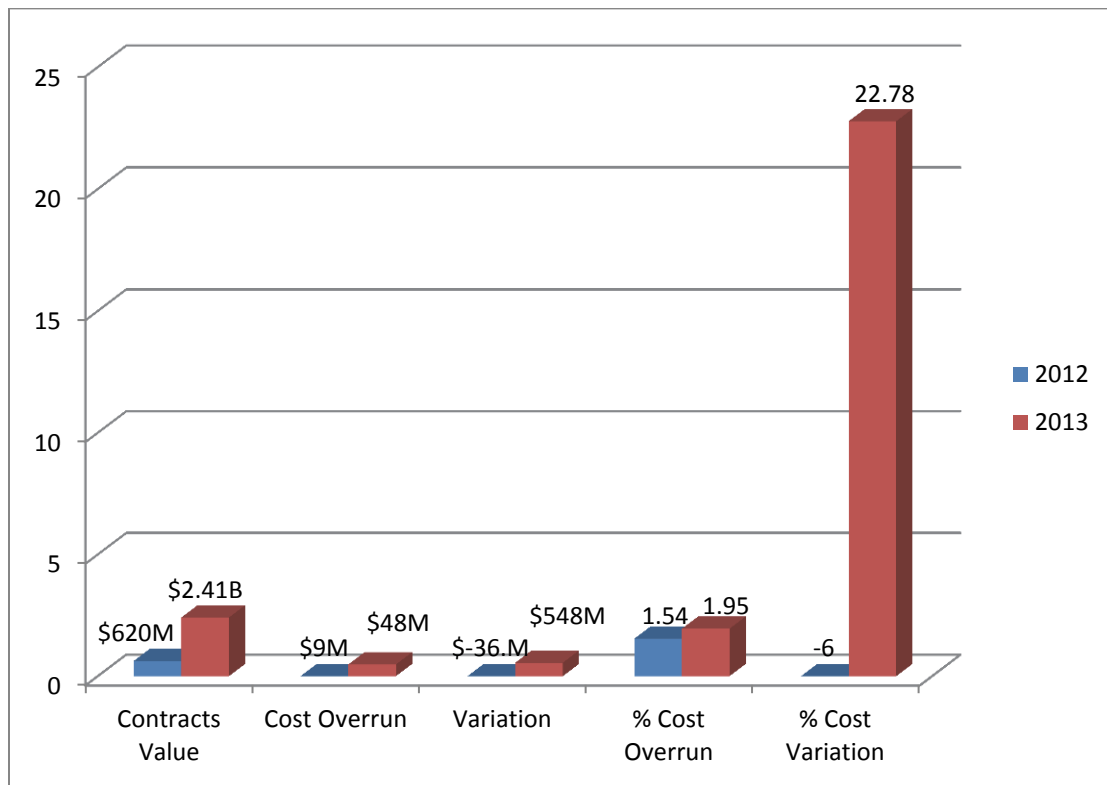
The CCOV data for the procurement of goods, works and services exceeding J\$5 million was reviewed and tabulated. The table below indicates that the total variations were significantly higher than that of the total cost overruns. It is, however, interesting to note that, for contracts valuing \$40M and above for Goods, Works and Services, the variation sum of \$646.02 Million for the Services contracts was approximately 37.2% above the Goods contracts and 35.4% above the Works contracts.

**Table C: CCOV Goods, Works and Services exceeding J\$5 Million**

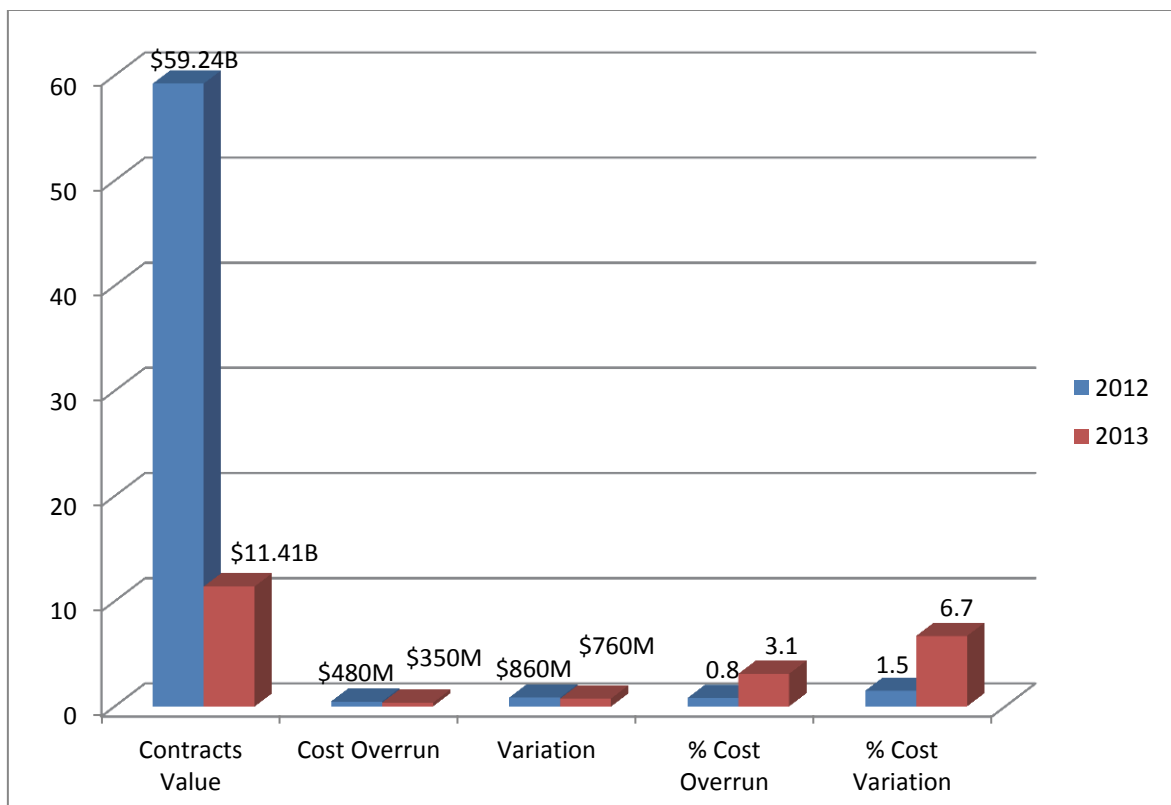
Procurement Threshold	Goods			Works			Services		
	J\$5M to J\$15M	J\$15M to J\$40M	J\$40M and above	J\$5M to J\$15M	J\$15M to J\$40M	J\$40M and above	J\$5M to J\$15M	J\$15 to J\$40M	J\$40M and above
Total Contract Value	126.03M	370.98M	1.78B	658.35M	900.51M	6.95B	279.93M	200.54M	4.990B
Cost Overrun	26.93M	17.81M	0.00M	7.32M	17.98M	136.72M	65.58M	7.75M	21.10M
Variation	22.06M	105.62M	405.63M	116.10M	52.85M	417.2M	65.01M	51.63M	646.02M



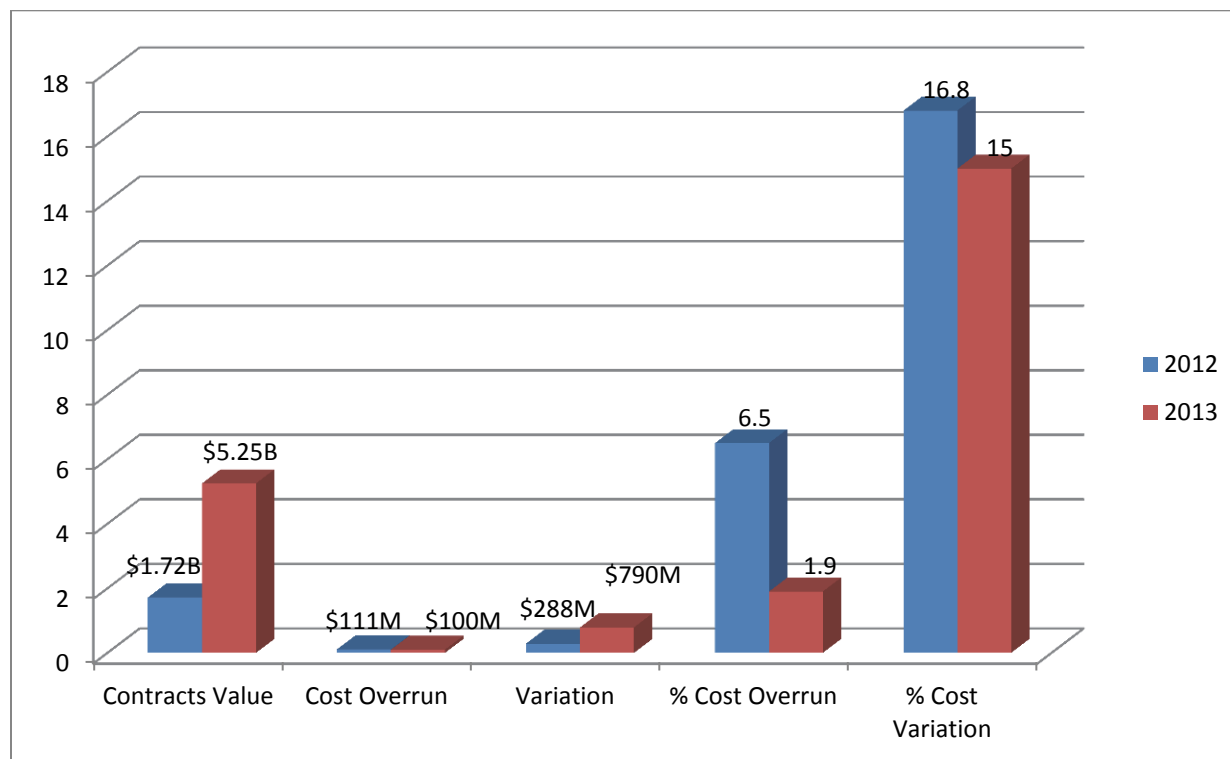
### Comparison of CCOV between the years 2012 and 2013 for Public Bodies with Goods Contracts



### Comparison of CCOV between the years 2012 and 2013 for Public Bodies with Works Contracts



### Comparison of CCOV between the years 2012 and 2013 for Public Bodies with Services Contracts



### Comparison of CCOV for Public Bodies with Works Contracts Exceeding J\$100 Million

The Works CCOV was selected for analysis as it was observed that it represented 59.83% of the contracts which were awarded. See Table D below.

**Table D: CCOV Public Bodies with Works Contracts over J\$100M**

Public Body	Total Contract Value (J\$)	Total Cost Overrun (J\$)	Total Variation (J\$)	% Cost Overrun	% Variation
National Water Commission	2.04B	114.65M	104.61M	5.62	5.13
Jamaica Civil Aviation Authority	1.999B	0.00	99.66M	0.00	4.98
National Works Agency	1.89B	59.43M	108.75M	3.14	5.74
National Housing Trust	1.41B	98.54M	26.42M	7.01	1.88
Housing Agency of Jamaica Ltd	819.37M	42.62M	28.43M	5.20	3.47
Ministry of Agriculture and Fisheries	747.28M	0.00	50.05M	0.00	6.70
University of Technology	436.27M	13.17M	37.12M	3.02	8.51
Ministry of Justice	408.52M	0.00	22.31M	0.00	5.46

Public Body	Total Contract Value (J\$)	Total Cost Overrun (J\$)	Total Variation (J\$)	% Cost Overrun	% Variation
Petrojam Limited	324.13M	0.09M	64.58M	0.03	19.92
National Education Trust	306.92M	8.02M	34.92M	2.61	11.38
Culture, Health, Arts, Sports and Education (C.H.A.S.E.)	215.07M	5.58M	2.83M	2.59	1.31
Jamaica Social Investment Fund	192.01M	0 .00	26.18M	0 .00	13.63
Ministry of Youth and Culture	150.43M	0 .00	22.52M	0 .00	14.97
Agro-Investment Corporation	134.36M	0 .00	76.07M	0 .00	56.62
Southern Regional Health Authority	111.06M	7.71M	16.80M	0 .00	15.12

Table E represents the impact of variations and cost overruns on contract sums for four (4) Government contracts

**Table E: Selected Cases- Impact of variations and cost overruns**

Contracts Variations and Cost Overruns									
Public Body / Entity	Name of Project	Contract Award Date	Contract Sum	Contract Duration (Months)	Contract Start Date	Scheduled Completion Date	Completion Date	Time Overrun (Months)	Variation / Cost Overrun
Ministry of Water, Land, Environment, and Climate Change/ National Water Commission (NWC) PPCM-5962	Lot No. 2B Development of New Water Source for South East St. Catherine	2011-10-05	\$1.27M	15	2012-03-01	2013-05-31	2013-11-29	6	J\$36.68M
Ministry of Youth and Culture - Youth Development Programme PPCM-5132	Construction of Youth Information Centre and National Youth Service Training Centre, 42 Young Street, Spanish Town	2012-01-19	\$70.80M	12	2012-02-20	2013-01-30	Ongoing	11	J\$18.88M
Ministry of Water, Land, Environment and Climate Change PPCM-11332	Infrastructure Works & Housing Construction, Hellshire Phase IV Housing Development	2011-06-10	J\$1.25B	24	2011-05-16	2013-04-16	Ongoing	8	J\$150.65M
Ministry of Agriculture and Fisheries /Agro-Investment Corporation GCM-7982	Renovation of Bathrooms at the AMC Complex, Spanish Town Road	2012-12-19	J\$5.85M	4	2012-12-19	2013-04-19	2013-09-19	5	J\$2.80M

## Contract Performance Monitoring

The primary purpose of monitoring contract performance is to continuously review the planned, on-going or periodic activities of contracts. This facilitates the measurement and management of the Contractors and Entities' compliance in relation to the terms and conditions outlined in the contract, and serves to allow the OCG to determine whether the required results are being achieved.

Table F below illustrates selected contracts that were monitored.

**Table F: Selected Cases - Contract Performance Monitoring**

Contract Performance Monitoring				
Contract Award Date	Ministry/Entity	Name of Project/ Contractor	Tender Method & Contract Value (J\$)	Remarks
2011-04-11  PPCM-6852	Ministry of Transport, Works and Housing /Housing Agency of Jamaica Limited	Boscobel Housing & Infrastructure Project/ N.F. Barnes & Equipment Company Ltd.	Local Competitive Bidding \$802,522,476.00	Poor performance in the timely execution of the works by the Contractor, less than diligent project management and financial constraints by the Entity, have resulted in the project being significantly behind schedule.
2012-11-16  PPCM-6952	Ministry of Agriculture and Fisheries- Sugar Transformation Unit	Barracks Relocation Project: Steelfield (Spicey Hill) Infrastructure Development Works/ D.R. Foote Construction Company Limited	Local Competitive Bidding \$59,996,365.00	Project had delays in its implementation due to the absence of sewer drawings and information related to storm water drainage. Additionally, inadequate data on soil conditions resulted in a variation and additional cost for excavation works related to pipe laying and manhole inverts. The scheduled completion time was also extended by an Extension of Time request by the Contractor.
2013-02-18  PPCM-11092	Ministry of Education/ University of Technology, Jamaica	Proposed Expansion and Renovation to Garvey Hall/ Share Con Construction Limited	Selective Tender \$78,362,560.00	Tardiness and poor project management by the Contractor and also the late issuance of Site Instructions by the Entity, contributed to delays in the completion of the project.
2012-08-14  PPCM-4051	Ministry of Agriculture and Fisheries - Sugar Transformation Unit	Barracks Relocation Project: Masemure Infrastructure Development Works/ Share Con Construction Limited	Local Competitive Bidding \$29,164,820.00	Changes to the sewer design by the Entity resulted in the contract incurring variations which resulted in the requirement of additional aggregates for roadworks, the removal and re-installation of the water supply pipes and sewer lines. Consequently, the project fell significantly behind its schedule completion date.
2012-01-19  PPCM-4401	Ministry of Youth and Culture / Youth Development Programme	Construction of Youth Information Centre and National Youth Service Training Centre, 42 Young Street, Spanish Town/ Rogers Land Development Ltd.	Local Competitive Bidding \$70,801,165.00	Delays to the works due to discrepancies in the Contract Drawings and Bills of Quantities, untimely response by the Project Managers and Architects to queries by the Contractor, the general slow progress of the works and financial constraints experienced by the Contractor, has resulted in the project being significantly behind schedule.

Contract Performance Monitoring				
Contract Award Date	Ministry/Entity	Name of Project/ Contractor	Tender Method & Contract Value (J\$)	Remarks
2012-07-18  PPCM-12082	Ministry of Science, Technology, Energy and Mining/ Petrojam	Restoration of Mechanical & Electrical Facilities at Petrojam's Main Docks/ J.H. Dunstan and Associates Limited	Limited Tender \$245,394,419.63	Continuous poor performance in the execution of the works by the Contractor resulted in the contract being terminated by the Entity.
2011-10-04  PPCM-15871	Ministry of Water, Land, Environment and Climate Change	NonPariel Water Supply Mains Replacement & Upgrading (Contract No. KF01-02/P/01)/ D.R. Foote Construction Company	Local Competitive Bidding \$41,328,540.00	The Contractor's slow rate of progress with the works, which was due mainly to defective equipment, resulted in the project being behind its scheduled completion date.
2012-08-14  PPCM-4051	National Housing Trust	Nashville Housing Development/ Nakash Construction & Equipment Limited	Selective Tender \$40,408,155.90	Continued poor performance of the works by the Contractor has resulted in a prolonged contract period and the Entity applying Liquidated Damages charges to the Contractor.

Notwithstanding the significant number of contracts that have been identified with deficiencies in the post-contract performance by the Entities, Consultants or Contractors, projects have been identified where the post-contract activities were executed in a diligent and expeditious manner by the respective professionals.

Table G below reflects selected Good Performance Projects identified.

**Table G: Selected Cases - Good Performance Projects**

Good Performance Projects						
Public Body/Name of Project	Contractor / Contract Sum (J\$)	Contract Award Date	Contract Start Date	Contract Scheduled completion Date	Contract completion Date	Comments
Jamaica Social Investment Fund/ Passmore Town Road Works - Package 7 PPCM-7692	Contraxx Enterprises Limited \$25.77M	2012-11-26	2012-12-09	2013-06-06	2013-03-18	Notwithstanding labour unrest and related disruptions by workers associated with the project, the Contractor completed the works approximately 2.5 months ahead of schedule and within budget.
Jamaica Social Investment Fund/ 52 Lane Sanitation Construction GCM-15561	Marshall Construction Company Limited \$24.90M	2013-07-08	2013-07-29	2013-11-29	2013-10-18	Diligent coordination of the works by the Contractor resulted in the project being completed approximately 1.5 months ahead of schedule.
National Water Commission/ Construction of a New Wastewater Pump Station at Darling Street PPCM-1531	Kier Construction Limited \$ USD \$6.34M	2011-07-14	2011-10-04	2013-04-04	2013-03-19	Notwithstanding variations to the works, the Contractor's diligence in the scheduling of activities and utilisation of resources resulted in the project being completed approximately 2 weeks ahead of schedule.

Southern Regional Health Authority/ Santa Cruz Health Centre - Centre of Excellence Renovation and Expansion Works GCM-8242	Bajad Limited \$14.02M	2013-01-15	2013-01-21	2013-04-21	2013-04-12	The Contractor executed the works at a steady pace and in a diligent manner resulting in the project being completed approximately 1.5 weeks ahead of schedule and within budget.
Agro-Investment Corporation/ Supply, Delivery and Installation of Water Delivery and Distribution System at Amity Hall GCM-7992	Jamaica Drip Irrigation Limited \$11.75M	2012-11-15	2012-11-16	2013-05-16	2013-04-30	The Contractor's diligence in executing the works resulted in the project being completed ahead of schedule and within budget.

### **THE PROPOSED DEVELOPMENT OF LANDS BY THE KING'S HOUSE FOUNDATION**

In its effort to put in place a system that would support the sustained maintenance of the King's House property, the King's House Foundation (KHF) embarked on a venture which was aimed at fulfilling this worthwhile purpose. Representatives from the KHF met with a team from the OCG on June 11, 2013, to provide a background of the development project and to discuss its genesis.

Mr. Dennis Lalor, who is the Chairman of the KHF, explained that the purpose for the proposed development transaction was indeed to maintain the facilities of King's House and he outlined his experience with regard to the deplorable condition that the property had been in at one stage.

During the meeting, the KHF indicated that within the proposed development, there was a potential for one hundred and twenty five (125) townhouses to be constructed on the allotted ten acre property, given the allowable building density for that section of St. Andrew. In its quest to undertake this development by way of a Joint Venture Partnership, the KHF formed a subcommittee that selected twenty (20) developers, which was then reduced to twelve (12), who were invited to submit proposals for the housing development. However, no bids were received from the set of developers at the appointed time.

KHF Board member, Mr. Phillip Gore, stated that the feedback from the aforementioned exercise indicated that the size of the property was too massive and so consideration was given to divide the property into three (3) lots. It was then revealed that the KHF was in receipt of two (2) letters of interest from GEON and Pan Jamaican. The Contractor General requested that the OCG be provided with a copy of the letters from the two interested parties.

The members of the KHF advised that the structure of the development would take the form of a Public Private Transaction. When they were asked whether they had given consideration to advertising the transaction, the response was that they had selected the top, known and reputable developers in the country. There was concern that if they had advertised, they might have received responses from developers who were not recognized in the industry.

Prior to the aforementioned meeting, the KHF had written a letter to the OCG, which was dated April 8, 2013, stating that, *"I wish to advise that a decision to proceed with the development by way of a Joint/Venture Partnership was taken at our last Board meeting held on March 15, 2013."* In a letter which was dated April 4, 2013, the KHF had also written to the National Contracts Commission (NCC) on the same subject matter, advising that the Development Committee of the KHF had commenced a process whereby twelve (12) companies were shortlisted and invited to a meeting wherein details of the project were outlined. The said companies were invited to collect a Bid Data Sheet of which seven (7) of them collected the Data Sheet and it was proposed by the KHF that the bids be opened on April 19, 2013.

Subsequently, the OCG engaged the KHF in a letter which was dated April 17, 2013, wherein it confirmed that, *"The OCG had previously directed the KHF's attention to Ministry Paper #34, the Privatization Policy and Procedures, and had recommended that the Development Bank of Jamaica (DBJ) be consulted. By way of your letter dated October 28, 2011, you indicated that, 'the Foundation intends to observe the general principles outlined in Ministry Paper #34'."*

The OCG further went on to state that, *"...it appears to the OCG that the modality which is currently being proposed and /or utilized is a Public-Private Partnership (PPP)."*

*...The OCG has reviewed the PPP Policy and opines as follows:*

- 1. The Development Bank of Jamaica is indicated therein to be one (1) Entity with Operational Management of the PPP Programme through its PPP Unit. The Policy states, inter alia, that this objective is to '...ensure that every PPP project is identified, developed/structured, evaluated, and implemented through a uniformed and consistent process.'*

*...It does not appear, based upon the information which the Office currently possesses, that the procedures which have been utilized is allowed by the PPP Policy.*

*Accordingly, and in order to ensure that it is fully aware of the relevant particulars, the OCG is requesting the following information:*

- 1. What Policy or Procedure is guiding the process for the implementation of this Project?*
- 2. Has the King's House Foundation approached the Development Bank of Jamaica regarding this Project?"*

In its letter which was dated April 25, 2013, the KHF responded to the OCG stating that, *"... in answer to the two questions asked in your letter, I advise as follows:*

- 1. The Procedure and Policy guiding the process we have been issuing is to be transparent, arms-length, and guided by market and economic valuations and with respect, in our opinion what we are doing does not fall within the Privatisation Policy.*
- 2. The King's House Foundation Committee will be making contact with the Development Bank of Jamaica and obtaining their opinion on this matter before proceeding further."*

Based on the copy letter of April 17, 2013, which was sent to the DBJ by the OCG, the DBJ responded with alacrity by way of a letter which was dated May 1, 2013, advising that, *"We wish to indicate that Housing PPPs are exempt from GOJ's Policy and are governed by the Housing PPP Policy. The Policy states:*

*'Housing PPPs which are the responsibility of the Minister of Housing, being undertaken under the Housing Act are exempted from this policy. Therefore, the Housing PPP Policy is applicable to Public-Public Private Partnership agreements with the objective of developing housing solutions, which are be [sic] promoted by the Minister of Housing or related agencies under his authority'.*

*We therefore are of the view that the proposed divestment is not within the purview of the DBJ and should be executed in line with the Housing PPP Policy."*

By way of letter which was dated May 15, 2013, the OCG requested a copy of the Housing PPP Policy from the Ministry of Transport, Works and Housing. On receipt of the Policy, the OCG, in a letter to the KHF which was dated May 27, 2013, and in its effort to ensure that the KHF adheres strictly to the dictates of the said Policy, directed the Foundation Board to the following provisions of the Policy document:



- a. Section 3.1 – OBJECTIVE OF THE POLICY-Objective 3, states, *inter alia*, “Provide a framework to improve the efficiency, **transparency and equity** of the Government’s Housing Public-Private Partnership Programme” (OCG’s emphasis); and
- b. Section 3.2 – CURRENT SITUATION - #2, states, “There is a need to improve the manner in which partners are selected for projects and to conform to government guidelines in regard to awarding of contracts.” and that **“All prospective partners will be evaluated prior to their selection for projects. The process will include:...d) Selection of partners will be guided by the Government Procurement Procedures.”**

Within the same letter, the OCG pointed out that it had noted that, “...by way of letter dated April 04, 2013, to the Chairman of the National Contracts Commission (NCC), the King’s House Foundation Board has advised, *inter alia*, that ‘The Development Committee of KHF was delegated by the Board the task of finding a suitable joint venture partner. **The committee prepared a list of 12 companies they felt had the technical competence and would be financially able to be able to carry out the development...**’ (OCG emphasis)

In the circumstances, the OCG recommends the following:

- 1) **The current process should be aborted**, if the process does not satisfy one of the following criteria required for the use of the Limited Tender Methodology, ‘(a) when no suitable tenders have been submitted in response to an International or Local Competitive Bidding procedure, on condition...are not modified; (b) when, for technical reasons..., the contract may be performed only by a particular contractor and no reasonable alternative or substitute exists; and (c) for purchases made under exceptional advantageous conditions...resulting for example, for liquidation, receivership or bankruptcy, and not for routine purchases from regular contractors.’
- 2) Without prejudice to the Housing Public-Private Partnership Policy (2008) Part 2 – Operational Guidelines, 1.1 – Steps involved in the joint venture process, and in the event that the current process does not meet any of the pre-condition criteria required above for the use of the Limited Tender Methodology, then the Foundation Board should:
  - a. Prepare a formal Tender Document (if same is not already done);
  - b. Commence a formal tender process, by publicly advertising the opportunity and inviting **only NCC registered contractors**;
  - c. **Utilize the two-stage Tendering option; and**
  - d. **Use the Standard Bidding Documents and the Construction Industry Council (CIC) form of contract.”**

Subsequent to the receipt of the OCG’s May 27th letter by the KHF, the referenced meeting between the Officers of the OCG and the KHF took place on June 11, 2013.

Shortly after the meeting with the OCG, the KHF, at the request of the OCG, submitted copies of the two joint venture proposals from Pan-Jamaican Investment Trust Ltd. and GEON Group of Companies. These proposals were submitted to the OCG under cover of letter which was dated June 12, 2013, wherein the KHF stated that, “We are asking that you allow us to continue our procedure and negotiate with both of these two interested parties to finalise an agreement with one or both which would enable us to proceed with the proposed residential development.

We believe that the procedure we have adopted applies the principles set out in the various Government policies and the Contractor General Act, to select the best entity, which is financially and technically capable, and which will produce the most efficient and profitable development.”

In its response, the OCG, by way of letter which was dated June 14, 2013, advised that, *“...the OCG nonetheless, is not in favour of, and does not support, the said process which was utilised. The OCG is of the considered view that a development project of this nature and magnitude should be publicly advertised, so that opportunity can be afforded to all reputable and qualified interested investors.*

*Accordingly, the OCG makes reference to its letter which was dated May 27, 2013, and reiterates some of the positions stated therein, in particular, that the current process should be aborted and that the opportunity should be publicly advertised.*

*With respect to the meeting, the reasons which were communicated regarding why this process was utilised and why the opportunity was not advertised, the OCG opines that this objective can be achieved through the use of a two stage tender process whereby potential investors are prequalified.*

*In this regard, the Foundation would be able to establish the (a) technical capability (b) financial capability and (c) experience, of each potential investor, prior to them being considered for further participation. This would be beneficial to your objectives. Also, through the use of a two stage tender process, the Foundation will be able to restructure its evaluation criteria, so that its final selection could be more heavily weighted on price.*

*...The OCG will make one of its Officers available to guide the Foundation during the implementation of this very important project, and anticipates that it will be kept abreast of any further developments.”*

By way of letter which was dated July 30, 2013, the KHF made a formal response to the OCG with regard to its position on the recommendations which were made by the OCG in its letter dated June 14, 2013. The response stated that, *“I refer to my letter of July 4th in which I said we were hoping to have a meeting and would shortly reply. That meeting was held on 12th July 2013 although one member was still off the island. Prior to that, Mr. Colin Whittingham, who is helping the sub-committee, met with you and two other officers of the OCG on 11th July 2013 and attended our meeting.*

*It was agreed at our 12th July meeting that I would reply to your letter of the 14th June to confirm that we accepted the OCG’s request and would proceed to publicly advertise for interested joint venture partners. Also, we would proceed with the “two-stage tender process” recommended by the OCG suitably adapted to meet our specific situation, and also consult with the OCG during the carrying out of the process.*

*Mr. Whittingham had another meeting with your Mr. Lee on the 18th July and they have been in contact with each other by phone and e-mail. We look forward to a continued co-operative relationship to get this development underway.”*

On August 22, 2013, teams from the OCG and the KHF met, at the request of the KHF, to discuss details of the tender advertisement and the two envelope tender system that would be utilized in the tender process. Subsequent to this meeting, the KHF, by way of an email which was dated October 3, 2013, submitted a draft Tender Document to the OCG for its perusal. A meeting was then held at the OCG on October 15, 2013, during which the contents of the draft Tender Document were discussed and recommendations made to the KHF for its improvement.

Based on the recommended adjustments to the Tender Documents and the Advertisement which were made by the OCG, the KHF published the Advertisement for the Tender Process on December 6 and 8, 2013. Corrected notices were subsequently published on December 15 and 18, 2013, due to an omission and the extension of time for the collection of the Tender Documents.

The KHF advised the OCG that by the end of the period for the collection of Bid Documents, eleven (11) Bid Documents had been purchased. The Bid Opening was scheduled for January 31, 2014.

## **MAJOR PROJECTS**

### **Design and Construction of Air Traffic Control Towers at the Norman Manley International Airport and Sangster International Airport**

In 2005, by way of a letter to the Jamaica Civil Aviation Authority (JCAA), the Air Traffic Controllers at the Sangster International Airport (SIA) expressed concern with the extension of the Terminal Building which obscured the view of most of the new gates from the Air Traffic Control Tower. This issue created a hindrance to the safety feature of the Air Traffic Control Operations, thus the Controllers sternly recommended the construction of a new Air Traffic Control Tower.

The concerns of the Controllers were reported in the local media and, as such, at least three (3) unsolicited proposals were received by the JCAA for the construction of Air Traffic Control Towers at the SIA and the Norman Manley International Airport (NMIA). Two (2) of the proposals were deemed unsuitable for the needs of the Authority and were not further considered. The third proposal, which was submitted by INTELCAN Technosystems Incorporation (INTELCAN), a Canadian based company, was pursued by the Authority due to their expertise in "turn key" projects of a similar nature. INTELCAN's proposal was also supported by the Canadian Government, through the Canadian Commercial Corporation.

The JCAA, by way of a letter dated April 19, 2007, to the National Contracts Commission (NCC), requested approval to utilise the Sole Source Procurement Methodology to engage INTELCAN for the construction of both Control Towers. In its meeting, which was held on July 18, 2007, the NCC endorsed the JCAA's request to enter into a Direct Contract with the Canadian company, at a cost not exceeding CAD\$20,000,000.00.

In January 2008, the JCAA, upon deliberations amongst the Board of Directors, made the decision to include local Engineers, Quantity Surveyors and other professionals on the project. By March 2008, three (3) Requests for Proposals for Quantity Surveyors were issued, however; only one (1) proposal from EQS Jamaica Limited (EQSJL) was received. By September 2008, EQSJL was contracted to provide sketch designs and an estimate for the civil works to be undertaken in the construction of both Control Towers. Subsequently, EQSJL, in collaboration with the JCAA and INTELCAN, formulated the proposal documents for the Conditions of Contract, The Employer's Requirements, and the Contractor's Proposal. The Documents were completed and approved by the JCAA in November 2009.

Between December 2009 and February 2010, INTELCAN submitted four (4) revised proposals to those originally submitted in 2007. Due to negotiations between the EQSJL and INTELCAN, the Contractor's final proposal was priced at CAD\$19,999,974.00 (excluding GCT). The proposal, along with EQSJL's Tender Report which was dated May 3, 2010, recommended the award of contract to INTELCAN for the stated amount, was submitted to the JCAA Board for review. The Board granted its approval on October 25, 2010.

Subsequently, the requisite approvals were obtained and the Contract was awarded accordingly. However, at the time of the award of contract, **INTELCAN was not registered with the NCC** which is a deviation from the requirements in the Handbook of Public Sector Procurement Procedures (2008), Sub-section S-2040, Item III, which outlines that, "*Contractors should be registered with the National Contracts Commission (NCC) prior to contract award.*"

### **Works at the Norman Manley International Airport**

Site handover and commencement of the demolition works were to start by August 15, 2011. However, the building could not be vacated as there were delays in completing the new area to house the Ground Handlers. As such, demolition was completed in November 2011.

By way of a Progress Report which was dated November 22, 2011, it was noted that work at the NMIA progressed slowly and that the Contractor was *"...having difficulty concluding contractual arrangements with their proposed subcontractor, Stresscon Limited. The Client Representative met with both parties in an effort to... jump start the earthworks and piling packages. However, it would appear that the relationship between the parties has not improved and the subcontractor continues to progress very slowly with the works.*

*The Contractor has approached alternative contractors including Tankweld Special Projects and Ashtrom Ltd. They have not yet submitted the names of the alternative subcontractors to us for approval."*

On November 30, 2011, INTELCAN requested approval to engage Tankweld Limited as the main Sub-contractor for the project. The JCAA offered its 'No Objection' in a Progress Meeting which was held on December 15, 2011. Subsequently, Stresscon Limited completed the demolition works and demobilized from the site. Tankweld Limited was then contracted for the substructure and superstructure works at the NMIA.

Piling commenced on February 23, 2012. Delays were encountered as a result of equipment failure and issues with the number of blow counts whilst driving the piles. Blow counts were in excess of 200 at depths of 25'-0" - 30'-0". The Contractor referred the matter to Piling Specialists and recommendations were made as to the most appropriate means to rectify the problem. The recommendations were implemented and piling was completed on March 14, 2012.

By way of a Progress Report which was dated March 15, 2012, it was announced that construction of the tower at the NMIA was ahead of that at the SIA in terms of progress. The Report stated that the *"...original intent was that the works at SIA would proceed and then the concrete forms will be transported to NMIA and so there was a six week lag between SIA and NMIA. It now appears that this will be reversed... the Contractor will transport the pile [from NMIA] to SIA, complete the pile tests and then, unless further problems arise, complete the piling."*

By July 2012, works at the NMIA progressed with the completion of the Tower's substructure and commencement of the superstructure, bringing the Tower to the fourth level which is 14.2m above ground level. Due to the height of the structure, the force of the wind affected the installation of the formwork and created minor delays. At this stage, the project was six (6) weeks behind schedule which forced the Contractor to initiate seven (7) day work weeks to redeem the time that was lost.

The passage of Hurricane Sandy in October 2012 resulted in an additional two (2) weeks delay. Work, nonetheless, continued and by November 2012, the formwork for the Tower had been transferred to the site at SIA. As at December 31, 2012, the structural steel frames for the side buildings were completed, both slabs had been poured for the Administrative building and one slab was poured for the Mechanical building.

The superstructure, inclusive of the tower cab, was completed by March 2013 and Tankweld demobilized shortly thereafter. With additional delays in the shipping of material and the fireproofing of the structural steel, the project moved to approximately two (2) months behind the revised schedule. Nonetheless, the Contractor maintained that the tower would be completed in December 2013.

Despite the completion of the superstructure in March, it was apparent that the project would continue beyond the scheduled deadline. By June 2013, the anticipated completion date slid to January 2014. In an effort to meet this deadline, however, the time allotted for the installation of services and completion of finishes was shortened. Nonetheless, the Project Manager had doubts as to whether the completion date would be achieved. In this regard, the Project Manager issued a formal letter to the Contractor outlining concerns with the consistent project delays and requesting an update as to how this problem would be resolved.

By August 2013, the project was delayed by three (3) months and the Contractor was unable to submit a revised programme indicating a new completion date or give a reason for the delays and/or how they would be addressed. At the September 19, 2013, site meeting however, the Project Manager advised that a revised programme had been submitted by the Contractor and that it indicated a completion date of March 2014. It should be noted that the Contractor did not respond to the Project Manager's letter regarding the project delays.

Throughout the final three (3) months of the year 2013, installation of the glazing for the curtain walls was completed and the works commenced and progressed steadily on the installation of the internal drywall partitioning, and finishes for the service level and the administration area.

As at December 2013, it was noted that in the previous month, INTELCAN was registered as a Grade 2 contractor in Civil Engineering Works and Building Construction with the NCC. The Contractor however, required a Grade 1 status for executing a project of this magnitude and, as such, they had applied for an upgrade. **At the end of the reporting period, the project was twenty two (22) months past the original contract completion date of February 2012 and there remained uncertainty that the revised completion date of March 2014 would be achieved.**

The OCG will continue to monitor the execution of the Contract.

### **Design and Construction of Air Traffic Control Tower at the Sangster International Airport**

Mobilization at the SIA commenced between July 20 - 23, 2011, with the clearing of the selected Tower Site. At this stage it was discovered that the selected site for the Tower and base building was made up of approximately 75% swamp material. As such, a revised site layout had to be generated by the Contractor. Subsequently, the new site proposal, which moved the Tower further west, was agreed upon by both the Contractor and SIA and preliminary works commenced on August 28, 2011.

With delays in commencement of work at the SIA, work progressed slowly at NMIA. By way of a Progress Report, dated November 22, 2011, it was noted that the Contractor was *"...having difficulty concluding contractual arrangements with their proposed subcontractor, Stresscon Limited. The Client Representative met with both parties in an effort to... jump start the earthworks and piling packages. However, it would appear that the relationship between the parties has not improved and the subcontractor continues to progress very slowly with the works.*

*The Contractor has approached alternative contractors including Tankweld Special Projects and Ashtrom Ltd. They have not yet submitted the names of the alternative subcontractors to us for approval."*

On November 30, 2011, INTELCAN requested approval to engage Tankweld Limited as the main Sub-contractor for the project. The JCAA offered its 'No Objection' in a Progress Meeting which was held on December 15, 2011. Subsequently, the decision was taken to have Stresscon Limited complete the piling works and Tankweld Limited was contracted for the substructure and superstructure at the SIA.

Piling commenced on February 1, 2012. However, the Contractor encountered problems reaching the required depth of approximately 35'-0". Additional geotechnical investigations revealed the presence of a hard level of cemented limestone at approximately 18'-0" below ground. Consequently, the piling works was halted causing significant delays. Subsequently, the decision was taken to design a raft foundation on short bearing piles for the Tower base.

In a Progress Report dated March 15, 2012, it was noted that construction at the SIA would significantly lag behind the NMIA though, *"...The original intent was that the works at SIA would proceed and then the concrete forms will be transported to NMIA and so there was a six week lag between SIA and NMIA. It now appears that this will be reversed... the Contractor will transport the pile [from NMIA] to SIA, complete the pile tests and then, unless further problems arise, complete the piling."* Work, therefore, did not recommence at the SIA until August 2012, which delayed the project progress significantly. At this stage, the construction of the tower at the NMIA was ahead in terms of progress.

By November 2012, the formwork used at the NMIA had been transferred to the site and works progressed steadily without any significant delays. As at December 31, 2012, the Tower was at the fourth lift and was scheduled for completion by June 2013.

The tower shaft and cab were completed in June 2013 as planned and Tank-Weld demobilized shortly thereafter. The completion of the shaft and cab would be followed by the installation of the curtain walls. However, a reported lag in the receipt of the material resulted in a forecasted six (6) week delay. Progress was further hindered as works such as the electrical installation could not commence until the glazing was installed.

The original programme indicated seventy seven (77) days for the completion of the curtain walls; however, due to the delay in the procurement of the material, installation was expected to take one hundred and seventy seven (177) days. Despite persistent queries from the Project Manager, the Contractor was unable to give an explanation for the delay. The Project Manager continued to express great disappointment about the situation especially since the project was previously ahead of schedule.

With little work occurring on site, site meetings were suspended until November 2013. By the end of that month, installation of the frames for the curtain walls on the service level was in progress. The glazing was not scheduled for arrival on site until January, 2014. However, in spite of the delivery of the glazing, the date of receipt of the backpans required to make the building watertight was unknown. Without the backpans, limited interior work could be done.

As at December 2013, the framing of the curtain wall on the service level was completed and that for the administration building had commenced. The backpans had also been received but their installation would not commence until January 2014.

The OCG will continue to monitor the execution of the Contract.

### **The Construction and Completion of a 1200-pupil High School at Cedar Grove, Gregory Park, St. Catherine**

#### Pre- Contract Stage

The Ministry of Education (MOE) by way of letter dated January 13, 2011, invited five (5) previously pre-qualified companies to submit Tenders by 2:00 p.m. on February 18, 2011. The Comparable Estimate was Six Hundred and Fifty Million Dollars (J\$650,000,000.00). The three (3) Tenders which were received, opened and verified on the stipulated day, are as follows:

- H.D.B. Construction Limited – J\$660,000,000.00
- Jiangsu Geology & Engineering Co. Ltd. – J\$670,000,000.00
- Build Rite Construction Co. Ltd. – J\$753,273,706.08

A detailed evaluation was conducted in accordance with the evaluation criteria which were outlined in the Tender Document. The lowest responsive Bid in the sum of J\$660,000,000.00, which was submitted by 'H.D.B. Construction Limited' was recommended for the award of contract.

The recommendation for the award of contract was endorsed by the National Contracts Commission (NCC) on May 25, 2011, and approved by the Cabinet by way of Cabinet Decision No.07/12 dated February 20, 2012. On April 26, 2012, a contract in the sum of Six Hundred and Sixty Million Dollars (J\$660,000,000.00), with a duration of eighteen (18) months, was signed between the MOE and H.D.B. Construction Limited.

## Post-Contract Stage

Over the period under review, documents received by the Office of the Contractor-General (OCG) indicated that the project commenced on May 21, 2012, and was scheduled to be completed by November 21, 2013. Initially, the project progressed at a steady pace and by May 2013, it was approximately 65% complete and had expended approximately 51% or J\$341,539,572.50 of the contract sum. For the first two (2) months, the output of the works was marginally below the required level but increased significantly over the next three (3) months, resulting in the project being back on schedule. Based on the contract sum and duration of the project, expenditure and output for the works per month should have been approximately J\$36.7 Million and 5.5%, respectively.

Notwithstanding the Contractor's commendable performance, the project encountered delays that affected the Works Programme, which includes:

- The Ministry not responding in a timely manner to matters reported by the Contractor;
- The Ministry's approval of the Construction Programme, which was not finalized until August, 2013;
- The untimely preparation of Payment Certificates;
- Furnishing of information relating to Variation Orders;
- Redesigns to several Infrastructural item of works; and
- Stop order on construction of the Multi-purpose Hall, the setting out of the Changing Rooms and the Bleachers (i.e. seating for spectators by the playfield). The stop orders were on the instruction of the NET's CEO, in a bid to limit construction cost as fluctuations had occurred due to the time lost between the date of tender (February 2011) and the date construction began (May 2012).

The OCG's representative observed that the project site was well organized, and that workers were attired in the required safety gears.

The documents further indicated that the Contractor requested of the MoE a final Walk thru meeting to be held on December 3, 2013, to determine whether Blocks D and E could be awarded practical completion. The MOE's project Architect and Clerk of Works however, indicated that the Blocks were not at an acceptable level to be deemed practically complete, as there were several areas where the workmen were still executing works. The Science Labs were not finished, as approximately 90% of the basins had not yet been installed.

Additionally, the chairlift for the disabled on Block D was experiencing the following operational issues that had to be rectified:

- a) The door to the chairlift was required to be opened manually after using the energizing key;
- b) The energizing key was not user friendly to the disabled;
- c) The interior wall surface of the elevator/chairlift shaft had not been rendered;
- d) The access panel within the chairlift was not secured properly;
- e) The window opening used in the door of the chairlift was too small and persons were unable to see inside; and
- f) The uncertainty of whether the fail safe device would be sufficient in the event of a power cut and the life span of the back-up power source (i.e. battery).

As it regards the Multi-purpose Hall, the structure was incomplete with several unfinished items including the fixtures and fittings and the installation of the roof sheeting. Due to the design issues experienced with the Multi-purpose Hall, the contractor's representative reported that the project was rescheduled to be completed in January 2014, instead of November 2013.

As at December 31, 2013, only Blocks A, B and C were substantially complete. However, based on the observations made by the MOE's project Architect and Clerk of Works, the project could not be deemed practically completed. At the end of the reporting period (December 31, 2013) the project was approximately 90% complete, with an expenditure of J\$520,000,000.00.

The OCG will continue to monitor the implementation of this Contract.

## **Housing and Infrastructure Works at Boscobel, St. Ann**

### Pre-contract Stage

The Ministry of Housing, Water and Local Government, under its National Housing Programme, had previously pre-qualified Grade 1 Contractors, in the categories of Civil Engineering and Building Construction.

Subsequently, the Housing Agency of Jamaica Limited (HAJL) by way of letters dated May 27, 2010, invited eleven (11) pre-qualified Contractors to submit tenders. Tender Documents were to be returned by June 29, 2010, however Addenda that were issued extended the deadline for the submission of tenders to 12:00 noon on July 6, 2010.

Six (6) Tenders were received, opened and verified in accordance with the eligibility requirements which were outlined in the Tender Document.

A detailed evaluation was conducted in accordance with the evaluation criteria which were outlined in the Tender Document. The lowest responsive Tender, which was submitted by N.F. Barnes Construction & Equipment Company Limited, in the sum of J\$802,522,476.00, was recommended for the award of contract.

The requisite approvals were obtained and on April 11, 2011, a contract in the sum of J\$802,522,476.00, was signed between the HAJL and N.F. Barnes Construction & Equipment Company Limited.

### Post contract Stage

The project entailed the construction of ninety nine (99) two bedroom units and one hundred and fifty nine (159) service lots along with roadways, kerb and channels, potable water distribution network, sewage collection system and a sewage collection facility which was scheduled to be completed in five hundred and fifty (550) days.

The project commenced on April 26, 2011, and was scheduled to be completed on October 26, 2012. However, the project is yet to be completed due to the following matters:

1. Faulty topographic information utilized for the designs resulted in problems during the implementation stages of the project;
2. Tardiness by the Contractor in executing some works activities;
3. Rocky soil conditions;
4. Frequent mechanical problems and down time of the trenching machines;
5. Inclement weather and the passing of Hurricane Sandy;
6. Inadequate resources for the construction of the housing units;
7. Loss of six (6) weeks of work due to design changes;
8. Delays by the HAJL in submitting to the Contractor, drawings for the modified/new items of work;
9. Dispute between the Contractor and HAJL regarding quantities of work items to be included in the Variation Orders; and
10. Financial constraints being experienced by HAJL, which has resulted in delayed or non-payment of the Contractor's claims.

The issue with the faulty topography was discovered at the beginning of the project and, consequently, modifications were done to all aspects of the project and a new Bills of Quantities was drafted. This new Bills of Quantities concluded with a similar Contract Sum as the original document, despite the fact that the quantity of some items of works had increased. This resulted in discrepancies in the reconciliation of measurements of actual works done by the Contractor.



Additionally, the HAJL intended to fund Phase 2 of the project from the sales revenue generated from Phase 1. This did not materialize and the HAJL is in the process of sourcing the requisite funding to complete the works.

The following are items of works that have been executed on the housing units:

1. Excavation and construction of foundations and substructures – ninety six (96) units -Phases 1 & 2;
2. Construction of the super structure – Phases 1 & 2;
3. Application of wall finishes – Phases 1 & 2;
4. The installation of the first fix for plumbing and electrical works;
5. The installation of plumbing fixtures within some of the units; and
6. The installation of roof framing and covering– Phases 1 & 2.

In addition to works being executed to the housing units, all roads were completed up to the level of being prime coated. There was, however, no asphaltic concrete works done to any of the roadways. The requisite pipe laying works for the sewer and potable water supply distribution systems, with laterals to all units and service lots, were completed along each roadway. Works had also started on the Sewer Treatment Plant, however it was not completed due to numerous design and pricing issues.

Documents received from the HAJL indicated that the Contractor, by way of letter dated October 17, 2012, applied for an extension of time to complete the project. The HAJL responded by way of letter dated September 4, 2013, granting an Extension of Time (EOT) which resulted in a revised completion date of March 5, 2013.

The OCG noted that the letter from the HAJL to the Contractor granting the extension of time was issued approximately eleven (11) months after the request for EOT by the Contractor and approximately six (6) months after the said revised completion date would have taken effect. In the foregoing regard, the OCG sought clarification from the HAJL by way of a letter dated November 13, 2013, which stated, *inter alia*, that,

*“Subsequent to a review of the referenced letter and the accompanying enclosures, the OCG noted that by way of letter dated October 17, 2012, the Contractor made a request for Extension of Time (EOT) and that the HAJL’s formal response by way of letter dated September 4, 2013, indicated an EOT award to March 5, 2013. The chronology indicates that the Contractor was notified about the EOT award approximately six (6) months after the expiration of the extended contract period.*

*In the foregoing regard, the OCG is of the opinion that the HAJL took an inordinate amount of time (approximately 10 months) to approve the Contractor’s claim for EOT and now seeks clarification on whether (a) the HAJL adhered to the provisions as stated in Clause 8.4 Extension of Time for Completion subject to Sub-Clause 20.1(Contractor’s Claim), of the Contract, (b) the delay in approval of the EOT, adversely affected the Contractor’s ability to prepare a feasible revised Works Schedule and (c) the Contractor had in any way contributed to the HAJL’s delay in processing the claim for EOT.”*

*Additionally, and notwithstanding the HAJL’s letter to N.F. Barnes Construction & Equipment Company dated February 27, 2013, which stated, inter alia, that, “Pursuant to clause 8.7 of the contract and as a direct result of N.F. Barnes Construction Company’s inability to complete the project, pursuant to clause 8.2, the Agency puts your company on notice (cl 2.5) of its intention to claim for delay damages,” the OCG is requesting information on whether any sum associated with Clause 8.7 Delay Damages, has been deducted from payments made to the Contractor and whether the Contractor had applied for and was awarded additional EOT, subsequent to the HAJL’s letter to Mr. Newton Barnes dated September 4, 2013. A justification should be given for any sum deducted under Clause 8.7 Delay Damages or an explanation offered if no delay damages have been applied to the Contractor thus far.”*

The HAJL responded to the OCG by way of letter dated November 28, 2013, which stated, *inter alia*, that:

- a) *“Clause 8.4 refers to the Contractor’s entitlement to an Extension of Time (EOT) subject to Clause 20.1 under the specific Conditions related.*

*As referenced in your letter, the Contractor exercised this prerogative on October 17, nine (9) days prior to the original contract time expiration and after many demands from the Agency. Prior to this date, the pertinent notice was served by the Contractor, however, the claim did not follow until the mentioned date. All other requirements of both clauses are in place.*

- b) The Contractor did not contribute to any delay as the adjudication was completed three (3) days after their claim was received.*

*Regarding the actions pursuant to Clauses 2.5, 8.2 & 8.7, the Agency is yet to deduct any sums from the Contractor. Damages have not been applied at this stage of the works as this action is deemed counter productive to completion of the works.*

*The Agency, however, fully intends to deduct such sums at the appropriate time.”*

The matter as it regards the settlement of claim for EOT persisted and is reflected in the Minutes of the Nineteenth (19) Site Meeting dated November 7, 2013, under *Extension of time claim and revised work programme*, which stated:

*“The Chairman reiterated that the Contractor will have to apply for additional Extension of Time (EOT) to complete the works. He also stated that the time applied for have elapsed the new completion date was March 5, 2013.*

*Mr. Archer reiterated that the Contractor will be applying for the additional Extension of Time (EOT) , however he would not able to ascertain the completion date of the project as the Contractor have not been paid since certificate #14 which as [sic] seriously affected the progress of works to be executed. He said that if the situation of non-payment of claims continues which have negatively impact [sic] the progress of works the Contractor will have to suspend the works.”*

As at December 2013 the project was 82.5 % completed and on hold due to financial constraints being experienced by the HAJL.

The OCG will continue to monitor the project.

### **North-South Link Highway 2000**

In 2012, the implementation of the North-South Link Highway 2000 (NSLH) project was delayed as a result of the OCG's request for the National Road Operating Construction Company Limited (NROCC) to cease all negotiations with China Harbour Engineering Company (CHEC). After complying with the OCG's request, the NROCC subsequently made a representation to the Attorney General for an opinion and also to the Cabinet for a resolution on the issue.

NROCC also sought the support and received the 'no objection' of the National Contracts Commission (NCC) for the North South Link Concession Agreement which emanated from an Unsolicited Proposal by CHEC.

It was envisioned that the structure of the Concession Agreement along with the Implementation Agreement would include the following:

1. No loans, guarantees or investment by the GOJ;
2. The completion of the Mt. Rosser Bypass and the repayment of the US\$120 Million investment made by the GOJ;
3. Significant benefits to Jamaica's economy through the construction of the toll road, and the housing/commercial developments; and
4. At the end of the fifty (50) year Concession Agreement, the toll road and the adjacent lands would be returned to the GOJ, free of cost.

The Concession Agreement, however, required a Developer for the project implementation. CHEC subsequently formed the Jamaica North South Highway Company Limited (JNSHC) as the Developer.

As stated in the Concession Agreement, Clause 5.1 - General and Construction Obligation, “...*the Developer shall have the right and obligation at its cost, in accordance with Good Engineering and Operating Practices, to design, build, operate, finance and maintain the Toll Road subject to and in accordance with the provisions of the Agreement.*”

Consequently, since the signing of the Concession Agreement, the “Effective Date” was established as January 28, 2013 and the “Time of Completion” was scheduled for January 28, 2016, which represents a period of thirty six (36) months.

The initial cost of Construction for the three (3) Sections was approximately US\$600 Million with works to be executed as follows:

- a) Section 1 – Caymanas to Linstead (approximately 27.5 km) which includes sub-grade and pavement works, one main toll plaza, three (3) interchanges, six (6) flyovers, and eight (8) bridges, with an overall design and construction period of thirty six (36) months;
- b) Section 2 – Linstead to Moneague (approximately 19.2 km) which includes the completion of approximately 1 km of landslide treatment on the Mt. Rosser section; 5 km subgrade works, pavement works, slope protection, and drainage construction. The design and construction period was slated for sixteen and a half (16.5) months; and
- c) Section 3 – Moneague to Mammee Bay (approximately 21.3 km) which includes 20.6 km subgrade and pavement works, one main toll plaza, two (2) interchanges, two (2) flyovers, and two (2) bridges, with an overall design and construction period of thirty six (36) months.

Firstly, CHEC, the Contractor, commenced construction activities on Section 2 which had been revised to start on July 23, 2013, having had the design and approval process completed a month earlier.

Thereafter, the works at Sections 1 and 3 were scheduled to commence on September and November 2013 respectively.

CHEC however, had begun clearing operations in Section 2 at the end of January 2013 and construction of its site office at the Treadways, St. Catherine commenced in February 2013.

During the reporting period, construction activities progressed slowly but steadily. The OCG observed that the slow work output by the contractor was mainly attributed to the following issues:

1. Construction design details and approvals;
2. Final road alignment within Sections 1 and 3, including an agreed connection at Caymanas for the Mandela Highway;
3. Land acquisition approvals;
4. Environmental permits for works locations; and
5. Work stoppage on Section 3 as a result of labour disputes.

At the end of the December 31, 2013 reporting period, the Construction Inspection Report for Highway 2000 North – South Link, which was prepared by the project consultant, Stanley Consultants Inc., stated that Section 2 was 20% complete with 73% of the construction time having elapsed.

Section 1 was 8% complete, having 22% of the time elapsed, and Section 3 was 5% complete with 23% of the time expired.

## **Jamaica Development Infrastructure Programme (JDIP)**

The Jamaica Development Infrastructure Programme (JDIP) represented a major undertaking by the Government of Jamaica (GOJ), which was aimed at improving the Country's Road Network. Through the Road Maintenance Fund of Jamaica, the GOJ entered into a Loan Agreement with the Export-Import (EXIM) Bank of China to finance the JDIP. The Programme was the outcome of a Preferred Buyer's Credit Facility from the Government of China through the EXIM Bank of China which provided funding in the amount of US\$400 Million, to carry out Works island-wide over a five (5) year period.

The Sole Source procurement methodology was utilised to engage China Harbour Engineering Company (CHEC) as the Main Contractor for the JDIP. By way of Cabinet Decision No. 30/10 dated August 16, 2010, approval was given for the award of Contract to CHEC for the implementation of the projects.

The OCG maintained monitoring of the selected projects under the programme throughout the 2013 reporting period. The Programme was reported by the National Works Agency (NWA) as being substantially completed as at October 31, 2013. Detailed below are five (5) Major JDIP Projects that were monitored during the review period:

### The Construction of Two (2) Reinforced Box Culverts, John's Hall, St. James

The Construction of Two (2) Reinforced Box Culverts, John's Hall, St. James commenced in November 2010. At the end of the 2012 reporting period, the project was reported as being 50% completed and was scheduled for completion by March 2013. Poor progress of works, tardiness in removing debris/refuse from the site, poor quality works, and the tardiness of the Sub-Contractor, coupled with design issues relating to land slippages, were cited as issues experienced over the period. The revised Contract sum was reported as being \$551,516,768.29, from the original sum of \$384,026,081.51. As at December 31, 2013, the project was reported as having been completed.

### Construction of Westmoreland Bridge

CHEC commenced construction of the Westmoreland Bridge on February 27, 2012, with an original contract sum of US\$17,938,711.29. Project re-scoping, to include Bridge Construction and the Reconstruction of a section of the existing main road adjacent to the bridge resulted in a revised contract sum of US\$13,486,561.83. As at December 31, 2013, the project was completed.

### Construction Cassia Park Bridge

Construction of the Cassia Park Bridge commenced on September 19, 2011. Over the 2012 reporting period, it was reported that several work stoppages were experienced due to financial disputes between the Contractor, CHEC and the Sub-Contractor, Y.P. Seaton and Associates Limited. Financial issues and substandard works were cited as issues observed over that period. The contract sum was \$183,767,834.51. As at December 31, 2013, the project was completed.

### Fern Gully Restoration & Rehabilitation Programme Stage III - Civil Works, St. Ann

Fern Gully Restoration & Rehabilitation Programme Stage III - Civil Works, commenced on March 7, 2013. At the end of the 2012 reporting period, the project was estimated to be 71% complete, with a total of fifteen (15) Variation Orders reported as being issued. During the 2013 period under review, the main issue associated with the works subsequent to the major delays experienced in 2012, was the slow progress by the Sub-Contractor, Y.P. Seaton & Associates, in early 2013, due to cash flow challenges, rock excavation, relocation of National Water Commission (NWC) pipes and the poor quality of work finishes. The project was reported as being substantially completed as at November 7, 2013, and the Taking-Over Certificate issued. The revised Contract Sum as at December 31, 2013 was J\$ 396,082,007.76. The Defects Liability Period will end on November 6, 2014.

The overall Jamaica Development Infrastructure Programme (JDIP) was reported as being substantially completed in October 2013 and the Taking-Over Certificate issued on October 31, 2013, which indicated that, *"The work under this Contract has been inspected by the Engineer's Representative and the Project is hereby accepted and declared to be taken over...This Certificate does not constitute an acceptance of work that is not in accordance with the Contract documents nor is it a release from the Contractor's obligation to complete the named work in accordance with the Contract documents."*

### **Major Infrastructure Development Programme (MIDP)**

On January 3, 2013, the OCG became aware of a Nationwide News Release article entitled, *"Negotiations between Jamaica and Chinese for US\$350M Programme."*

The article stated, *inter alia*, that,

*"...negotiations between the Jamaica Government and the Chinese for the US\$350 Million Programme, are on the verge of completion... the project will not be dubbed JDIP 2. However in substance and execution it will aim to achieve the goal of completing and expanding the work done and that left untouched by JDIP. The agreement will see the China Exim Bank putting up US\$300 Million and the Jamaican Government supplying the remaining US\$50 Million. It is understood that plans are in place to have the successor agreement to JDIP formally placed in the next budget which is due in April."*

The OCG, by way of letter dated January 15, 2013, addressed to the Ministry of Transport, Works and Housing (MTWH), requested the following information regarding the Programme:

1. The Programme name;
2. Whether contracts/projects emanating from the Programme would be undertaken pursuant to the GOJ Procurement Guidelines; and
3. The Entity which will be the Implementing/Executing Agency.

The MTWH responded by way of a letter dated January 24, 2013, to the OCG's request and advised, *inter alia*, that, *"It is the intention of the Government of Jamaica (GOJ) to pursue the implementation of a major infrastructure works programme, but the name of the programme is yet to be decided. The GOJ has requested a concessionary loan from the Chinese Government through the China Exim Bank to undertake the programme... (US\$352,941,765.00)."*

*The concessionary loan request is in the sum of United States Three Hundred Million Dollars (US\$300M), representing...(85%). The GOJ will finance the remaining fifteen percent (15%)...US\$52,941,765.00) over a three (3) year period, beginning in the 2013/2014 financial year."*

The OCG further communicated with the MTWH by way of letter dated April 16, 2013, with reference to a Gleaner Report dated April 5, 2013, which was entitled, *"JDIP replacement gets a name"*. Included in the OCG's request were the following:

1. Confirmation of the Programme name, as stated by the Permanent Secretary in the MTWH, Audrey Sewell, that the project would be called the Major Infrastructure Development Programme (MIDP);
2. A copy of the signed concessionary agreement between the GOJ and the Chinese Government, through the China Exim Bank;
3. The procurement procedure that would be employed as it regard engaging contractors for projects that were not completed under the JDIP/JEEP; and
4. The manner in which projects emanating from the Programme would be prioritized.

The MTWH responded to the OCG by way of letter dated April 29, 2013, and stated that the Programme was called the MIDP. However, the Concession Agreement between GOJ and the Chinese Government, through the China Exim Bank, was reported as still being under consideration and had not yet been signed.

The MTWH further advised that it was not aware of any projects that had commenced and which had not been completed under the JDIP/JEEP that would be completed under the MIDP. According to the MTWH, any project which was initially conceptualized under JDIP/JEEP and which was to be considered for implementation under the MIDP would be subjected to the terms and conditions of the MIDP contract.

In addition, prioritization of projects under the MIDP for implementation would be based on the following criteria:

1. Regional importance;
2. Connectivity;
3. Traffic volume;
4. Condition/in need of critical intervention;
5. Critical infrastructure affected; and
6. Corridors that will support the GOJ's development objectives.

The OCG was subsequently made aware of the GOJ's intentions for the MIDP, through the tabled document, *"Opening of Sectoral Debate Parliamentary Year 2013/2014 by Dr. the Hon. Omar Davis, MP Minister of Transport, Works & Housing May 7, 2013."*

Within the tabled document, the assertions, inter alia, were made under the sub-heading *"Major Infrastructure Development Programme (MIDP)"*, that:

*During this financial year work will begin on this project value [sic] at approximately (US) \$350 million. This project is being financed by a loan from the China Exim Bank, (US\$300M) and by the GOJ's contribution of approximately US\$50M.*

*...MIDP is financed by the same source –China Exim Bank and the main contractor is the same company, China Harbour Engineering Company (CHEC)...*

*Whilst, under JDIP, there was lack of clarity of the role of local contractors vis-a vis China Harbour, clarity has been clearly established at the outset for the new project.*

*China Harbour will be given responsibility for major projects up to value of US\$220M. Local contractors will be allocated projects with a total value of (US) \$130M (US\$80M supervised by the NWA) and (US) 50M through JEEP. (CHEC will also utilize Jamaican sub-contractors on these projects)."*

Consequently, the OCG wrote to the MTWH by way of letter dated June 18, 2013, requesting additional information regarding the MIDP, inclusive of the following:

1. An Executive Summary, detailing the conceptualization of the project;
2. A signed and dated copy of the Concessionary Agreement between the GOJ and the Chinese Government, through the China Exim Bank;
3. A signed and dated copy of the Contract Agreement between the GOJ representative(s), and CHEC and the Chinese Government, through the China Exim Bank;
4. Evidence of the Ministry of Finance and Planning's support for the Programme for which the GOJ would be contributing approximately US\$50 million;
5. Evidence of the Cabinet approval; and
6. Clarification to the assertions, that, (a) *"...under JDIP, there was lack of clarity of the role of local contractors vis-a- vis China Harbour...."* and (b) Local contractors would be allocated projects with a total value of (US) \$130M (US\$80M supervised by the NWA) and (US) 50M through JEEP.

The MTWH subsequently responded by way of letter dated July 9, 2013, and indicated that the conceptualization of the project was for the GOJ to implement the MIDP, as a successor to the JDIP which was executed by the MTWH/NWA under a loan agreement from the China Exim Bank to carry out infrastructure upgrades and rehabilitation works island-wide.

The MTWH advised that the loan agreement was not yet finalised as the loan was still under consideration by the China Exim Bank. However, a copy of the conditional Contract Agreement and the Preliminary Agreement was provided, having been signed on January 19, 2013, between the GOJ and CHEC.

The Ministry of Finance and Planning's support for the programme was indicated in a letter dated December 14, 2012, from the Ministry of Finance and Planning to the Chinese Ambassador outlining the purpose of the loan. Additionally, the Cabinet gave approval by way of Decision No. 08/13 dated February 25, 2013, for CHEC, as the Chinese Enterprise, to be selected as the contractor for the MIDP.

The MTWH further provided the following clarification to the assertions indicated at item (6):

- (a) *"This statement speaks to the fact that contractual agreement has been secured with the main Contractor in respect of those parts of the portfolio which will be executed by them, discretely from those parts that will be undertaken by local sub-contractors."*
- (b) *"Local sub-contractors, in accordance with the draft document agreement, will be assigned work in their respective categories based on a competitive and transparent process, and with a view to ensuring that there is no breach of the GOJ Procurement Guidelines."*

The OCG was subsequently advised by the MTWH, that the loan agreement between the GOJ and the Chinese Government through the China Exim Bank was signed on August 21, 2013, for a period of five (5) years. The contract period for the Programme is thirty six (36) months and is scheduled to commence on March 24, 2014.

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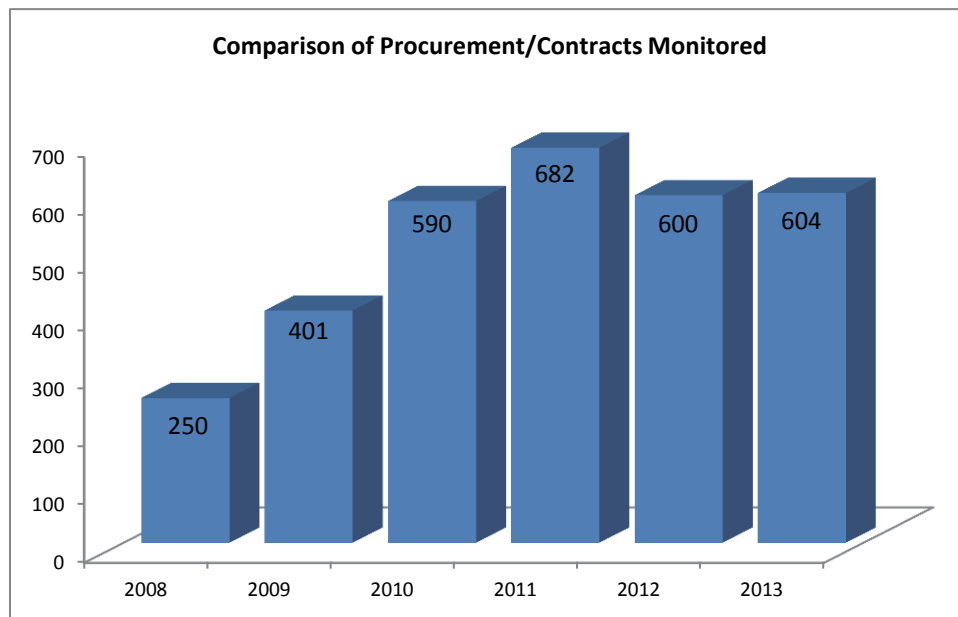


## MONITORING OF NON-CONSTRUCTION CONTRACTS, LICENCES, PERMITS AND CONCESSIONS

The Non-Construction Contracts, Licences and Permits (NCCLP) Division, pursuant to Section 4 of the Contractor General Act, monitors the award and implementation of goods and services contracts, and prescribed licences. The Division monitored six hundred and four (604) procurement opportunities/contracts during the calendar year 2013, in comparison to six hundred (600) procurement opportunities/contracts which were monitored in 2012. This represents a negligible increase in the number of non-construction contracts and prescribed licences which were monitored over the corresponding period.

Of the six hundred and four (604) procurement opportunities/contracts which were monitored during the year, four hundred and thirty four (434) represents monitoring assignments which were carried forward from 2012. The remaining one hundred and seventy (170) or approximately twenty eight percent (28%) represents new procurement opportunities/contracts which were assigned during 2013.

In this regard, the NCCLP Division had monitored marginally more projects in 2013 than it did for the previous year.



Of the six hundred and four (604) procurement opportunities/contracts which were monitored during the calendar year 2013, represented herein in detail, are over one hundred and twenty (120) reports on projects from a cross section of Public Bodies, which were at various stages of the procurement process and/or contract implementation. Reports containing specific information on approximately a further seventy-five (75) projects are also represented. Please review the Appendices related to Non-Construction Contract Monitoring Activities for further information.

## **PROCUREMENT MONITORING**

Public Sector Procurement activities continued to be guided by the Handbook of Public Sector Procurement Procedures which was updated in May 2012. In addition to same, the Ministry of Finance and Planning (MOFP) also issued various Circulars which impacted the procurement procedures. Among the Circulars which impacted the procedures of Procuring Entities were Circulars No. 28 dated October 2, 2013 and No. 33 dated December 9, 2013, both entitled “*Publication of the Government of Jamaica Public Procurement Page*”.

By way of Circular No. 28, the MOFP advised that Cabinet had given permission for the Ministry, through the Jamaica Information Service (JIS), to commence publication of a Government of Jamaica (GoJ) Public Procurement Page in the print media. The stated objective of the publication was to “*provide a platform for disseminating public procurement information nationwide and reduce public expenditure on advertising tender opportunities*”. In this regard, Procuring Entities are required to place advertisements in the public sphere through this medium.

The OCG had, through its monitoring efforts, recognised that some Procuring Entities were not complying with the directives of the aforementioned Circular, but had, instead, been publishing Notices on their own. In this regard, the OCG, by way of letter dated December 3, 2013, brought its observations to the attention of the Financial Secretary, as the non-adherence was a breach of the Procurement Regulations.

Thereafter, the Ministry issued Circular No. 33 on December 9, 2013, advising, inter alia, that, “*The JIS is solely responsible for the issuance of GoJ procurement notices via the Public Procurement Page. No Procuring Entity is to advertise procurement opportunities outside of this facility.*”

The OCG will continue to monitor Procuring Entities compliance with the referenced Circular. Some of the other areas of deviations/ deficiencies which have been identified throughout the course of the NCCLP Division's monitoring activities, during the calendar year 2013, are highlighted below.

### **Deviations/ Deficiencies Identified from the conduct of Monitoring Activities**

#### **Non-utilization and/or Improper use of the Standard Bidding Document**

The current Procurement Guidelines stipulate that use of the Standard Bidding Document (SBD) is mandatory over specified values, and that Procuring Entities may need to modify the SBD to suit the specific procurement.

One of the most common, though declining, deviations which the NCCLP Division has observed through its monitoring activities in 2013, continues to be the failure of Procuring Entities to utilise the requisite SBDs within the applicable thresholds.

Some of the projects which were monitored during 2013 for which the NCCLP Division had made observations regarding non-utilisation of the SBD were:

Procuring Entity	Project Name	Reference No.
<b>Mines and Geology Division</b>	Security Services	Pre and Post Contract Monitoring Reference No.13862
<b>Bank of Jamaica</b>	Supply and Installation of Uninterruptible Power Supply	General Contract Monitoring Reference No.14312
<b>Electoral Office of Jamaica</b>	Consulting Services for the Implementation of an ISO 27001:2005 Certified Information Security Management System (ISMS)	Pre and Post Contract Monitoring Reference No. 13692

In addition to this deviation, the NCCLP Division also found in some instances, that although the SBD is used, it is not properly modified to suit the needs of the Procuring Entity and results in inconsistencies and or conflicting information being presented.

One area of inconsistency which presents on occasion, relates to the Award Criteria set for the process. The Criteria which is indicated in the Instructions to Bidders Section of the SBD states that, "*The Procuring Entity shall award the Contract to the Bidder whose offer has been determined to be the lowest responsive bid and is substantially responsive to the Bidding Documents...*" Procuring Entities may, however, have developed Evaluation Criteria which is points based with the aim of deeming the highest scored respondent as the preferred bidder. **This represents a conflicting position and as such, the Bidding Data Sheet should be amended to reflect the award criterion which is being used.** (OCG Emphasis)

#### The absence/insufficiency of the evaluation criteria

Procuring Entities continue to be challenged as it relates to including and/or properly developing the evaluation criteria in the Bidding Documents. The OCG maintains, in the interest of transparency and fairness, that the evaluation criteria which the Procuring Entity intends to apply to tender proceedings, are to be disclosed in the Bidding Document so that potential bidders will be aware of the criteria against which their bids will be evaluated. The OCG considers lack of clear instructions in this regard to be a deviation from acceptable procurement practices.

#### Improper Procedures in the Receipt and Opening of Bids

Appendix A8.5 and A8.6 of Volume 2 of the Handbook outlines the procedures which relate to Receiving Bids and Bid Opening, respectively. As it relates to Receiving Bids, the Handbook indicates, *inter alia*, that bidders are to sign the Bid Receipt Record, and that a clock is to be prominently placed in close proximity to the Tender Box. Further, and as it relates to the Bid Opening, the Handbook indicates, *inter alia*, that the number of bid envelopes is to be consistent with the Bid Receipt Record, and that "*No bid shall be rejected or any opinion voiced as to its responsiveness at the Bid Opening, except for late bids*".

The OCG has observed that not all Procuring Entities have been complying with the requirements outlined above, as well as the other requirements contained in the Handbook. On occasion, and while a Bid Receipt Record had been available, the OCG has observed that bidders have been allowed to deposit tenders without signing the record. Further, Tender Officers have made pronouncements as to the responsiveness of bids during the Opening Ceremony, in contravention of the aforementioned provisions. On at least one occasion, a relevant envelope which was removed from the Tender Box had not been opened.

Some of the projects which were monitored during 2013 for which the NCCLP Division has made observations in this regard were:

Procuring Entity	Project Name	Reference No.
<b>Tax Administration Jamaica</b>	Supply and Delivery of Multi-function Copiers, Printers, Scanners and Projectors	General Contract Monitoring Reference No.15971
<b>SCJ Holdings Limited</b>	Expression of Interest - External Auditing Services	General Contract Monitoring Reference No.15771
<b>Independent Commission of Investigations</b>	Provision of Security Services (2013)	Pre and Post Contract Monitoring Reference No.13612

#### Other Deficiencies and or deviations observed

- No Comparable Estimate Prepared by Public Body
- Evaluation Committee not constituted or non-existent
- No Head of Entity Approval
- No contract document prepared
- Contract document signed after contract commencement date

## **REVIEW OF PORTFOLIOS UNDER THE NCCLP DIVISION**

The NCCLP Division continues to rely on the efficient management of its various portfolios in order to fully discharge its mandate. This Section provides a brief overview of the Portfolios of the NCCLP Division; a more detailed review of each is provided in subsequent pages.

### **Licences and Permits**

Phase II Licences and Permits Monitoring was not implemented during 2013, and continues to be on hold. The OCG continued monitoring of specific prescribed licences, and reported in the section which follows, are details related to three (3) such transactions which were monitored during 2013.

Undoubtedly, the project which received significant attention during the year was the Right to Supply 360 Megawatts of Power to the National Grid, which had also been the subject of an OCG Investigation. Full contents of the OCG's Report of Investigation can be found on the Office's website. Activities subsequent to that Report are contained in the Section which follows.

### **Asset and Land Divestment**

The Division continues to monitor the privatisation of state assets including land, in keeping with the mandate of the Contractor General Act.

A representative of the OCG continues to attend the Land Divestment Advisory Committee (LDAC) meetings as an observer. The Policy Framework for the Divestment of GoJ owned lands, as was reported in last year's report, had not yet been approved as at the end of December 2013.

Reported in the Appendices and Sections which follow are details related to over twenty seven (27) Asset Divestment opportunities, four (4) Public Private Partnership and thirty four (34) Land Divestment opportunities, which were monitored during the year 2013.

### **Enquiry Management**

The Inspectorate Division, in accordance with Sections 4 and 15 of the Contractor General Act, continues to review the majority of the complaints received by the OCG through its Enquiry Management Portfolio.

Reported herein are the findings regarding fifteen (15) enquiries which were completed during 2013, and for which the findings have already been dispatched to the requisite Public Body.

### **Audit**

The Inspectorate Division, through its Audit Portfolio, had not launched any new audits during 2013. The Division is currently devising ways to better streamline this aspect of its operations in keeping with competing work activities. Work undertaken during the year related to the analysis of information on procurement collected from the Parish Councils, and the Constituency Development Fund (CDF) through the National Works Agency (NWA) Parish Offices and each Parish Council.

### **Exempted Public Bodies**

Contracts awarded by Petrojam Limited and the Port Authority of Jamaica in keeping with the exception granted by Section 1.2.2 of Volume 1 of the Handbook (May 2012), entitled Business Sensitive and Other Related Procurement Provisions, are reported in the Sections which follows:

## Parliamentary Exemptions

The OCG continues to report on exemption motions which have been approved for the calendar year 2013. A total of nine (9) exemption motions were granted during the year.

The OCG also includes a report on the contract(s) which have been awarded by Procuring Entities, to Companies for which such exemptions were granted during 2013.

## Quarterly Contracts Award (QCA)

The OCG has recorded 100% compliance with regard to the submission of the four (4) QCA Reports for the year 2013.

In conjunction with the OCG's Information Systems Division, work continues with the development of an assessment tool which will allow for, *inter alia*, the communication of feedback to Public Bodies and aid in the Division's analysis of reports received.

## Presentation to Accounting and Accountable Officers of Government of Jamaica Ministries and their Departments

Upon request, the Inspectorate Division continues to conduct presentations to Public Bodies.

## Highlights Of Specific Procurement Opportunities/Contracts/Projects Which Were Monitored

Particulars regarding the major projects which were monitored during the year are contained in either the sections which follow in this Executive Summary or in the related Non-Construction Contracts Appendices. One initiative, however, which had received significant attention in 2013, is the Jamaica Logistics Hub Initiative – same is discussed briefly below. An update regarding the Kingston Lifestyle Centre is also provided below.

### Jamaica Logistics Hub Initiative

Certain projects which form a part of the much touted Jamaica Logistics Hub Initiative are reported in the Public Private Partnership section of this Report. Those discussed are the Privatisation of the Kingston Container Terminal, the Caymanas Special Economic Zone and the proposed Goat Island Development.

The aforementioned projects, as well as the Dredging of the Kingston Harbour Access Channel, which has been reported herein as an Appendix to the Construction Contracts, represent four (4) aspects of the Logistics Hub Initiative.

In addition to these, there are other lesser known components of the project which the OCG is aware of, and has been monitoring. These include:

- Development of Vernamfield;
- Commodities Bay at Cow Port, St. Thomas; and
- Dry Dock for Jackson Bay, Clarendon.

With regard to the Development of Vernamfield, the Ministry of Transport, Works and Housing (MTW) had reported that this project is “*expected to focus on strengthening the local aviation industry, facilitating aviation training, air cargo warehousing, logistics maintenance and general aviation services*”. However, based upon response dated October 10, 2013, the GOJ's position on the issue was to be settled. As at December 31, 2013, this position had not changed.

The OCG will continue to monitor all related aspects of the Logistics Hub Initiative which falls under its jurisdiction.

### **Kingston Lifestyle Centre**

Further to that which was reported on page 64 of the 2012 Annual Report, the OCG continued to have an interest in this matter and convened, *inter alia*, a meeting with representatives of the Planning Institute of Jamaica (PIOJ). One concern of the OCG was that a private commercial entity had been acting as a “facilitator” of the transaction while not being engaged to act on behalf of the GoJ. The PIOJ advised that the entity was doing the project pro bono and would receive payment if the project gets off the ground.

The OCG stated its opinion on this matter by way of letter dated October 10, 2013, to the Director General of the PIOJ. The OCG had recommended that, “...*the idea should be converted into an opportunity, which will include components such as the request for potential investors to (a) develop a business plan (b) detail the possible financial structure and (c) outline its proposed approach to seeking equity investors and/or debt.*”

*The considered recommendation to test the market place will not only potentially stimulate greater degree of interest in the project from other persons and/or consortia, but will ensure that the transaction can stand up to the highest degree of public scrutiny, given that GoJ asset is a fundamental feature of this very exciting project.”*

The OCG continues to have an interest in this matter.

### **PRESCRIBED LICENCES**

While the OCG has not yet formally launched its Licences and Permits monitoring regime, the following prescribed licences were monitored during the year:

#### **Office of Utilities Regulation (OUR) - Right to Supply 360 Megawatts of Power to the National Grid**

The Office of the Contactor General (OCG) had launched a special investigation into the 360 MW process and subsequently published the report in Parliament in September 2013.

Although the OCG had concluded its special investigation it, nonetheless, continued to monitor the process.

#### **Office of Utilities Regulation OUR - Supply of up to 115 MW of New Generating Capacity from Renewable Energy Sources on a Build Own and Operate Basis**

The OUR, by way of an advertisement published in the media on November 28, 2012, invited interested entities to submit proposals for the supply of one or more plants of varying configurations greater than 100kW and up to 115 MW of renewable generating capacity. The deadline for submitting proposals was advertised as April 2, 2013, at 3:00 p.m. to be followed by a public opening at 3:15 p.m.

The OUR, by way of a letter dated December 7, 2012, which was received by the OCG on December 14, 2012, advised the OCG of the Request for Proposal (RFP) and included a copy of the advertisement and the tender document.

By way of a letter dated December 13, 2012, the OCG advised of its intention to monitor the project and requested that the OUR provide it with an Executive Summary outlining, among other things, the general scope of the project. The OUR in its response stated that “*the scope of the Project was to obtain 115MW of electricity generation based on renewable energy source to the national grid on a Build, Own and Operate basis to be commissioned by 2015.*”

The OUR subsequently, by way of a letter dated January 16, 2013, invited the OCG to a Pre-Bid Meeting which was to be held on January 17, 2013.

A representative from the OCG attended the meeting and subsequent to same, drafted a letter dated January 23, 2013, to the OUR positing some recommendations and opinions based upon certain concerns raised by prospective Investors who were in attendance at the meeting.

The OCG letter posited the following:

*"1... consideration should be given to an extension of time for the submission of proposals, particularly in light of the fact that the Draft Contract Agreement, which should have been a part of the Request for Proposal to provide prospective Bidders with further details and requirements, in order to allow for proper due diligence and the submission of more robust and informed proposals, is not yet available.*

*2. In the interest of transparency and equity in the Bidding Process, the OUR should consider the preparation of documentation which would provide a guide to prospective Bidders, specifically as it relates to details of the basic requirements for each renewable energy source and interconnection to the JPS Grid.*

*Further, the OUR should also consider the preparation of a guide document which details the operations of the National Solid Waste Management Authority's (NSWMA) Garbage Collection practices, such as; the average amount of waste available weekly, whether there will be a continued flow of waste, whether there will be an imposition of a tipping fee, and any other such consideration.*

*The OCG believes that having such documents will guarantee some level of equity amongst Bidders and would guard against any possibility of the JPS and/or the NSWMA withholding information or being selective in the provision of information, to prospective Bidders. Also, it would minimize the likelihood of any allegation of Conflict of Interest and/or Preferential Treatment, which could be levied by prospective Bidders regarding information disclosed by the JPS and/or the NSWMA, throughout the Bidding Process.*

*3. The OCG, while noting the concern which was raised, does not proffer a recommendation regarding the requirement for Bid Security, as it will be guided by the decision of the OUR in this matter. Notwithstanding, the OCG cautions the OUR to ensure that its requirements are feasible, practical and fair to all prospective Bidders.*

*4. While there may be a perception of a conflict of interest, as it regards the JPS' involvement as a prospective Bidder, the OCG is of the considered view that, inter alia, the development of the guide documentation indicated above, could mitigate some of the concerns, as it regards fairness and equity."*

The OCG noted that, by way of an addendum, the OUR amended the dates for the licencing process and schedule, extending, *inter alia*, the deadline for submission from April 2, 2013 to June 3, 2013.

The OUR received twenty eight (28) bids from twenty (20) firms at the close of tender, which were opened on June 3, 2013, at 3:15 p.m. Following an evaluation of all bids, it was recommended that three (3) entities be accorded preferred bidders status for the supply of 78MW of energy only capacity.

The following entities were recommended:

- a. Blue Mountain Renewables LLC, to supply 34MW of capacity from wind power at Munro, St. Elizabeth;
- b. Wigton Windfarm Limited, to supply 24MW of capacity from wind power at Rose Hill, Manchester; and
- c. WRB Enterprises Inc., to supply 20MW of capacity from Solar PV from facilities in Content Village, Clarendon.

Following upon the OUR advisement of the preferred bidders' status, each of the three (3) bidders met the requirement of posting their bid security by the October 15, 2013 deadline.

The OUR, in a media release dated October 1, 2013, stated that, *“...the absence of qualified proposals offering Firm Capacity will mean an early return to the market.”*

As at December 31, 2013, the OUR had undertaken to populate the Power Purchase Agreements (PPA) as a base for the Entities and JPS to use. According to a status report received from the OUR, *“the pulled out PPA’s were issued to the bidders and they were encouraged to substantially complete the PPA’s negotiation before the June 2014 deadline.”*

### **Spectrum Management Authority (SMA) – Auction of the 700MHz Band**

By way of a news article dated March 26, 2013, from the *Jamaica Gleaner*, it was stated by the Minister of Science, Technology, Energy and Mining, the Honourable Phillip Paulwell, that the Government of Jamaica (GoJ) would be auctioning two licences for use of the 700MHz band.

By way of letter dated April 4, 2013, the OCG wrote to the Ministry of Science, Technology, Energy and Mining (MSTEM) querying whether or not the media report was accurate and requested details of the licensing activities, inclusive of the Public Body /Agency which would be responsible for undertaking the licensing activities.

In the MSTEM’s response, it was indicated that the GoJ intended to auction two (2) licences and that the SMA would be the Agency responsible for undertaking the licensing activities.

By way of a letter dated April 4, 2013, MSTEM invited representatives from the OCG to attend a meeting on April 8, 2013, regarding the proposed auction. The other representatives at the meeting included GoJ stakeholders that would be integral in the process.

The meeting of April 8, 2013, outlined the process of the auction along with the proposed dates for each step of the process, inclusive of the hosting of a public consultation. The SMA, on April 15, 2013, published on its website an Information Memorandum (IM) which outlined, among other things, the objectives of the auction and the packages being offered. The main purpose of the memorandum was to, *“...solicit comments and to outline the Regulatory and Technical considerations underpinning the auctioning of the 700 MHz band.”*

The deadline of submission for all comments and requests for clarification was April 29, 2013. On May 8, 2013, the SMA published, on its website, the questions received and the responses given in relation to the IM.

The SMA subsequently published a Public Notice advising that the date for the public consultation in relation to the auction process, which was initially published in the IM, was postponed.

By way of a letter dated June 19, 2013, the OCG requested that the SMA provide a Status Update of the process *“...inclusive of any revised deadlines which may be attendant to the process.”* In the SMA’s response, it indicated that it was *“...currently awaiting instructions from the Honourable Minister with responsibility for telecommunications in order to proceed.”*

On August 5, 2013, the SMA advised that the public consultation which would be in the form of a public forum was scheduled for September 10, 2013.

Subsequent to same, the SMA issued an advertisement announcing that the publication of the Request for Bids (RFB) for Licences in the 700 MHz spectrum was available. The notice further stated that the deadline for submission of bids would be October 11, 2013, by 2:00 pm. No bids were received at the submission deadline.

As at December 31, 2013, there had been no further activity with respect to the 700 MHz band.



## **PARLIAMENTARY EXEMPTIONS**

The Constitution of Jamaica, Section 41, provides, *inter alia*, that save for such circumstances in which an exemption is granted by the House of Parliament to a Member of Parliament, the seat of a Member of either house shall become vacant, if (a) the Member becomes a party to any contract with the Government of Jamaica, (b) the Member is a partner in a firm or a director or manager of a company which becomes a party to such a contract, or (c) the member becomes a partner in a firm or director or manager of a company which is itself a party to such a contract.

The OCG, in its continued effort of securing greater transparency and probity in the award and implementation of all Government contracts to Parliamentarians, requested from the Clerk of the Houses of Parliament information on the Exempted Motions which were moved and approved in respect of Parliamentarians and Senators during the calendar year 2013.

The Clerk of the Houses of Parliament provided nine (9) Exemption Motions which were granted during the reporting period, and the corresponding extracts from the Minutes of the relevant sitting of the Senate and the House of Representatives.

The following represents the nine (9) Exemption Motions which were granted:

1. Mr. Jolyan Silvera, Member of Parliament, St. Mary Western – February 12, 2013

The Exemption Motion which was granted in respect of Mr. Jolyan Silvera, Member of Parliament, St. Mary Western, on February 12, 2013, recognized that the Member “...is the Managing Director of Continuing Education Foundation Limited, an educational institution which may from time to time be engaged to provide services, in the fields of Education and Agriculture and the sale of agricultural materials, for the Government of Jamaica and its Agencies for and on account of the public service;”

2. Dr. Andrew Wheatley, Member of Parliament, St. Catherine, South Central – March 12, 2013

The Exemption Motion which was granted in respect of Dr. Andrew Wheatley, Member of Parliament, St. Catherine, South Central, on March 12, 2013, recognized that the Member “...is the Managing Director of Techem Supplies Limited which distributes health supplies, chemicals, reagents and related supplies and which may from time to time be engaged to provide contractual services for the Government of Jamaica and its Agencies for and on account of the public service;”

3. Mr. Edmund Bartlett, Member of Parliament, St. James East Central– June 26, 2013

The Exemption Motion which was granted in respect of Mr. Edmund Bartlett, Member of Parliament, East Central, St. James on June 26, 2013, recognized that the Member “...is the Chairman of Consolidated Tourism and Investment Consultants Limited (CTICo), a customer focused tourism and investment consultancy company interested in facilitating tourism development, marketing, as well as trade and commercial development in the Caribbean, which may enter into contracts with the Government and its Agencies;”

4. Senator Dr. Christopher Tufton – July 5, 2013

The Exemption Motion which was granted in respect of Senator Dr. Christopher Tufton on July 5, 2013, recognized that the Member “...is a Director of All Jamaica Airline Services (AJAS) an aircraft handler; and Transportation Agencies Limited (TAL) an airline sales agency, which may from time to time be engaged to perform services for the Government of Jamaica and its Agencies, for or on account of the public service.”

5. Senator Dr. Christopher Tufton – July 12, 2013

The Exemption Motion which was granted in respect of Senator Dr. Christopher Tufton on July 12, 2013, recognized that the Member “... is a *Director of Desmond Mair Insurance Brokers Limited, a general insurance broker, which may from time to time be engaged to perform services for the Government of Jamaica and its Agencies, for or on Account of the public service:*”

6. Senator Noel Sloley – October 4, 2013

The Exemption Motion which was granted in respect of Senator Noel Sloley on October 4, 2013, recognized that the member “...is a *Director of Jamaica Tours Limited which provides ground transportation, which may from time to time be engaged to perform services for the Government of Jamaica and its Agencies, for or on account of the public service;*”

7. Senator Sophia Frazer-Binns – November 29, 2013

The Exemption Motion which was granted in respect of Senator Sophia Frazer-Binns on November 29, 2013, recognized that the Member “...is the *Director of the law firm Sophia Frazer-Binns, Attorney-At-Law, which may from time to time be engaged to perform legal services for the Government of Jamaica and its agencies for or on account of the public service:*”

8. Senator Dr. Nigel Clarke – December 6, 2013

The Exemption Motion which was granted in respect of Senator Dr. Nigel Clarke on December 6, 2013, recognized that the Member “...is *Deputy Chairman of the Musson Group of Companies that operates in Jamaica and throughout the Region and a member of the Board of Directors of subsidiary and associate companies within this Group of Companies;*

*AND WHEREAS these entities may from time to time enter into contracts with the Government of Jamaica and its agencies for and on behalf of the public service;*

*...out of an abundance of caution Senator Dr. Nigel Clarke has further disclosed that he is chairman of the Board of Directors of the National Youth Orchestra of Jamaica (NYOJ) a non-profit, non-governmental organization that teaches classical music to students in inner city communities for performance in youth orchestras and a Director of Hillel Academy, a private school:”*

9. Senator Alexander Williams – December 12, 2013

The Exemption Motion which was granted in respect of Senator Alexander Williams on December 12, 2013, recognized that the Member “...is a *Director and shareholder of Derrimon Trading Company Ltd., a general distribution company, which may from time to time enter into contracts with the Government of Jamaica and its agencies for and on behalf of the public service;*”

## **Reports of Contracts Awarded to Companies which were recipients of Parliamentary Exemptions during 2013**

Reference is made to the information presented above, related to Parliamentary Exemptions which were granted during the calendar year 2013. Further to same, the OCG has checked the names of the companies/businesses for which such Exemption Motions had been granted against the Quarterly Contract Award (QCA) Reports which have been submitted by Public Bodies for 2013.

The Table below presents information on the contract(s) which have been awarded during the aforementioned period.

Name of Member of Parliament/Senator	Constituency	Affiliated Company	Public Body which awarded contract	Contract Description	Procurement Methodology	Contract Value	Contract award date
Alexander Williams	Senator	Derrimon Trading Company Limited	Jamaica Defence Force	Procurement of Meat and Fish	Limited Tender	\$1,788,045.00	6-Mar-13
<b>NB: Information was obtained from the QCA Consolidated List for 2013</b>							

It should be noted that as it relates to Exemption Motion granted for Dr. Nigel Clarke, who “...is Deputy Chairman of the Musson Group of Companies that operates in Jamaica and throughout the Region and a member of the Board of Directors of subsidiary and associate companies within this Group of Companies;” a review of the Company’s website, which showed the subsidiaries and associates of the Musson Group of Companies, as well as, a review of the QCA Report for the year 2013, indicated that the following subsidiaries/associates were awarded contracts by various Public Bodies for the reporting period:

- Productive Business Solutions (PBS) – Forty six (46) Contracts;
- Facey Commodity - Nineteen (19) Contracts;
- Musson Jamaica Limited – Thirteen (13) Contracts; and
- T.Geddes Grant – Nineteen (19) Contracts.

### **EXEMPTED PUBLIC BODIES**

The Ministry of Finance and Planning issued Circular No. 17, dated May 14, 2012, captioned “Business Sensitive and Other Related Procurement Provisions”, which provides partial exemption from the procurement procedures for particular categories of procurement. The revised Handbook of Public Sector Procurement Procedures (May 2012), Section 1.2.2 of Appendix 1, incorporated the changes indicated in the aforementioned circular as follows:

#### *“Petrojam Limited*

*Petrojam’s internal procurement regime will apply to the following:*

- Spot Procurement of Petroleum Products, Crude Oil, LPG, and Freight*
- Procurement of LPG, MTBE and Freight*
- Tank Cleaning and Repairs*
- Use of Pre-Approved Contractor List...*

#### *Port Authority of Jamaica (PAJ) – Use of Direct Contracting Procurement Method*

- The Head of PAJ may approve up to J\$5M.*
- NCC’s prior approval is required for values above J\$5M.*
- Cabinet’s prior approval is required for values above J\$50M.”*

The OCG, in accordance with the Sections 4 and 15 of the Contractor-General Act, wrote to the referenced Public Bodies to ascertain information regarding contracts that have been awarded pursuant to the aforementioned exemptions, for the period of January 1, 2013 to December 31, 2013. The OCG reviewed the information which was provided and the following findings were made:

## Petrojam Limited

Information provided to the OCG by the Petrojam Limited indicates that contracts were awarded for Spot Procurement of Petroleum Products, Crude Oil LPG and Freight. The Petrojam has also advised that no contracts were awarded using the Pre-approved Contractors List and contracts for Tank Cleaning and Repairs were not awarded via the exemption provided.

The OCG noted that Petrojam Limited submits quarterly reports to the National Contracts Commission (NCC) regarding the contracts related to Exclusions-Procurement of Items on the International Commodities Market.

The table below provides a summary of the contracts which were awarded by Petrojam Limited, as reported to the NCC:

Name of Contractor	Contract Description	Contract Value US\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
January 2013 - March 2013							
<b>Lukoil</b>	Purchase 88 O/L and 87 O/L Gasoline	US\$M 14.5	Petrojam Refinery	Selective Tendering	18	6	Approved by Management according to Petrojam's internal procedures
<b>Glencore</b>	Purchase 90 O/L Gasoline	US\$M 4.9	Petrojam Refinery	Direct Contracting	1	1	Approved by Management according to Petrojam's internal procedures
<b>Shell West</b>	Purchase Jet Fuel and Gas Oil	US\$M 21.5	Petrojam Refinery	Selective Tendering	18	4	Approved by Management according to Petrojam's internal procedures
<b>Shell West</b>	Purchase 84 O/L and 88 O/L Gasoline	US\$M 10.32	Petrojam Refinery	Selective Tendering	18	3	Approved by Management according to Petrojam's internal procedures
<b>JP Morgan</b>	Spot Freight DPP (Compassion)	\$470,000.00	Puerto La Cruz/Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
<b>ST Shipping &amp; Transport Pte Ltd</b>	Spot Freight DPP (Alpine Penelope)	\$425,000.00	Curacao/Kingston	Petrojam Internal Procedure	N/A	1	Approved by Management according to Petrojam's internal procedures
<b>UPT POOL LIMITED</b>	Spot Freight CPP (Conti Equator)	\$310,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures

Name of Contractor	Contract Description	Contract Value US\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
<b>ST Shipping &amp; Transport Pte Ltd</b>	Spot Freight CPP (Alpine Persefone)	\$315,000.00	Puerto La Cruz/Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
April 2013 - June 2013							
<b>Lukoil</b>	Purchase 87 O/L Gasoline	US\$M 5.1	Petrojam Refinery	Direct Tendering	3	1	Approved by Management according to Petrojam's internal procedures
<b>Shell West</b>	Ultra Low Sulphur Diesel	US\$M 8.8	Petrojam Refinery	Selective Tendering	19	6	Approved by Management according to Petrojam's internal procedures
<b>ST Shipping &amp; Transport Pte Ltd</b>	Spot Freight CPP (ORINOCO STAR)	\$285,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	6	Petrojam Internal Procurement
<b>ST Shipping &amp; Transport Pte Ltd</b>	Spot Freight DPP (KING DANIEL)	\$345,000.00	Venezuela/Kingston	Petrojam Internal Procedure	N/A	4	Petrojam Internal Procurement
<b>Scorpio Commercial Management</b>	Spot Freight CPP (JUNIPER 2)	\$250,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	1	Petrojam Internal Procurement
<b>Kandilousa Special Maritime Enterprise</b>	Spot Freight DPP (KANDILOUSA)	\$385,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	4	Petrojam Internal Procurement
<b>Aegean X Maritime Inc</b>	Freight DPP (AEGEAN X)	\$123,343.74	RIM	Petrojam Internal Procedure	N/A	3	Petrojam Internal Procurement
<b>Star Tankers Inc</b>	Spot Freight DCP (LONDON STAR)	\$420,000.00	Venezuela/Kingston	Petrojam Internal Procedure	N/A	1	Petrojam Internal Procurement
<b>Scorpio Commercial Management</b>	Spot Freight CPP (JUNIPER 1)	\$285,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	7	Petrojam Internal Procurement
<b>Balboa Shipping SA</b>	Spot Freight CPP (BALBOA)	\$240,000.00	RIM	Petrojam Internal Procedure	N/A	5	Petrojam Internal Procurement
<b>United Ambassador Inc</b>	Spot Freight DPP (UNITED AMBASSADOR)	\$385,000.00	Mexico/Kingston	Petrojam Internal Procedure	N/A	4	Petrojam Internal Procurement
<b>Juniper 1 Shipping Inc</b>	Spot Freight DPP (JUNIPER 1)	\$270,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	4	Petrojam Internal Procurement
<b>Clearlake</b>	Spot Freight DPP (ATLANTIC LIGURIA)	\$320,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	5	Petrojam Internal Procurement

Name of Contractor	Contract Description	Contract Value US\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
<b>Navig8</b>	Spot Freight DPP (NORTHERN OCEAN)	\$350,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	4	Petrojam Internal Procurement
July 2013 - September 2013							
<b>Lukoil</b>	Purchase 87 O/L Gasoline	US\$M 10.34	Petrojam Refinery	Selective Tendering	11	8	Approved by Management according to Petrojam's internal procedures
<b>Trafigura</b>	Purchase 88 O/L Gasoline	US\$M 12.61	Petrojam Refinery	Selective Tendering	11	8	Approved by Management according to Petrojam's internal procedures
<b>United Courage</b>	Spot Freight DPP (UNITED CARRIER)	\$365,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	4	Petrojam Internal Procurement
<b>Formosa Sixteen Marine Corporation</b>	Spot Freight CPP (FORMOSA SIXTEEN)	\$465,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	4	Petrojam Internal Procurement
<b>Formosa Sixteen Marine Corporation</b>	Spot Freight CPP (FORMOSA SIXTEEN)	\$365,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	4	Petrojam Internal Procurement
<b>Kandilousa Special Maritime Enterprise</b>	Spot Freight DPP ( BUTTERFLY)	\$365,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	3	Petrojam Internal Procurement
<b>United Ambassador</b>	Spot Freight DPP (UNITED AMBASSADOR)	\$420,000.00	Venezuela/Kingston	Petrojam Internal Procedure	N/A	1	Petrojam Internal Procurement
<b>Shell Western and Trading Limited</b>	Spot Freight CPP (ASTERION)	\$360,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	6	Petrojam Internal Procurement
<b>Star Tankers</b>	Spot Freight DPP (ASHLEY SEA)	\$315,000.00	Curacao/Kingston	Petrojam Internal Procedure	N/A	4	Petrojam Internal Procurement
<b>Star Bunkering</b>	Spot Freight CPP	\$3,084,250.00	RIM	Petrojam Internal Procedure	N/A	7	Petrojam Internal Procurement
<b>Batito Shipping Co. Ltd</b>	Spot Freight DPP (LUMEN N)	\$350,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	5	Petrojam Internal Procurement
<b>Star Tankers</b>	Spot Freight DPP (ASHLEY SEA)	\$275,000.00	Curacao/Kingston	Petrojam Internal Procedure	N/A	5	Petrojam Internal Procurement
October 2013 - December 2013							
<b>Trafigura</b>	Purchase 88 O/L Gasoline	US\$M 12.65	Petrojam Refinery	Selective Tendering	12	5	Approved by Management according to Petrojam's internal procedures

Name of Contractor	Contract Description	Contract Value US\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
<b>Shell Western</b>	Purchase 90 O/L Gasoline	US\$M 9.56	Petrojam Refinery	Selective Tendering	11	2	Approved by Management according to Petrojam's internal procedures
<b>Shell Western</b>	Purchase 90 O/L Gasoline	US\$M 12.43	Petrojam Refinery	Selective Tendering	12	5	Approved by Management according to Petrojam's internal procedures
<b>Rubis</b>	Purchase 84 O/L and 87 O/L Gasoline and Diesel	US\$M 9.14	Petrojam Refinery	Direct Contracting	1	1	Approved by Management according to Petrojam's internal procedures
<b>Noble Americas</b>	Purchase ULSD	US\$M 6.35	Petrojam Refinery	Selective Tendering	15	7	Approved by Management according to Petrojam's internal procedures
<b>Glencore</b>	Purchase Diesel	US\$M 9.98	Petrojam Refinery	Selective Tendering	15	4	Approved by Management according to Petrojam's internal procedures
<b>Vitol</b>	Purchase 84 O/L and 87 O/L Gasoline	US\$M 12.1	Petrojam Refinery	Selective Tendering	15	4	Approved by Management according to Petrojam's internal procedures
<b>Navig 8 Tankers</b>	Spot Freight DPP (Nave Pulsar)	\$350,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	10	Approved by Management according to Petrojam's internal procedures
<b>Lillyanna Inc</b>	Spot Freight DPP (Despina Andrianna)	\$325,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
<b>ST Shipping &amp; Transport Pte Ltd</b>	Spot Freight CPP (Zambesi Star)	\$265,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
<b>Star Tankers Bunkering</b>	Time Charter CPP (1 Year + 1 Year in charterers option)	\$3,084,250.00 for 1 year	RIM	Petrojam Internal Procedure	N/A	7	Approved by Management according to Petrojam's internal procedures

Name of Contractor	Contract Description	Contract Value US\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval
<b>Damico Tankers</b>	Spot Freight CPP (High Mars)	\$375,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	6	Approved by Management according to Petrojam's internal procedures
<b>Lillyanna Inc</b>	Spot Freight DPP (Despina Andrianna)	\$325,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	3	Approved by Management according to Petrojam's internal procedures
<b>Astir Lady Holdings PLC</b>	Spot Freight CPP (Astir Lady)	\$375,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
<b>Karite Ship Management Inc</b>	Spot Freight DPP (Cleliamar)	\$335,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	4	Approved by Management according to Petrojam's internal procedures
<b>MTM Tanker Trading</b>	Spot Freight CPP (Contest)	\$300,000.00	Trinidad/Kingston	Petrojam Internal Procedure	N/A	5	Approved by Management according to Petrojam's internal procedures
<b>Karite Ship Management Inc</b>	Spot Freight DPP (Cleliamar)	\$550,000.00	Mexico/Kingston	Petrojam Internal Procedure	N/A	4	Approved by Management according to Petrojam's internal procedures

### Port Authority of Jamaica

The OCG in its letter to the Port Authority of Jamaica requested information in relation to contracts which were entered into in accordance with the partial exemption which had been afforded to the Entity. In response, the Port Authority of Jamaica submitted information regarding forty eight (48) contracts including five (5) contracts issued by way of the Government to Government Procurement Methodology. The additional forty three (43) contracts are procurements which utilised the Direct Contracting Procurement Methodology for the stated period as follows:

Table 2, overleaf, details the particulars of Contracts Executed by Port Authority of Jamaica during the year 2013 pursuant to Section 1.2.2 of the Handbook.



**TABLE 2 - Contracts Executed by Port Authority of Jamaica during the year 2013**

Name of Contractor	Contract Description	Contract Value JA\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval	Approval Received	Type of Approval received
<b>Cargotec Solutions LLC,</b>	Equipment Spares	\$1,500,565.08	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Tyden Brooks Security Products</b>	High Quality Security Labels	\$1,674,541.84	KCT	DC	1	1	Y	Y	Head of Entity
<b>Powergen Ltd</b>	Supply of Trained Technicians	\$9,000,000.00	Kingston Container Terminal	DC-E	1	1	N	Y	Head of Entity
<b>Oracle Inc.</b>	Annual Software Upgrade & License Maintenance Support	\$5,451,576.00	PAJ & KCT	DC	1	1	N	Y	National Contracts Commission
<b>Industrial and Technical Supplies</b>	Supply and Commissioning of Three Empty Container Handlers	\$94,214,250.00	Kingston Container Terminal	DC	1	1	N	Y	Cabinet
<b>Petro-Canada Lubricants</b>	Lubricants	\$3,042,422.15	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Petro-Canada Lubricants</b>	Lubricants	\$3,338,818.58	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>LXE</b>	Equipment Spares	\$620,869.01	Kingston Container Terminal	DC	1	1	N	Y	Head of Entity
<b>Citi Lubes Distributors Ltd.</b>	Lubricants	\$1,591,142.44	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity

Name of Contractor	Contract Description	Contract Value JA\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval	Approval Received	Type of Approval received
<b>CL Environmental Company Ltd.</b>	Post Construction Monitoring Falmouth Cruise Ship Terminal Development	\$1,110,660.00	Glistening Waters - Falmouth	DC	1	1	Y	Y	Head of Entity
<b>Amba Dockside Technology Ltd.</b>	Equipment Repairs	\$1,395,024.68	Kingston Container Terminal	DC	2	1	Y	Y	Head of Entity
<b>Petro-Canada Lubricants</b>	Lubricants	\$1,211,457.10	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Petro-Canada Lubricants</b>	Lubricants	\$1,329,478.71	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Powergen Ltd</b>	Supply of Trained Technicians	\$12,000,000.00	Kingston Container Terminal	DC-E	1	1	N	Y	Head of Entity
<b>Antoine Francois Trading Company Int'l Inc</b>	Equipment Spares	\$803,205.45	Kingston Container Terminal	DC	1	1	N	Y	Head of Entity
<b>Cargotec USA</b>	Supply and Commissioning of Six Road Heads	\$64,532,315.88	Kingston Container Terminal	DC			N	Y	Cabinet
<b>Fujitsu ICL Caribbean (Ja.) Ltd.</b>	Annual Software Upgrade & License Maintenance Support	\$652,376.00	PAJ	DC	1	1	Y	Y	Head of Entity
<b>North Florida Shipyards</b>	Buoy tender dry docking services as required by the	\$14,940,449.28	Jacksonville, Florida	DC		1	Y	Y	Head of Entity

Name of Contractor	Contract Description	Contract Value JA\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval	Approval Received	Type of Approval received
	Classification Society								
<b>Radiator Services Ltd.</b>	Equipment Repair	\$517,260.00	Kingston Container Terminal	DC	1	1	N	Y	Head of Entity
<b>Champs Software Inc.</b>	Annual Software Upgrade & License Maintenance Support	\$2,437,438.19	PAJ & KCT	DC	1	1	Y	Y	Head of Entity
<b>Peter Stoddart t/a Friendship Flowers</b>	Landscape Maintenance - Port Antonio West Harbour	\$3,289,960.00	Errol Flynn Marina	DC	1	1	Y	Y	Head of Entity
<b>Citi Lubes Distributors Ltd.</b>	Lubricants	\$1,855,908.54	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Radiator Services Ltd.</b>	Equipment Repair	\$689,680.00	Kingston Container Terminal	DC	1	1	N	Y	Head of Entity
<b>Petro-Canada Lubricants</b>	Lubricants	\$3,212,857.72	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Peter Stoddart t/a Friendship Flowers</b>	Landscape Enhancement Project - Falmouth Cruise Ship Pier	\$2,051,449.00	Falmouth Cruise Ship Pier	DC	1	1	Y	Y	Head of Entity
<b>Mega Fortris Marketing, Inc.</b>	Seals	\$2,902,705.05	Port Authority Of Jamaica(Head Office)	DC	1	1	Y	Y	Head of Entity
<b>Wingfoot Commercial Tire</b>	Tyres	\$4,399,889.76	Kingston Container	DC	1	1	Y	Y	Head of Entity

Name of Contractor	Contract Description	Contract Value JA\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval	Approval Received	Type of Approval received
<b>Systems</b>			Terminal						
<b>Pavement &amp; Structures Limited</b>	Falmouth Cruise Ship Terminal - Bus Staging Area	\$26,972,200.00	Falmouth	DC	1	1	Y	Y	Head of Entity
<b>Illuminat Jamaica Limited</b>	Workforce Management System Software - Maintenance and Support	\$4,246,925.00	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Powergen Ltd</b>	Supply of Trained Technicians	\$16,147,950.00	Kingston Container Terminal	DC-E	1	1	N	Y	Head of Entity
<b>Vanguard Security Ltd.</b>	Emergency Contracting - Provision of Unarmed Guards at Kingston Container Terminal	\$4,361,480.00	KCT	DC-E	1	1	N	N	Head of Entity
<b>Wingfoot Commercial Tire Systems</b>	Tyres	\$1,105,017.12	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>MICHELIN</b>	Tyres	\$2,858,179.99	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Noell Mobile Systems</b>	Supply and Commissioning of Four Diesel Electric Straddle Carriers	\$376,086,879.00	Kingston Container Terminal	DC	1	1	N	Y	Cabinet

Name of Contractor	Contract Description	Contract Value JA\$	Site of Contract Performance	Procurement Method	Number of Quotes Requested	Number of Quotes Received	Procurement Committee Approval	Approval Received	Type of Approval received
<b>Conrad Douglas &amp; Associates</b>	Environmental Management Scoping - Portland Bight Development	\$1,872,999.00	Portland Bight	DC	1	1	Y	Y	Head of Entity
<b>Cargotec USA Inc.</b>	Equipment Repair	\$1,200,018.69	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Citi Lubes Distributors Ltd.</b>	Lubricants	\$1,855,908.54	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Antoine Francois Trading Company Int'l Inc</b>	Equipment Repair	\$1,274,378.33	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>Petro-Canada Lubricants</b>	Lubricants	\$3,567,107.61	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>GE Multiin</b>	Equipment Repair	\$853,586.55	Kingston Container Terminal	DC	1	1	N	Y	Head of Entity
<b>Petro-Canada Lubricants</b>	Lubricants	\$3,225,126.97	Kingston Container Terminal	DC	1	1	Y	Y	Head of Entity
<b>IBM Inc.</b>	Maintenance support for IBM SAN	\$742,000.00	PAJ	DC	1	1	Y	Y	Head of Entity
<b>Duane Marzouca Equipment Ltd.</b>	Provision of 20 ft Refurbished Container	\$1,298,975.00	Montego Bay FreeZone	DC	1	1	Y	Y	Head of Entity

It is important that all Public Bodies be reminded that, although these previously exempted services are excluded from the parameters of the Handbook of Public Sector Procurement Procedures (May 2012) pursuant to Section 1.2.2, internal established procedures must be adhered to as the award and implementation of all government contracts must be done in a manner which can be deemed fair, transparent, lends itself to probity, ensures competition and gives value for money.

## **ASSET DIVESTMENT**

The OCG continued its mandate of reviewing asset divestment activities which were being undertaken by select Government of Jamaica Public Bodies. In the year 2013, the OCG monitored a total of thirty two (32) divestment/privatisation projects, the majority of which were carried forward from the previous year.

As was indicated in the 2012 Annual Report, the Government of Jamaica Policy Framework and Procedures Manual for the Privatisation of Government Assets, The Privatisation Policy, came into effect towards the end of 2012, in the place of the outdated Ministry Paper #34. The Privatisation Policy highlights various divestment modalities, including, but not limited to lease, sale, concession and management contracts which may be utilized in the privatization of assets. Accordingly, the OCG's monitoring activities were conducted with close reference to the abovementioned Manual of October 2012.

In keeping with same, the OCG has noted in the said Manual, Section 2.2 - Exemptions, which speaks to the exemption of the disposal of fixed assets from the policy document. In light of the referenced section, the OCG took the decision to defer its monitoring of particular divestments of fixed assets, such as the Tug and Barge project which was reported in the last Annual Report.

An Addendum to the Privatisation Policy, the Policy and Institutional Framework for the Implementation of a Public Private Partnership Programme for the Government of Jamaica, also came into effect in 2012, and deals specifically with procedures related to Public Private Partnership. The OCG's monitoring of transactions involving asset transfers by this method, was guided by this document, and is discussed in the section which follows.

The OCG has sought to enhance its monitoring and reporting of the privatisation process of particular GoJ assets by the conduct of Site Visits and the presentation of pictorial representations of certain assets in this year's Annual Report. As such, pictures of particular assets can be perused within the applicable project inserts which form a part of the Appendices to this Annual Report.

In addition to the reports contained in the Appendices, please note the following updates, based upon responses received from Public Bodies regarding assets which had been reported in the 2012 Annual Report:

- With reference to Reference No. AD-16002 which was outlined on Page 102 of the OCG's Twenty-Sixth Annual Report 2012, regarding the divestment of Sydney Pagon Agricultural School, the Ministry of Education has since informed that, "No portion of the Sydney Pagon campus/lands will be sold/leased or given to UWI." Thus, the OCG has removed the said project from its monitoring list of GoJ asset divestment opportunities.

- With reference to Reference No. AD-15732 which was outlined on Page 107 of the OCG's Twenty-Sixth Annual Report 2012, regarding the divestment of the Kingston Container Terminal, the Ministry of Transport, Works and Housing informed the OCG, *inter alia*, that, "Cabinet by way of Decision ... dated December 16, 2013, approved... The recommendations of the Kingston Container Terminal Enterprise Team and the Port Authority of Jamaica for the structuring of the KCT Public Private Partnership Transaction..." Thus, the OCG has commenced monitoring this project in accordance with the Policy and Institutional Framework for the Implementation of a Public Private Partnership Programme for the Government of Jamaica (October 2012) rather than the Policy Framework and Procedures Manual for the Privatisation of Government Assets (October 2012). In light of the noted distinction in the policy document which governs this project, the OCG has sought to review this project in a more strategic manner based on the nature of the transaction. Details regarding the status of this project will follow under the Public Private Partnerships section.

Also, and with regard to the Memorandum of Understanding (MOU) between the Port Authority of Jamaica and CMA CGM for the development of a Transshipment Hub at Gordon Cay, South Terminal, Port of Kingston, the OCG was advised that the MOU which was scheduled to terminate on December 31, 2012, was not renewed, and that all discussions and negotiations in this regard had ceased.

- With reference to Reference No. AD-16012 which was outlined on page 109 the OCG's Twenty-Sixth Annual Report 2012, regarding the Privatisation of the Jamaica Railway Corporation, the OCG has been informed by the Ministry of Transport, Works and Housing that in May 2013, the World Bank, through its Public-Private Infrastructure Advisory Fund, had procured and engaged the services of a rail expert to provide Strategic Advisory support for a single concession for the operations and management of Jamaica's railway, at no cost to the GOJ.

Subsequently, the Ministry of Transport, Works and Housing informed the OCG by way of Status Report that, *"The Strategic Advisor submitted an Interim Business Case which was approved by the Jamaica Railway Corporation Enterprise Team (JRCET) in July 2013..."*

*Based on the findings of the Interim Business Case in August 2013 the JRCET and the Development Bank of Jamaica (DBJ) provided its recommendations to the Ministry of Transport, Works and Housing (MTWH). Cabinet, by way of Decision...dated December 16, 2013:*

- i) *Decided that the JRCET should only proceed to have the two (2) companies which had submitted Expressions of Interest (EOI) clarify the business and financial models that they would use to create a viable concession...*
- ii) *Noted the removal of the privatization of the JRC from the Public Private Partnership List of opportunities."*

The OCG continues to be cognizant, and is aware of the complexity which is attendant to these privatization transactions. In various instances, the OCG has noted the extended timeline which has elapsed regarding particular divestment activities and the number of instances wherein other opportunities have been re-advertised due to the non-receipt of suitable or responsive respondents. While noting that there would be other factors which impact the success of these transactions, such as the state of the local and global business environments, the OCG nonetheless questions whether greater marketing on the part of the Public Entity, would assist and aid in attracting the 'right' buyer or investor.

## Public Private Partnerships (PPP)

The Policy and Institutional Framework for the Implementation of a Public Private Partnership Programme for the Government of Jamaica (October 2012) which was the reference document for the OCG's monitoring of PPPs, indicates that, *"A public private partnership (PPP) is a long-term procurement contract between the public and private sectors, in which the proficiency of each party is focused in the designing, financing, building and operating an infrastructure project or providing a service, through the appropriate sharing of resources, risks and rewards."*

Interestingly, the OCG noted that in the year 2013, PPPs became a major part of the GoJ's business and procurement landscape. In this regard, during the referenced year the OCG has been closely monitoring the developments surrounding a total of four (4) active PPP processes.

In addition to the projects reported in this section, there were also infrastructure related PPP projects which were being monitored by the OCG Inspectorate Construction Division (which will be reflected in the applicable Construction Division Inserts) during the 2013 calendar year.

Additionally, it should be noted that the Development Bank of Jamaica (DBJ) is currently designated as the GoJ's Privatisation Secretariat and is responsible for the GoJ's PPP Programme. Accordingly, during the year 2013, the DBJ reported to the OCG, that they were reviewing ten (10) potential Public Private Partnership opportunities, on behalf of particular Public Entities, to among other things, conduct pre-feasibility activities and assessments. The OCG has noted these potential PPP opportunities and will seek to closely monitor selected projects as the processes progress.

Details regarding the four (4) above-mentioned PPP processes which the OCG has been closely monitoring are outlined below:

### Highlights of Four (4) Major PPP projects which the OCG has been monitoring

1. **Public Entity:** Port Authority of Jamaica  
**Nature of Project:** Long Term Concession of the Kingston Container Terminal (30 years with option to extend) –
  - Optimize existing KCT (Operate, Finance, Maintain and Transfer.
  - Expand KCT (Design, Build, Finance, Operate, Maintain and Transfer)

#### Highlights and Status as at December 31, 2013

- By way of letter dated January 14, 2013, the Ministry of Transport, Works & Housing (MTWH) informed the OCG that, *"As at 2012 December 31, the Minister of Transport, Works and Housing advised that Cabinet...approved the appointment of an Enterprise Team (ET) which was charged with the responsibility to guide the process of the privatization of the Kingston Container Terminal."*
- The OCG was subsequently informed by the MTWH that on March 4, 2013, Cabinet approved the utilization of the Limited Tender Methodology for this project.
- By way of documents submitted by the MTWH, the OCG was informed that on April 3, 2013, twenty three (23) select entities were invited to participate in the process. The entities included Terminal Operators from across the globe as well as two (2) entities that had submitted an unsolicited proposal and an expression of interest respectively.
  - o By way of Cabinet decision dated May 20, 2013, two additional entities were included in the Limited Tender Process. Thus bringing total invitees to twenty five (25).
  - o A minimum score of eighty percent (80%) was required in order to be shortlisted to bid in the second stage of the process, Request for Proposals or Bidding Stage.



- The documents submitted by MTWH also informed that at the close of tender on June 12, 2013, five (5) firms had submitted proposals: DP World, Ports America, PSA, SSA Consortium (ZIM, SSA Marine/Carrix and Kingston Wharves), and Terminal Link Consortium (CMA CGM/Terminal Link, CHEC, CHMI)
- Upon completion of the evaluation, three (3) entities attained the qualifying score, and were therefore invited to participate in the second stage. These entities were DP World, PSA, and Terminal Link Consortium.
- On December 16, 2013, Cabinet approved, among other things, the recommendation to proceed to the Transaction Implementation Stage (this includes issuance of the Confidential Information Memorandum and the Request for Proposal).
- As at December 31, 2013, the Confidential Information Memorandum and the Request for Proposal had not yet been issued.

2. **Public Entity:** Port Authority of Jamaica

**Nature of Project:** Port Community System – Design, Development and Implementation of a Port Community System for Jamaica.

#### Highlights and Status as at December 31, 2013

- By way of letter dated March 13, 2012, the Ministry of Transport, Works & Housing informed the Port Authority that, *inter alia*, Cabinet by way of decision dated February 27, 2012, approved “...the initiative of the Port Authority of Jamaica and Jamaica Customs to implement a Port Community System for the Shipping Industry as a Public-Private Partnership”
- Reference is now made to Reference # GCM-7142 which is outlined on Page 487 of the OCG’s Twenty-Sixth Annual Report 2012 Appendices, which provides details regarding the initial stages of the procurement process which was undertaken for this project.
  - o Notably, the opportunity was tendered by way of the International Competitive Bidding Process via a two stage tender process.
  - o The first stage opening was in August 2012. Three (3) tenders were received as follows: Advent Intermodal Solutions, Societe Generale de Surveillance SA (SGS), and Bureau Veritas Bivac BV/ Soget.
  - o Two (2) tenders were deemed eligible based on the preliminary examination of the Bids.
  - o The two (2) Bids (Societe Generale de Surveillance SA (SGS), and Bureau Veritas B.I.V.A.C. and Soget) were further evaluated. By way of Evaluation Report dated July 2013, the OCG noted that both bidders were recommended for the second stage of the evaluation process.
- Cabinet approval for the second stage was received by way of decision dated December 16, 2013.
- As at December 31, 2013, the preparation for the second stage was ongoing.

3. **Public Entity:** Factories Corporation of Jamaica (FCJ)

**Nature of Project:** Development of Caymanas Special Economic Zone & Naggo Head Technology Park  
A joint venture agreement is being sought to mainly:

- Build-out facilities at Caymanas Economic Zone – 1. Construction of complete infrastructure for the entire 200 acres of land reserved for Phase 1 of the Caymanas Logistics Hub currently referred to as Caymans Economic Zone – North Park and 2. Construction of complete infrastructure for the entire 1500 acres of lands reserved for Phase 2 of the Caymanas Logistics Hub currently referred to as Caymans Economic Zone – South Park

- Development of Phases I&II for new office building at Naggo Head on part of the lands owned by FCJ and reserved for an IT Industrial Park
- Development and supply of alternative energy which will provide energy for the developments in Caymanas and Naggo Head areas.

#### **Highlights and Status as at December 31, 2013**

- Request for Proposals was advertised in Sunday Gleaner dated December 16, 2012.
- Tender Opening Ceremony convened on February 1, 2013.
- Ten (10) Bids were received.
- During the first phase of the evaluation, six (6) entities were shortlisted.
  - Upon completion of the evaluation one of the shortlisted respondents was recommended for all components of the project.
- The Board of Directors of FCJ approved the recommendation for award in their meeting of June 6, 2013.
- By way of letter dated September 19, 2013, the FCJ informed that, *"Cabinet approval is being awaited."*
- As at December 31, 2013, Cabinet approval had not been received.

#### **4. Public Entity: Port Authority of Jamaica**

**Nature of Project:** Development of a Logistics Hub – Proposed Port Facilities at Goat Island

#### **Highlights and Status as at December 31, 2013**

- A Memorandum of Understanding was signed between the Port Authority and China Harbour Engineering Company Limited (CHEC) dated July 30, 2012, for the development of a Container Port and Logistics Centre and facilities for ancillary services at Fort Augusta, Kingston.
  - The duration of the MOU was for a period of nine (9) months, which meant it would have expired on the 30<sup>th</sup> of April 2013.
  - Upon completion of pre-feasibility studies it was determined that Fort Augusta was not adequate as the scope of the project had expanded.
- Based on the details of the Addendum to Memorandum of Understanding between CHEC and the Port Authority of April 2013, the completion of all studies and the establishment of the Agreement was scheduled to be done by December, 31 2013.
- The Port Authority of Jamaica informed the OCG by way of document dated September 26, 2013, that, Consultancy Firm Conrad Douglas and Associates was engaged by way of Direct Contracting to carry out Environmental Management Scoping to define critical areas of the Portland Bight area, inclusive of Goat Islands.
  - Notably, the requisite approval of the Head of Entity and the Procurement Committee was obtained for the contract award by way of Direct Contracting Procurement Methodology. Internal Memorandum dated September 5, 2013, from the Vice President – Engineering to the President and CEO of the PAJ, indicated that, *"Given the time sensitive nature of the discussions and the potential national implications, it was further determined that a consultant with experience in this particular project area be identified in order to ensure a thorough examination of the area...As a result, Conrad Douglas and Associates Limited (CDA) was identified."*

- The Final Report for the Environmental Management Scoping study was completed by Consultant on October 16, 2013.
- As at December 31, 2013, activities related to this project continued in keeping with the MOU.

## **LAND DIVESTMENT**

The OCG, in 2013, continued its monitoring of the divestment of Government-owned lands. It is to be noted that the OCG, in its monitoring, is handicapped by the absence of a standard approved process by which all divestment opportunities are to be measured. The OCG, therefore, as a practice ensures that the principles of transparency and fairness are upheld in the land divestment processes undertaken by the relevant government entities.

The OCG wishes to use this medium to encourage Public Bodies to undertake the necessary due diligence, prior to commencing the divestment of properties, such as ensuring a) that the property boundaries are properly identified, b) that properties are not situated on swamp lands, c) that Certificates of Title are available and d) that Valuation Reports are current. Further, during its monitoring, the OCG noted that the full divestment of several properties has been significantly protracted, with some awaiting Cabinet Approval for several years. This and other issues are highlighted in several of the Land Divestment undertakings which are detailed in this report.

The OCG, in 2013, monitored a total of sixty three (63) GoJ land divestment processes. The thirty four (34) Land Divestment undertakings highlighted in this report represent those divestment opportunities monitored, which saw significant activity during 2013.

The OCG has over the years, been monitoring the progress of the Government of Jamaica (GOJ) *Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands*, which has been drafted for several years and for which, the approval process has been significantly protracted. Consequently, as at December 31, 2013, there was no standard authorised document which governed the GOJ land divestment process. The OCG remains concerned that with the protracted process, government agencies continue to divest government-owned lands, by way of processes which are not necessarily in accordance with any uniformed standard. It is hoped that the referenced document will be approved by the relevant parties by the end of 2014, to allow for the standardisation of the divestment of government-owned lands across Government entities.

### **GoJ Land Divestment Manual**

The Ministry of Water, Land, Environment & Climate Change (MWLECC), has overall responsibility for the drafting of the divestment document and has included the OCG in the amendment of said document since 2010; allowing, where there are concerns, for the OCG's review and comments and/or recommendations.

In 2011, the OCG undertook a review of the Draft Policy Framework and Procedures Manual for the Divestment of Government-Owned Lands. Upon review, the OCG, under cover of letter dated December 5, 2011, submitted to the MWLECC, its recommendations for amendments to said document. A subsequent review of the Manual was conducted in 2012 and the recommendations for amendments communicated to the Ministry, by way of letter dated September 25, 2012. In February 2013, the referenced Manual was again reviewed by the OCG and recommendations for amendment to the document communicated to the MWLECC in letter dated February 8, 2013.

Further to the foregoing, the OCG enquired regarding the progress of the approval of the referenced Manual. The MWLECC, by way of letter dated March 11, 2013, informed the OCG, *inter alia*, that *“the final document and the Cabinet Submission is [sic] with the Honourable Minister for his signature. As soon as the signed submission is received it will be forwarded to the Cabinet for its consideration.”* The OCG, in June 2013, again requested a status update on the approval process in relation to the Divestment Manual. The MWLECC, by way of letter dated June 25, 2013, in response the OCG’s enquiry, advised that the matter came up for mention and was discussed by Cabinet on June 17, 2013. Cabinet, however, directed that the Divestment Manual *“be referred to the Economic Development Committee of the Cabinet for deliberation.”*

The OCG, again, requested a status update on the Divestment Manual in October 2013. In response, the MWLECC, under cover of letter dated October 29, 2013, informed the OCG that *“the Economic Development Committee (EDC) of the Cabinet deliberated on the subject policy on August 13, 2013 and provided its comments to the Ministry.”* The letter from the MWLECC further stated that, *“We are now in the process of reviewing and preparing a response to address/clarify certain issues of concerns raised by the EDC.”*

At the end of December 2013, the MWLECC was in the process of preparing a Submission with the amended Policy Document, to be forwarded to Cabinet for its consideration.

While there have been several Drafts of the referenced Policy and Procedure Manual, it is anticipated that completion, approval and distribution of same will be achieved in 2014.

### **The Land Divestment Advisory Committee (LDAC)**

The Land Divestment Advisory Committee (LDAC) plays an advisory role to the Minister of Water, Land, Environment and Climate Change, in relation to the divestment of government-owned lands. The Committee is supported by the Land Administration and Management Division, within the Ministry of Water, Land, Environment and Climate Change (MWLECC).

The Land Divestment Advisory Committee (LDAC) is mandated to, among other things:

1. Examine, evaluate and make recommendations to the Minister, on Applications forwarded by the Commissioner of Lands for divestment of Crown Lands.
2. Review recommendations for Applicants to receive subsidies, discounts and/or incentives for the Lease/Sale of lands under exceptional and special circumstances and finalise recommendations for the Minister’s approval.
3. Convene regular monthly meetings in order to ensure timely divestments. It should be noted that special/extraordinary meetings may be convened depending on the volume or urgency of particular matters.

The LDAC is guided by policy directives issued by the Minister; and as such, may consult the Minister on fundamental matters of policy only. All matters discussed at LDAC Meetings are expected to be kept confidential.

The LDAC is comprised of fifteen (15) members, including a Chairman, drawn from the Public and Private Sector. Committee members are appointed by the Minister for a period not exceeding three (3) years. In July 2013, one (1) Committee member resigned. At the end of 2013 however, no one had yet been appointed by the responsible Government Minister to replace the member who had resigned. The tenure of the current Committee will end on March 31, 2015. The Chairman of the Committee is Mr. Hensley Williams.

A representative from the OCG sits in on the meetings of the LDAC in the capacity of an Observer.

## Legislation

The Ministry of Water, Land, Environment & Climate Change, reported that the “*amendment to the Crown Property (Vesting) Act to enshrine the Land Divestment Advisory Committee in the Statute (including its composition, appointment, tenure and other related matters)* was approved on October 30, 2013.”

## LDAC Activity for 2013

Nine (9) meetings were convened by the LDAC in 2013 and a total of ninety three (93) Applications were submitted to the Committee by the Commissioner of Lands for consideration. Of this amount, sixty eight (68) were New Applications and twenty five (25) were Re-Submissions. Sixty eight (68) were recommended for divestment by the Committee and four (4) were not recommended. The remaining Applications were either deferred, as additional information was required by the Committee or withdrawn by the Commissioner of Lands.

Of the sixty eight (68) Applications recommended for divestment, twenty seven (27) were for the regularization of illegal occupants.

The Ministry reported that as at November 2013, the responsible Minister had approved fifty three (53) of the Applications submitted for his consideration.

It should be noted that the Committee's recommendation to not approve three (3) of the Applications was upheld by the Minister. However, one (1) property which was not recommended for divestment by the Committee was approved by the Minister for Lease.

The revenue expected from the approved divestments in 2013, is approximately J\$164,564,145.20.

Of the Applications approved by the Minister, sixteen (16) were for Lease, with expected revenue of J\$8,699,510.00 per annum and thirty seven (37) were for Sale, with expected revenue of J\$155,864,635.20.

The Tables below summarize the deliberations of the Committee during 2013:

### Deliberations by the Land Divestment Advisory Committee (LDAC) - 2013

Date of Meeting	Total No. of Applications Recommended by Commission of Lands	No. of New Applications	No. of Re-Submissions	Total No. of Submissions Recommended by LDAC for Divestment	No. of Submissions Recommended for Divestment by LDAC for SALE	No. of Submissions Recommended for Divestment by LDAC for LEASE	Total Submissions Approved by the Minister
January	7	4	3	3	2	1	2 (1 Sale/1 Lease)
March	7	6	1	6	5	1	6 (5 Sale/1 Lease)
April	7	5	2	1	1	0	1 (1 Sale/0 Lease)
May	9	2	7	7	6	1	7 (6 Sale/1 Lease)
July	13	6	7	12	5	7	12 (5 Sale/7 Lease)
September	8	8	0	7	6	1	7 (6 Sale/1 Lease)
October	14	12	2	11	6	5	10 (6 Sale/4 Lease)

November	21	18	3	19	14	5	8 (7 Sale/1 Lease)
December	7	7	0	6	3	3	-
<b>Total</b>	<b>93</b>	<b>68</b>	<b>25</b>	<b>72</b>	<b>48</b>	<b>24</b>	<b>53</b>

The Tables below illustrate the Approvals by Land Use and Value:

#### **Lands Approved for SALE - 2013**

Land Use	No. of Applications	Value (J\$)
<b>Commercial/Industrial</b>	5	42,920,000.00
<b>Agricultural</b>	8	12,042,135.20
<b>Residential</b>	21	100,887,500.00
<b>Other</b> (Educational, Recreational, Religious and Community Development)	1	15,000.00
<b>TOTAL</b>	<b>35</b>	<b>155,864,635.20</b>

#### **Lands Approved for LEASE - 2013**

Land Use	No. of Applications	Value (J\$)
<b>Commercial/Industrial</b>	7	6,068,000.00
<b>Agricultural</b>	3	493,010.00
<b>Residential</b>	1	300,000.00
<b>Other</b> (Educational, Recreational, Religious and Community Development)	5	1,838,500.00
<b>TOTAL</b>	<b>16</b>	<b>8,699,510.00</b>

The National Land Agency (NLA), under the leadership of the Commissioner of Lands is tasked with performing the necessary due diligence in relation to the Applications prior to presenting same to the Committee for deliberation. The NLA is to be commended for its efforts, as should the Secretariat of the LDAC for the duties performed and the support extended to the Committee. The OCG is of the view that the LDAC diligently carried out its mandate during 2013.

### **ENQUIRY MANAGEMENT**

Pursuant to Sections 4 and 15 of the Contractor-General Act, during the year 2013, the OCG continued to review matters/complaints which were reported to or noted by its Office regarding government contracts, prescribed licences, permits and the divestment of state assets. Often times, these matters/complaints were submitted to the OCG by members of the public as well as Public Officials. However, in particular instances the OCG sought to enquire into matters which had been highlighted by the media, which was of importance to the Office.

Consequently, during the year 2013, the OCG's Enquiry Management Portfolio captured a total of fifty five (55) new matters/complaints. However, only issues which were deemed to be within the remit of the OCG were reviewed. In instances wherein a matter/complaint was determined to be outside of the OCG's mandate, the complainant is advised accordingly. Additionally, where a matter/complaint is deemed to specifically relate to the internal processes/policies of a Public Body, the issue is forwarded to the relevant agency.

The nature of the matters /complaints which were received during the 2013 calendar year included, among other things: (a) conflict of interest; (b) unethical conduct of Public Officials; (c) irregularities in the award and/or execution of contracts; and (d) misappropriation of funds.

Notably, the Enquiry Management Portfolio evolved during the year 2013. In this regard, Site Visits were introduced as a major aspect of the enquiry process, in order to review allegations related to construction projects, renovation works and the purchase of goods. The Site Visits sought to, among other things: confirm the quality of work, the dimensions of a structure and/or the existence of a subject matter of a complaint.

Additionally, during the year 2013, a Complaints Listing was introduced to capture all matters and complaints which were received or noted by the OCG. Based upon the nature of the Complaints Listing, it should be noted that albeit fifty eight (58) enquiries were reportedly ongoing from the year 2012, there were five (5) additional matters/complaints which were being reviewed during the said period. Consequently, a total of sixty three (63) matters/complaints were brought forward to the year 2013.

In light of the foregoing, a total of one hundred and eighteen (118) complaints/matters were reviewed during the 2013 calendar year.

With regard to the foregoing, the following represents the status of complaints/matters which were reviewed under the Enquiry Management Portfolio during the year 2013:

	Number of matters/complaints brought forward from the year 2012	Matters/Complaints which were received in the year 2013
	<b>63</b>	<b>55</b>
Status		
Total matters/complaints which were concluded		<b>15</b>
Matters/complaints which were outside of the OCG's remit		<b>4</b>
Matters/complaints which were forwarded to External Agencies		<b>3</b>
Matters/complaints which were relegated to Monitoring		<b>5</b>
Matters/complaints which were referred to the OCG's Special Investigations Unit for further review		<b>12</b>
Matters/complaints which were vague or withdrawn by the Complainant		<b>4</b>
Matters/complaints on-hold		<b>2</b>
<b>Enquiries which are ongoing</b>		<b>73</b>

The following are excerpts from the review of complaints/matters which have been concluded which were within the OCG's remit and not forwarded to an External Agency:

Public Entity: Ministry of Health	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p><u>Complaint re Ministry of Health (Mental Health Department)</u></p> <p><i>"...a few years ago maybe 3-4 the mental health department (Ministry of Health) awarded a contract valued about J\$6 million to set up 'client support' groups' throughout Jamaica. So far, the Mental Health Department cannot show where they set up one 'support group'."</i></p> <p><u>Complaint re Bellevue Hospital</u></p> <p><i>"Dr. Maureen Irons Morgan, works at the Ministry of health [sic] as the Director of Mental Health; however, she supervises Bellevue."</i></p> <p><i>A few months ago over 8 million dollars were allotted to conduct 'outpatient' services there; and most of the money went in repairing homes and cars."</i></p>
<b>Findings and/or Recommendation:</b>	<p><u>Ministry of Health (Mental Health Department)</u></p> <ol style="list-style-type: none"> <li>1. National Health Fund Grant to the Ministry of Health had an agreement valued at J\$27,649,000.00 for the Mental Health Education and Promotion Project. The Mental Health Education Project Grant Agreement was signed on January 2, 2006.</li> <li>2. A total of \$1,888,000.00 of the grant was allocated to the development of Support and Advocacy Groups islandwide. Throughout the life of the project, forty four (44) support groups were established.</li> <li>3. A Communications Consultant (Shermaine Robothom) was hired to assist in the development, coordination and implementation of the project. The process of hiring said consultant was done via interviews and an assessment by a panel.</li> <li>4. The remuneration package for the Communications Consultant was J\$2 million for coordinating the programme. A review of Cash Book print out which was provided by the Ministry of Health evidenced that the Communications Consultant was paid a total of \$1,827,546.00.</li> <li>5. The Mental Health Promotion Work Plan showed a budget of \$10,000,000.00 for advertisement to raise awareness and educate the public on mental disorders.</li> </ol> <p><u>Bellevue Hospital</u></p> <ol style="list-style-type: none"> <li>6. The Bellevue Hospital does not own any residential properties.</li> <li>7. The Bellevue Hospital undertook repairs of motor vehicles between the period April 2009 and March 2010, at a cost of J\$779,437.26, and between the period April 2010 and Jan 2011, at a cost of \$1,005,761.48. The number of vehicles repaired and the source of funding for these repairs were not disclosed.</li> </ol> <p><u>Conclusion</u></p> <p>There is no evidence to suggest that the Ministry of Health executed a contract valued \$6 million to establish client support groups. The selection and award of contract to the Communications Consultant was fair and transparent and was awarded on merit. There is also no evidence to suggest that the finances of the Mental Health Education and Promotional Programme under the auspice of the Mental Health Department were misappropriated.</p> <p>There is not enough evidence to determine the veracity of the complaint with regards to the misuse of funds allocated to the Bellevue Hospital for 'outpatient care', for repairs to motor vehicles and houses.</p> <p>Accordingly, the OCG finds that there was no breach of the Government of Jamaica Procurement Guidelines or misconduct in the execution of the Mental Health Education and Promotional Programme on the part of the Ministry of Health.</p>



Public Entity/ies: Bureau of Standards and the Scientific Research Council	
<b>Excerpt or Summary of Complaint/Matter:</b>	"A memorandum of understanding was signed between the Bureau of Standards and the Scientific Research Council for the sum of \$35 million dollars. The money was not spent properly. One item that is outrageous is the purchase of science books for which they paid a massive amount of \$6 million dollars... hundreds of the books are in boxes at the Bureau of Standards for more than two years now..."
<b>Findings and/or Recommendation:</b>	<ol style="list-style-type: none"> <li>1. The Memorandum of Understanding (MOU) between the Bureau of Standards Jamaica (BSJ) and the Scientific Research Council (SRC) was signed on February 13, 2004.</li> <li>2. The five (5) year MOU was to ensure synergy in the development of national capacity in the areas of science, metrology, testing and technology transfer.</li> <li>3. Two (2) contracts were signed by the BSJ and SRC, one dated the 21st of March 2004 and the other, the 17th of June 2006.</li> <li>4. At no time was there a contract for the value of \$35 million. The sum was 'time based' on the 2004 agreement with a fixed amount of \$10 million. However, the 2006 contract allowed for consideration of sums which were determined by the budgeted activities under the National Technology Innovation Awards Programme (NTIAP).</li> <li>5. The following projects were undertaken under the MOU: <ol style="list-style-type: none"> <li>i. National Science, Technology, Innovation &amp; Standardisation Essay/Poster Competition;</li> <li>ii. National Quiz Competition on Science, Technology and Standardisation;</li> <li>iii. Science, Technology, Innovation and Standardisation Summer Camps; and</li> <li>iv. Technology, Innovation Project competition.</li> </ol> </li> <li>6. Procurement for the production of science books was done in 2004 and was undertaken by the Scientific Research Council. The cost of the books was \$4,960,000.00.</li> <li>7. R.E.K. and Associates was contracted to print 8,000 of the books <i>"Profiles of Some Eminent Jamaican Scientists."</i></li> <li>8. The procurement method utilised for the printing of the books was not ascertained as the SRC advised that, "...It is therefore with regret that we advise that we are unable to furnish answers to the questions regarding R.E.K and Associates... because no related documents have been found during repeated scrutiny of our files... the transaction was initiated in 2004, and SRC tends to destroy documents which are over seven (7) years old; except for very special documents... For this reason, there is a probability that the document could have been destroyed."</li> <li>9. R.E.K and Associates was never registered with the National Contracts Commission.</li> <li>10. The invoices submitted by R.E.K and Associates to the SRC did not indicate a GCT registration number.</li> <li>11. The BSJ received a total of 5,025 books from the SRC under the NTIAP. A total of 2,678 books were distributed to primary, secondary and tertiary institutions, which participated in the project.  As at May 25, 2011, the BSJ had in its possession 2,488 books.</li> <li>12. Financial report up to 2011 indicated an expenditure of \$34,366,951.14 under the programme.</li> </ol> <p><b><u>Conclusion</u></b></p> <p>The OCG notes that there was an expenditure of \$34,366,951.14 for the projects under the MOU with a balance of \$1,097,248.86 up to 2011. <i>Prima facie</i> evidence does not suggest misappropriation of funds in executing these projects.</p> <p>With regard to the procurement of the books, the OCG notes that R.E.K. and Associates was engaged to print the books <b><i>"Profiles of Some Eminent Jamaican Scientists"</i></b> at a cost of \$4,960,000.00. The OCG notes that whilst the procurement documents cannot be located to facilitate a complete review of the procurement process, the OCG finds that R.E.K. and Associates was not registered with the National Contracts Commission at the time of the award of contract. The foregoing is a contravention of Section 4.5 of the Government of Jamaica Handbook of Public Sector Procurement Procedures (2001) which stated, <i>inter alia</i>, that, "... Tenders should be invited from all appropriately qualified contractors registered with the NCC."</p> <p>In light of the foregoing, the OCG recommends that the SRC, going forward, strictly adheres to the applicable Government of Jamaica (GOJ) Procurement Procedures by, <i>inter alia</i>, using only GOJ registered contractors.</p>

Public Entity/ies: Tourism Development Product Company Limited	
<b>Excerpt or Summary of Complaint/Matter:</b>	<i>"We responded to a TPDCO Tender to operate the Crocodile Swamp Safari in Falmouth , prior to this we were approached by Mr. John Gourzong the operator of the Marthabrae River Rafting Attractions, on the same topic. Mr. Gourzong said that he was aware of our intrest [sic] in the Swamp Safari however he would get the attraction so we must not waste time but instead work with him. We however proceded [sic] with our Tender to our surprise Mr. Guzong [sic] was awarded the franchise, we later learned that he is a business partner of Mr. Robert Russle [sic] the Chairman of TPDCO and that they are jointly hosting the Reggae Sumfest Show in Montego Bay. We believe that as a result of the long standing busisness [sic] association between Mr. Robert Russle [sic] and Mr. John Gurzong [sic] that Mr. Russle [sic] may have influenced the award of this franchise."</i>
<b>Findings and/or Recommendation:</b>	<p>There is no evidence to suggest that Robert Russell, the Chairman of the TPDCo., was involved in the procurement for the award of contract to operate the Crocodile Swamp Safari in Falmouth. No evidence was found to suggest that Robert Russell used his position to influence the award of contract to River Raft Limited.</p> <p>Based upon evidence gathered, the award of contract to River Raft Limited to operate the Crocodile Swamp Safari in Falmouth, Trelawny, was transparent.</p> <p>Notwithstanding the foregoing, the OCG has noted that there were certain inconsistencies with regard to the scoring of the individual proposals, and was unable to reconcile some of the scores which were given to some of the proposals with the evaluation criteria weighting. However, the inconsistencies were not material and would not have changed the outcome.</p> <p>The OCG is therefore recommending that the TPDCo. take due care when evaluating bids going forward.</p>

Public Entity/ies: Rural Water Supply	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"At a meeting with Mr. Peter Clarke, Mr. Audley Thompson, his general manager along with one Mr. Clarke Lowe quantity surveyor and myself ... was held in the boardroom at CEL. We had met to negotiate the rate for pipe laying and had agreed to rates as followed [sic] PVC \$450/m., Ductile Iron pipe \$500/m, Galvanize pipe \$550/m. At this meeting it was suggested that I was going to continue laying 4" to planters, the idea was for us to further meet after they prepared a draft contract so that we could finally agreed [sic] to, and size a [sic]contract for the further works.</i></p> <p><i>This was communicated to me by Mr. Peter Clarke that I should go ahead and test the existing pipeline... we went ahead and excavated...</i></p> <p><i>My quantity surveyors Mr. Clarke Lowe have had to do an invoice for payment, interim payment of over \$2 million in December 2001 for payment in Christmas. Note w[sic] had not been paid any money on this phase of work, we had no Bill of quantity, no contract, so we came up with that figure for a percentage of pipe work already done...</i></p> <p><i>We have been paid "four" final payment by CEL without any discussion as to what is final, before we gave them our final claims. To date they had not address [sic] our final accounts presented by A.G. Williams and Associates in the sum of a balance of over \$5m outstanding."</i></p>
<b>Findings and/or Recommendation:</b>	<ol style="list-style-type: none"> <li>1. W. M. Smith &amp; Sons Construction Limited was contracted under the Emergency Contracting procurement methodology for the Colbeck Water Supply Scheme Pipeline Project.</li> <li>2. There was no formal written contract between Carib Engineering Corporation Limited (Rural Water Supply Limited) and W. M. Smith &amp; Sons Construction Limited. The Contractor's original Scope of Works had increased without an agreed rate for the works, there was no outline of the Specific Terms and Conditions associated with the said works and there was no Program Schedule for completion.</li> <li>3. Carib Engineering Corporation Limited had submitted interim certificates for the period July 2001 to November 2003, totaling \$17,163,011.79, which were assessed and paid in the sum of \$16,819,751.55, for work performed on the project.</li> <li>4. An Independent Adjudicator was engaged by the Ministry of Water and Housing to carry out an assessment of the works which would be binding to both parties - Executive Administrative Services and Engineering Limited (E.A.S.E.) concluded a revised final account settlement of \$19,416,523.20.</li> <li>5. The difference between the amount which was previously paid to the Contractor, less the amount settled by the Independent Adjudicator is \$2,253,511.48. Of the balance due to the Contractor, the Contractor is obliged to remit or have remitted on his behalf, to the Government of Jamaica; Contractor's Levy computed at 2% of amount due, that is \$45,070.48. Therefore the balance payable is \$2,208,411.00.</li> <li>6. A RBT Bank Jamaica Limited, St. Lucia Branch, cheque number 5012419 in the sum of \$2,208,441.00 dated March 1, 2004, was written to Scotia Bank Jamaica. The accompany letter of even date indicated that the payment to W.M. Smith &amp; Sons Construction Limited was final.</li> </ol> <p>In light of the foregoing, the OCG concludes that the engagement of Carib Engineering Corporation Limited (Rural Water Supply Limited) was highly irregular and untidy, as the contractor was engaged without (a) the requisite approvals, (b) proper planning and (c) the requisite documentation.</p> <p>With regard to the allegation that Carib Engineering Corporation Limited (Rural Water Supply Limited) did not make full payments to the W.M. Smith and Son Construction Limited, the OCG finds that there is no evidence to substantiate the claim. To the contrary, the OCG finds that the Contractor had accepted and signed, the Statement of Final Account which declared <i>"I hereby accept this statement of Final Account as being Final and correct for works executed and materials supplied on the above-mentioned Contracts and that no further claims will be made in respect of these Contracts."</i></p>

Public Entity/ies: St. Ann Parish Council	
<b>Excerpt or Summary of Complaint/Matter:</b>	The Councillor for the Borobridge Division had a drain cleaned for \$60,000 in the division. Two (2) days thereafter, a tractor was used for two (2) hours to do unspecified work and allegedly collected \$1.2m for the work.
<b>Findings and/or Recommendation:</b>	<p><u>Findings in relation to St. Ann Parish Council</u></p> <p>The OCG notes the content of a letter which was dated August 26, 2010, from the former Secretary/Manager, Mr. Clinton Gordon, which stated, <i>inter alia</i>, that; "the information available to me in no way indicates or suggests that the St. Ann Parish Council was the implementing agency or had any connection to the works referenced in the allegations quoted."</p> <p>The OCG, having conducted its internal review has noted that the complaint was not relevant to the St. Ann Parish Council, as said project was not executed by the Council.</p> <p><u>Findings in relation to National Works Agency</u></p> <ol style="list-style-type: none"> <li>1. Drain cleaning work was done in the South West Division of the Parish of St. Ann on two occasions; 2007-2008 and 2009-2010.</li> <li>2. During the period 2007-2008, Conres Construction Limited was contracted to undertake works within the Division. Payments made to Conres Construction Limited, was for works done in four (4) locations in the said Division which amounted to \$904,750.00. Payment for works done in the Borobridge to Thatchwalk area was \$594,740.00. The contract commenced on July 6, 2007 and was completed on July 13, 2007.</li> <li>3. No tangible payment records were submitted for the 2009-2010 flood damage mitigation projects for drain cleaning works. Nevertheless, from the data provided to the OCG, it was noted that eight (8) contractors were engaged with values ranging from a minimum of \$9,400.00 to a maximum of \$210,000.00. The total accumulated contract value for these works was \$1,005,000.00.</li> </ol> <p>In light of the foregoing, the OCG concludes that there was no evidence to corroborate the veracity of the allegations made regarding payment of \$1.2 million to a single contractor for drain cleaning works in the Borobridge area.</p>

Public Entity/ies: Bank of Jamaica	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"The...Bank of Jamaica complex has suffered from its close proximity to Kingston Harbour, and the salt spray generated by high winds, with the result that the reinforcement is some of the vertical 'fins' on the tower block has corroded, causing the surface concrete to spall away.</i></p> <p><i>In October 2010, the Bank invited proposals from interested consulting engineering firms for their services to help overcome this problem, with a return date for technical and financial proposals set at 10:00 a.m. on 29<sup>th</sup> November 2010.</i></p> <p><i>As direct successors to the architects/engineers who designed and oversaw construction of the original buildings ...</i></p> <p><i>... we were surprised to be told that our Technical Proposal, having not scored sufficient marks in the adjudication process, was not eligible for further consideration, and our Financial Proposal was therefore returned unopened.</i></p> <p><i>We wrote to the Bank requesting the results of the assessment of our proposal...but to date we have received no response...</i></p> <p><i>...we therefore respectfully request your help in finding out why our submissions were not worthy of consideration, and the results and basis of the final award for the project."</i></p>
<b>Findings and/or Recommendation:</b>	<ol style="list-style-type: none"> <li>Four (4) Bids were received from the following companies: <ol style="list-style-type: none"> <li>Apec Consultants</li> <li>Jentech Consultants</li> <li>MSR Design Studio Ltd.</li> <li>Wallace Evans Jamaica Ltd.</li> </ol> </li> <li>The Evaluation of the Technical Proposal was conducted by a team comprising Messrs Paul Blake, Omar Haughton and Gary Wong.</li> <li>The Tender Report stated, <i>inter alia</i>, that, "APEC is a multi-disciplinary firm that evolved from the firm of Rutkowski Bradford and Partners, who were the designers of the Bank's complex and are therefore the most familiar with the structural aspects of the tower. Except for a description of the proposed services, the technical proposal provided very little additional information that proved useful to the evaluation. The bulk of the technical proposal was a listing of completed projects without any indication of its nature, size, complexity or services provided."</li> <li>The following score (total average) was allotted for the technical proposal for the four (4) Bids received: <ol style="list-style-type: none"> <li>Apec Consultants Ltd. - 74.0</li> <li>Jentech Consultants Ltd. - 98.5</li> <li>MSR Design Studio Ltd. - 93.3</li> <li>Wallace Evans Jamaica Ltd. - 97.7</li> </ol> </li> <li>Apec Consultants Ltd. did not meet the minimum required technical evaluation score of eighty (80) points and, therefore, did not advance to the opening of the Financial Proposal as was stated in the Request for Proposal.</li> </ol> <p><u>Conclusion</u></p> <p>Based upon the review of the relevant Bid Document and the Evaluation Report which was prepared by the BOJ, there is no evidence to suggest that there was any impropriety in the evaluation of the technical proposals for Consultancy Services — Structural Repairs to Tower Block.</p>

Public Entity/ies: University Hospital of the West Indies	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"... we have been in negotiations with the University Hospital of the West Indies for the supply of a Tank, through the bid process.</i></p> <p><i>... the bid process was halted and we were assured that we would be advised as to when the University Hospital would reopen same. We were never so advised...</i></p> <p><i>When we subsequently challenged the University Hospital Panel we were told that the contract had been awarded on the advice of the Contractor General to one of our competitors..."</i></p>
<b>Findings and/or Recommendation:</b>	<ol style="list-style-type: none"> <li>1. The University Hospital of the West Indies (UHWI) returned both bids and aborted the Tender Process for the supply of water storage tank. This is in accordance with the GOJ Handbook of Public Sector Procurement Procedures (2008) Sub-Section S-2120(n) titled, <i>Rejection of All Bids</i>, which states, <i>inter alia</i>, that, <i>"The Procuring Entity may reject all bids under the following circumstances:</i> <ul style="list-style-type: none"> <li>• <i>Where the price in the lowest evaluated bid exceeds the Procuring Entity's bid cost estimates by a substantial margin."</i></li> </ul> </li> <li>2. The process was never competitively re-tendered.</li> <li>3. The UHWI, instead of re-tendering for the supply of water tank, requested approval from the NCC to engage in direct negotiations with Tankweld Jamaica Limited, given that they had the lower bid which was closer to the UHWI's internal estimate &amp; budget.</li> <li>4. All the requisite approvals were received by the UHWI prior to engaging Tankweld Jamaica Limited.</li> </ol> <p>In light of the foregoing, there is no evidence to suggest that there was impropriety or breach of the GOJ Procurement Guidelines in award of the contract to Tankweld Jamaica Limited by the UHWI.</p>

Public Entity/ies: St. Catherine Parish Council	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"I am asking that your office investigate a road improvement project awarded by the St. Catherine Parish Council to Alcar Construction &amp; Haulage Co. Ltd.</i></p> <p><i>It is alleged that the contract sum was for \$4.5 million, \$5.5 million or \$7.0 million.</i></p> <p><i>... Within two weeks approximately 450 metres of road was scarified, marled, rolled and asphalted.</i></p> <p><i>Other areas were prepared for patching and left undone, that is to say marl added, rolled and oiled, these areas are now falling apart rapidly.</i></p> <p><i>There is evidence that the quality of work was compromised as nothing was done for drainage and the final bit of paving is shelly when compare [sic] to that done on the previous day."</i></p>
<b>Findings and/or Recommendation:</b>	<ol style="list-style-type: none"> <li>1. The complainant's assertion that the Waugh Hill Road Project was undertaken by Alcar Construction &amp; Haulage Company Limited was incorrect.</li> </ol> <p>With regards to the foregoing, the OCG reviewed the Procurement Committee Meeting Minutes of April 2, 2009 and noted that L C Construction was recommended for the award of contract. It was also noted that the opening for the bid occurred during the said Procurement Committee Meeting.</p> <ol style="list-style-type: none"> <li>2. There was merit to the allegation regarding the approximate contract sum, as same ranged between \$4.5 million to \$7.0 million. An assessment of the 2nd Quarterly Contracts Award (QCA) report of the year 2009 for the St. Catherine Parish Council revealed that, a sum of Five Million Three Hundred and Seventy One Thousand Three Hundred and Fifty Dollars (\$5,371,350.00) was awarded to L C Construction for Waugh Hill Road Rehabilitation. However, quite strangely, this amount does not include the 10% Retention and the 2% Contractor Levy.</li> </ol> <p>In this regard, the OCG has observed that two individual contracts were awarded to L C Construction on April 21, 2009 and April 29, 2009, for the sum of One Million Seven Hundred and Eighty One Thousand One Hundred Dollars (\$1,781,100.00) and Four Million Three Hundred and Twelve Thousand Five Hundred Dollars (\$4,312,500.00) respectively, with an aggregate value of Six Million and Ninety Three Thousand Six Hundred Dollars (\$6,093,600.00), although L C Construction's bid amount, as per official tender records, was for Five Million Three Hundred and Seventy One Thousand Three Hundred and Fifty Dollars (\$5,371,350.00).</p> <p>Also, interestingly, the referenced Six Million and Ninety Three Thousand Six Hundred Dollars (\$6,093,600.00) value is equivalent to the St. Catherine Parish Council's Comparable Estimate as stated in the Procurement Committee Meeting Minutes of April 02, 2009, and the Records of Tenders dated April 02, 2009.</p>

	<p>In the circumstance, by way of copy letter to the Auditor General, the OCG has requested that this particular transaction be closely examined, to determine, <i>inter alia</i>, whether there were over payments, and if so, the difference to be recovered.</p> <p>Further, it must be noted that the contract award value which was reported by the St. Catherine Parish Council on its 2nd Quarter 2009 QCA report was incorrect, and constitutes a breach of Section 29 of the Contractor-General Act.</p> <p>3. The quality of work which the complainant referred to had no merit. The OCG observed on Site Visit conducted on May 19, 2010, that the roadway was in a good condition.</p> <p>4. The complainant had requested that the OCG investigate this contract on the basis of transparency. The OCG has observed that the St. Catherine Parish Council failed to submit all particulars in relation to the Project to the OCG. This is a breach of the Contractor-General Act.</p> <p>The OCG also noted that there was no proper tender opening ceremony and evaluation of Bids as same was conducted during the Procurement Committee Meeting held on April 2, 2009. This constitutes a breach of the Government of Jamaica Handbook of Public Sector Procurement Procedures.</p> <p>In light of the concerns and suspicions with regard to the conduct of the procurement and execution of this contract, the OCG recommends that the St. Catherine Parish Council procurement practices be streamlined in accordance with the Government of Jamaica Handbook of Public Sector Procurement Procedures.</p>
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#### Public Entity/ies: National Works Agency

<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"... it would appear that Frank Mannerz employee in charge of Traffic lights at the National Works Agency has an interest in Jim's Electrical Service.</i></p> <p><i>He approach [sic] reputable company's [sic] who won bids which includes the installation of traffic lights making demands that he has the right person for the job...."</i></p>
<b>Findings and/or Recommendation:</b>	<p>There is no documented evidence to substantiate the allegation made that Mr. Franklin Manhertz is affiliated with, or was affiliated with, Jim's Electrical Service.</p> <p>Further, the OCG found that Mr. Manhertz did not influence the decision to award contracts to Jim's Electrical for the supply and/or installation of traffic signals on a preferential basis.</p>

#### Public Entity/ies: Urban Development Corporation

<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"...I bring to your attention a number of breaches at the UDC around the award of contracts. Please investigate the UDC's issuing of contract and payments to the following persons:</i></p> <ul style="list-style-type: none"> <li><i>- Mr. Michael White of Dairy Springs and Hydrology Consultants Ltd...rumoured to be the General Manager's close friend. Payments go through UDC and Runaway Bay water company. Over \$10 million was paid in a single year.</i></li> <li><i>- Contracts and Payments to Mr. Easton Douglas, another close friend of the General Manager...was paid over \$4 million for one fabricated consultancy to review information reports which other valuator submitted. He was paid this enormous sum when the total cost of the 3 valuers was only about \$1 million.</i></li> <li><i>- Contracts and payments awarded to Price Waterhouse [sic] which did not go through the appropriate procurement process, totally [sic] close to \$40 million in one year..."</i></li> </ul>
<b>Findings and/or Recommendation:</b>	<p><u>Contract with Easton Douglas</u></p> <p>1. UDC advised that the Contract with Easton Douglas and Company was issued under the category of legal services which is exempted from the GoJ Procurement Guidelines. Easton Douglas and Company is listed as one of the Chartered Valuators on the National Land Agency's (NLA) website. Easton Douglas and Company Limited is not a law firm and could not have been engaged under the category of legal services, as they were not providing legal services and are also not practicing attorneys.</p> <p>Based on the value of the contract, the Selective Tender procurement methodology should have been utilised to invite bids via advertisement, as stipulated in Sub-Section No: S-2040 of the GoJ Handbook of Public Sector Procurement Procedures (2008).</p> <p>It is therefore axiomatic that the foregoing constitutes a breach of the applicable GoJ Handbook of Public Sector Procurement Procedures.</p>



Contract with Dairy Springs Limited

2. The Sole Source procurement methodology was utilised to engage Dairy Springs Limited in the sum of \$617,450.00, to prepare two papers for presentation at a UDC Board Retreat.

The OCG notes that the Permanent Secretary in the Office of the Prime Minister granted approval for the use of the Sole Source procurement methodology to engage the said firm. Whilst the UDC General Manager had the authority to approve such contract, given its value, the OCG notes that the purpose of the engagement does not fall within the list of justified reasons in the GoJ Handbook of Public Sector Procurement Procedures (2008) which would have warranted the use of this procurement method at the time of the award of contract.

Therefore, the engagement of the firm utilizing the sole source procurement methodology constitutes a breach of the applicable GoJ Handbook of Public Sector Procurement Procedures.

3. The Selective Tender procurement methodology was used to select a contractor to provide hydrology services for the Runaway Water Company Ltd. Two (2) bids were received on September 29, 2009. After evaluation, Dairy Springs Limited was recommended for the award of contract in the amount of \$9,793,863.00. The Procurement Committee approved the award of contract on March 17, 2010, and the UDC Board approved the contract to Dairy Springs Limited on May 26, 2010.

In light of the foregoing, the OCG finds that there was no breach of the applicable GoJ Handbook of Public Sector Procurement Procedures.

Contract with Hydrology Consultants Limited

4. The Limited Tender procurement methodology was used to engage Hydrology Consultants Limited to provide technical audit services. An executive summary supplied by the UDC indicated that Letters of Invitation were issued to two firms on March 17, 2006, and the deadline date for return of proposals was March 31, 2006. (Copies of same were not evidenced)

The OCG finds that the contract value was above \$3M and would have warranted the **prior** approval of the Accounting Officer in accordance with Section 2.1.3.3 of the GoJ Handbook of Public Sector Procurement Procedures (2001), which states that, "*Limited Tender must have prior approval of Accounting Officers for contracts less than \$4M.*"

Whilst the justification given by UDC with regard to the availability of firms to provide the services is plausible, the necessary approval from the Accounting Officer should have been solicited prior to proceeding to invite tenders.

In the circumstance, the OCG found that there was a breach of the applicable GoJ Handbook of Public Sector Procurement Procedures.

Contract with PricewaterhouseCoopers

5. The NCC on April 9, 2008, granted approval for the use of Limited Tender procurement methodology to invite Audit Firms to submit proposals for the conduct of a management audit of the UDC. Three (3) Firms were invited to tender; KPMG, PricewaterhouseCoopers, and Deloitte Touche Tohmatsu. Only one (1) Bid was submitted from PricewaterhouseCoopers. The Bid was evaluated by a team, and PricewaterhouseCoopers met the required score rendering the company eligible for the award of contract in the amount of \$9,017,100.00. As at August 31, 2010, a total of \$20,070,570.95 was paid to PricewaterhouseCoopers.

Due to PricewaterhouseCoopers' work with respect to the management audit of the corporation, they were further contracted to assist with the rationalizing and streamlining of the Development Planning and Management Division. They were also further engaged for the provision of services in the management of the UDC, due to the death of a staff member in one instance and the secondment of another staff member.

With regards to the foregoing contracts with PricewaterhouseCoopers, the OCG notes that approvals were granted for the use of the Limited Tender procurement methodology which led to the award of contract to PricewaterhouseCoopers for the conduct of the management audit.

The OCG finds there was no breach of the GOJ Procurement guidelines in executing this procurement opportunity.

However, regarding the other contracts which followed the initial engagement of PricewaterhouseCoopers, the OCG did not evidence any approvals for these contracts. The OCG also questions the justification put forward by the UDC for the use of Contracting under Emergency Circumstances for the provision of human resource related services which it is believed could have been addressed otherwise.

In addition to the aforementioned observations, the OCG has seen no evidence of the contracts awarded to Easton Douglas & Company, PricewaterhouseCoopers and Hydrology Consultants Limited, being reported to the OCG on the Quarterly Contracts Award (QCA) reports for the respective quarters. The nondisclosure of the referenced contract award information constitutes a clear breach of the Contractor-General Act.



	In light of the foregoing, the OCG recommends that the UDC ensures that it strictly adheres to the GoJ Procurement Procedures by using the appropriate procurement methodology and receiving the requisite approvals for engaging contractors. The UDC is also reminded that it should report on all contracts awarded to the OCG on its QCA Reports, as failure to do same is considered a breach of Section 29 (a) and (b) of the Contractor-General Act.
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Public Entity/ies: National Water Commission	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p>“...  1) <u>Contradicting Qualification Requirements</u>  <i>Published in the Sunday Gleaner July 8<sup>th</sup> 2012 the Invitation for Bids states “documentary evidence that the supplier has been in the business of manufacturing/supplying solid state cold water meters for a minimum of three (3) years”...</i>  <i>In the bidding documents issued on July 10<sup>th</sup> 2012 it states Page 41, Post Qualification Requirements (ITB 38.2), “The Bidder shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s): b) i) At least three (3) water utilities companies with a large installed base of requested equipment operating in excess of two (2) years”...</i>  <i>What was published in the media and what was written in the Bid Documents is contradictory.</i>  2) <u>Objection to the quantity of meters desired in the Bid Documents</u>  <i>Solid State Water Meter Technology for residential metering applications is not used extensively world wide [sic]...The NWC in the Bid Documents has requested for 100,000 of this meter technology of the solid state type, representing about 1/3 of the total residential water meter base in Jamaica...</i>  5) <u>Disagree that solid state meter is the “way to go” for water meter technology</u>  <i>There is no country we can find which is embarking on a program to replace ALL or a significant portion of their installed residential meters with solid state meter technology...</i>  <i>There are no solid state meters widely in use in the Americas and none on the African Continent...”</i></p>
<b>Findings and/or Recommendation:</b>	<ol style="list-style-type: none"> <li>There was a discrepancy in the experience requirement indicated in the Bidding Document where it stated, “At least three (3) water utilities companies with a large installed base of requested <u>equipment operating in excess of two (2) year</u>,” while the Invitation to Bid requested “Documentary evidence that the supplier has been in the business of manufacturing/supplying solid state cold water meters <u>for a minimum of three (3) years</u>...” [OCG's emphasis]</li> <li>The discrepancy in the experience requirement for the Bid was rectified at the Bidder's Conference, which was held on August 2, 2012, where the Bidders were informed that an amendment was made to the experience requirement. Bidders were advised that,  <i>“The advert said manufacturers of solid state meters should be supplying these for three years. We are amending this to two years to be consistent with the information in the bidding document.”</i> [OCG's emphasis]</li> <li>Bidders expressed concerns that the proposed technology was not being utilised in first world countries such as the United States of America (USA). However, NWC's research indicated that the technology had been used in Africa, parts of the USA, Canada and Middle Eastern countries.</li> <li>The NWC had installed and tested samples, and found that the meters were performing exceptional.</li> </ol> <p><u>Conclusion</u>  Based on the aforementioned findings, the OCG can conclude that; even though there was a disparity in the information provided in the Invitation to Bid and the Bidding Document, due process was followed when amendments were made to the Bidding Document and communicated to the Bidders.</p>

Public Entity/ies: Ministry of National Security	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"Our company participated in the tender process and was selected for the entire Are [sic] 2 Division (St. Ann, St. Mary &amp; Portland). The new contract is valid for three years for the period April 2012-March 31, 2015..."</i></p> <p><i>On February 14, 2013 the JCF force order issued instructions in variations to our contractual agreement stating the case that the Legal Medicine Unit will now have interest in...on March 21, 2013 a further document printed in the force order headed Standard Operating Procedure for dealing with sudden deaths at home. Below overview #4 reads thus "if there's no sign of foul play, the officer will instruct the family to obtain a medical cause of death from the attending doctor and to contact the funeral home of their choice. In these cases where a postmortem is required the family should make the arrangements to have it done PRIVATELY."</i></p> <p><i>At a meeting held on April 24, 2013 to discuss the issues ... with our contract with the Permanent Secretary Ministry of National Security Ms. Branes along with other representatives from both ministries ... Although we have been having these meetings the problems have still not being [sic] resolved in our Division instead police has [sic] no interest in any cases [sic] as a result the bodies are going to uncontracted funeral homes and postmortems are done privately by these funeral homes..."</i></p>
<b>Findings and/or Recommendation:</b>	<ol style="list-style-type: none"> <li>1. While the OCG recognises that the change in the Force Orders of February 14, and March 21, 2013, may have been pursuant to a policy decision, the information/instructions outlined therein does, on the face of it have the potential to adversely impact the contract. Of point, and in fact, the Ministry of National Security's letter dated September 30, 2013 had indicated, <i>inter alia</i>, that "What changed was the volume of calls which the funeral homes would receive since the police were erroneously engaging the funeral homes for all cases of sudden death."</li> <li>2. As it concerns the legality of the decision which was taken by the Ministry, the OCG reserves its comments in this regard. Notwithstanding, the OCG is of the considered opinion that the Ministry is within its right to make any policy decisions which it deems necessary for good administration.</li> </ol> <p>In light of the foregoing, the OCG has concluded its review into this matter.</p>

Public Entity/ies: Ministry of Health	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"Recently, we noticed a new Hyundai truck with a Box Body fitted with a tailgate lift with the Waste Management Unit logo affixed to both front doors identifying the vehicles with the Ministry of Health operating in the rural area, Kingston and St. Andrew."</i></p> <p><i>In the year 2010-2011, we received an invitation from the Ministry of Health and the Waste Management Unit to submit a Bid for a similar size truck with similar specifications.</i></p> <p><i>Only two (2) dealers responded to the Tender:...</i></p> <p><i>Both companies received notification ...advising that the Tender was aborted...</i></p> <p><i>With what seems to be a 'cover up' we are requesting the following:</i></p> <ol style="list-style-type: none"> <li><i>(a) Why was the Tender aborted, on at least two (2) occasions but a few years after, without another Tender published a purchase is made through another source?</i></li> <li><i>(b) Having procured the vehicles, what reason does the Waste Management Unit has not to cooperate with the recognized distributor of the vehicle in order to have said vehicle registered for the purpose of warranty.</i></li> <li><i>(c) Why was the purchase of this vehicle not placed on public Tender?"</i></li> </ol>
<b>Findings and/or Recommendation:</b>	<p>The Ministry has indicated in its response to the OCG, <i>inter alia</i>, that, "The Waste Management Unit does not own or operate any Hyundai trucks within its fleet. The Unit however owns and operates only two Mitsubishi trucks, both of which were supplied in 2008 by SEEN Environment (Martinique) under a turn-key contract for the supply and installation of Treatment Plant and Equipment for Hazardous Healthcare Waste Collection and Treatment". The Ministry had also included in its response to the OCG, a copy of the Motor Vehicle Inventory Request form to the Ministry of Finance and Planning.</p> <p>In light of the foregoing, the OCG has concluded its review into this matter and finds that there is no veracity to the allegations made by Key Motors Limited.</p>

Public Entity/ies: Ministry of Science, Technology, Energy and Mining	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"... It was brought to our attention that though our response addressed all ... areas, our bid may be considered unresponsive for the following reasons:</i></p> <ul style="list-style-type: none"> <li>• <i>NCC not being in the category required</i> <ul style="list-style-type: none"> <li>◦ <i>Proof of application of upgrade to the required category was submitted in the tender</i></li> </ul> </li> <li>• <i>Our bid may be considered lacking in extensive details</i> <ul style="list-style-type: none"> <li>◦ <i>We are convinced that this requirement was met</i></li> <li>◦ <i>It is our belief that our response was comprehensive in respect of the inclusion of all necessary details...</i></li> </ul> </li> </ul> <p><i>We are of the firm and certain view that our tender was responsive and we are requesting an investigation into this process as we believe that if we are excluded for such reason, we would be unfairly treated."</i></p>
<b>Findings and/or Recommendation:</b>	<p>The OCG notes the Ministry of Science, Technology, Energy and Mining's statements as to the reasons for the Bid submitted by Appliance Traders Limited (ATL) being deemed non-responsive.</p> <p>The OCG concurs, based upon the response and from the Bid Report, that the ATL was in fact non-responsive as the Company was not duly registered in the requested National Contracts Commission (NCC) Registration Category and Grade.</p> <p>The OCG notes further that, <i>"ATL did not submit a Technical Bid which could be evaluated in the context of a recommendation of a Technical Solution. ...The actual design details and specific solutions were not provided."</i></p> <p>Based on the foregoing, the OCG has concluded that the Ministry was within its right to reject the Bid received from ATL, since they would not have fulfilled the requirements stated by the Ministry in its Bid Document.</p>

Public Entity/ies: Sports Development Foundation	
<b>Excerpt or Summary of Complaint/Matter:</b>	<p><i>"...At the time of submitting the tenders it [sic] we were made to understand at the Tender opening that our tendered amount was deemed to be competitive. It was not our understanding that we ought to have submitted referrals of doing similar jobs..."</i></p>
<b>Findings and/or Recommendation:</b>	<ol style="list-style-type: none"> <li>1. Both the Invitation to Tender and the Tender Document stated that bidders were required to submit <i>"experience as a prime contractor in the construction of at least one project/work of the nature and complexity equivalent to the works included in this Invitation, over the last three years"</i> in order to be qualified;</li> <li>2. Shek-Nur Construction Company Limited did not submit qualification documentation related to its experience, and was subsequently disqualified based upon the SDF's Evaluation Report; and</li> <li>3. Based upon the contents of a letter from Shek-Nur Construction Company Limited to SDF, dated May 3, 2013, and subsequent to a meeting that was held with the SDF, Shek-Nur Construction Company Limited acknowledged that it was an oversight on their part, as the requirement had been stated.</li> </ol> <p><u>Conclusion</u></p> <p>In light of the foregoing, the OCG finds that there was no breach of the GoJ Procurement Procedures and concludes that SDF was within its right to reject the Bid submitted by Shek-Nur Construction Company Limited.</p>

## **QUARTERLY CONTRACTS AWARDS (QCA) REPORTS**

The Office of the Contractor-General (OCG) has requisitioned approximately one hundred and ninety eight (198) procuring Public Bodies (PB) to prepare and submit Quarterly Contracts Award (QCA) Reports indicating the particulars of contracts which have been awarded within stipulated contract value thresholds. QCA reports are to be submitted to the OCG, in the manner stipulated, in arrears, within one month following the ending of the quarter to which they relate.

The OCG, for the calendar year 2013, had requisitioned these procuring PBs to prepare and submit QCA Reports indicating the particulars of contracts which have been awarded above a contract value of J\$500,000.00. For the reporting year 2013, the OCG had recorded a 100% compliance rate for all four quarters.

### QCA Uploads

The Web Portal has eliminated the occurrence of incomplete QCA reports as PBs are unable to submit a report unless all the mandatory fields have been completed.

Consequently, all reports which have been submitted to the OCG have been added to the QCA Consolidated Database as is. The database may be found at [www.ocg.gov.jm](http://www.ocg.gov.jm).

### Contract Award Data

The OCG received approximately seven hundred and eighty nine (789) QCA Reports, for the year ending December 2013. Please note that the figures represent the raw data received from the Public Bodies (PB).

In the reporting year, eight thousand six hundred and twenty two (8,622) contracts were reported at a total value of J\$45,445,481,023.75. The value of contracts for Goods and Services which includes Consultancy Services and Insurance Placement was \$36,185,554,551.17, while the value of Works contracts was \$9,259,926,472.58.

The OCG, over the years, has been concerned with the number of unregistered contractors which are used by PBs. The summaries in Table 1 below illustrate a comparison of the contracts awarded for the reporting year.

**Table 1 – Summary of Contracts Awarded**

2013 Reporting Period	Total # of Contracts Awarded	Total value of Contracts Awarded	Number & Percentage of Contract Awards to Unregistered Contractors	Value of Contract Awards to Unregistered Contractors	Number & Percentage of reports from PBs that used Unregistered Contractors
1 <sup>st</sup> QRT	2,241	\$9,530,336,973.00	38 (1.70%)	\$98,033,154.23	11 (.49%)
2 <sup>nd</sup> QRT	1,934	\$12,452,657,405.62	34 (1.76%)	\$51,271,057.63	15 (.77%)
3 <sup>rd</sup> QRT	2,130	\$13,394,161,776.52	37 (1.74%)	\$53,645,001.07	16 (.75%)
4 <sup>th</sup> QRT	2,317	\$10,068,324,868.61	28 (1.21%)	\$51,237,984.45	14 (.60%)
<b>Total</b>	<b>8,622</b>	<b>\$45,445,481,023.75</b>	<b>137 (1.59%)</b>	<b>\$254,187,197.38</b>	<b>56 (.64%)</b>

Table 2 shows a comparison of figures of 2011, 2012 and 2013.

**Table 2 – Comparative Compliance Levels**

Reporting Period	Total Number of contracts awarded	Total Value of contracts awarded	Number and percentage of Contracts Awards to Unregistered Contractors	Value of Contract Awards to Unregistered Contractors
<b>2011</b>	11,152	\$16,143,777,148.00	3,106(27.9%)	\$4,738,208,283.00
<b>2012</b>	9,399	\$25,752,214,653.20	1,688 (17.9%)	\$2,492,373,496.64
<b>2013</b>	8,622	\$45,445,481,023.75	137 (1.59%)	\$254,187,197.38

The OCG has noted a downward trend in the number of unregistered contractors being used by Public Bodies. The OCG classifies “unregistered contractors” as those contractors who, based upon the nature of the service, goods or works being procured and upon the Procurement Guidelines, ought to have been registered with the National Contracts Commission (NCC) in one or more of the NCC’s categories. **A significant decline can be seen for the reporting year 2013 where the percentage of contracts awarded to unregistered contractors fell from 17.9% to 1.59%.**

### QCA Assessment

By way of letter dated March 7, 2013, the OCG had informed all requisitioned Public Bodies that it was “... currently in the process of developing the second phase of the revised QCA reporting format, which includes the finalization and testing of the criteria that will be used to assess reports submitted by Public Bodies.” The OCG further informed the PBs that the Office would not be providing its usual assessment reports until further notice.

Consequently, the OCG, in lieu of assessment scores, undertook a comparison of the reports submitted by each Public Body. Of the seven hundred and eighty nine (789) reports submitted, two hundred and forty eight (248) were nil reports, meaning these two hundred and forty eight (248) submissions indicated that no contracts were awarded for the corresponding quarters.

Based upon the reports submitted, it was observed that for the period 2013, there were approximately fifty six (56) reports from Public Bodies where unregistered contractors were engaged. The QCA Report takes into consideration those contractors who would not be required to be registered with the NCC, such as Consultants.

Based upon the procurement guidelines, it is a requirement that Public Bodies receive prior approval from the NCC to use certain procurement methodologies once the value of its contract exceeds a certain threshold. In the case of Limited Tender (LT), once the contract value exceeds J\$15M, the prior approval from the NCC would be required. Based upon the reports received it was observed that at least five (5) Public Bodies did not receive prior approval from the NCC, while at least five (5) Public Bodies received prior approval from the NCC.

The OCG further noted that the incidences of breaches were greater in the cases of the use of Direct Contracting (DC). Once the contract value exceeds the threshold value of approval from the Head of Entity, which is J\$5 million, the pre-approval from the NCC would be required. The OCG had noted that there were approximately seventy one (71) reports from Public Bodies where the pre-approval from the NCC was not received.

Table 3 below represents the prior approvals for the reporting year 2013.

**Table 3 – Prior Approval Levels**

	Number of Reports submitted	Submissions with no contracts	Number & percentage of reports from PBs that used LT over J\$15M without prior approval from the NCC	Number & percentage of reports from PBs that used LT over J\$15M with prior approval from the NCC	Number & percentage of reports from PBs that used DC over J\$5 million without prior approval from the NCC	Number & percentage of reports from PBs that used DC over J\$5 million with prior approval from the NCC
<b>1<sup>st</sup> Quarter</b>	197	57	1 (.5%)	0	21 (10.6%)	10 (5%)
<b>2<sup>nd</sup> Quarter</b>	197	67	2 (1%)	2 (1%)	16 (8.12%)	10 (5%)
<b>3<sup>rd</sup> Quarter</b>	197	57	0	2 (1%)	18 (9.13%)	13 (6.5%)
<b>4<sup>th</sup> Quarter</b>	198	67	2 (1%)	1 (.5%)	16 (8%)	17 (8.5%)
<b>Total</b>	789	248	5 (.6%)	5 (.6%)	71 (9%)	50 (6.3%)

Further statistics regarding the QCA Reports which were received over the period can be found in the Appendix section.

## TECHNICAL SERVICES DIVISION

### **OVERVIEW**

During the year 2013, the Technical Services Department (TSD) continued in earnest its dual role of:

1. Monitoring the pre-contract award process, ensuring probity, equity and transparency in the award of contracts; and
2. Operating as the Secretariat for the National Contracts Commission (NCC) pursuant to Section 23J of the Third Schedule of the Contractor-General Act (the Act) in the provision of technical and administrative support.

The TSD, in fulfilling its role as Secretariat to the NCC, carries out the following functions for and on behalf of the Commission:

1. For the purposes of registration of contractors, conducts an assessment of the financial and human resources, including the technical and managerial capacity and performance of contractors, for inclusion in the three registries of, Grades 1-4 Works Contractors, Grade 5 Works Contractors and Suppliers of Goods and Services.
2. Reviews recommendations for the award of contracts submitted by public bodies for endorsement by the NCC.
3. Represents the NCC at its Sector Committees which are established under the Act to provide assistance to the Commission in the approval of recommendations for the award of contracts.
4. Maintains the records of endorsement, the production of statistical reports and the generation of all correspondence.

### **Staffing**

The activities of the TSD were undertaken by a complement of eleven (11) members of staff comprising; one (1) Director, one (1) Administrative Assistant, two (2) Managers, four (4) Technical Officers, one (1) Supervisor and two (2) Records Officers.

### **NCC Commissioners**

Pursuant to Section 23B of the Third Schedule of the Act, the tenure of the members of the NCC which were appointed on May 17, 2006, came to an end on May 16, 2013. Consequently, the following Commissioners served during the first half of the year up to May 16, 2013:

1. Mr. Raymond McIntyre, Chairman
2. Mr. Robert Martin, Permanent Secretary in the Ministry of Youth and Culture;
3. Mr. Lascelles Dixon, representing the Professional Societies of Jamaica;
4. Mr. Karl Martin, former Director of Special Projects, Ministry of Transport, Works and Housing;
5. Mr. Donald Moore, Senior General Manager, National Housing Trust;
6. Mrs. Jean Fairclough, Senior Policy Analyst, Cabinet Office;
7. Mr. Milton Hodelin, former CEO of the National Works Agency (NWA); and
8. Mr. Richard Hylton, who was approved by the Construction Industry Council

A new Commission consisting of eight members in total, comprising of: six (6) ex-officio members inclusive of the Chairman and five (5) other members who are employees of Public Bodies; one (1) member nominated by the Construction Industry Council and one (1) member nominated by the Professional Societies Association of Jamaica, were appointed by the Governor General. The following eight (8) Commissioners were appointed to serve until May 16, 2020:

1. Raymond McIntyre, Chairman (Returning)
2. Mr. Marvin Goodman, Representing the Professional Societies Association of Jamaica
3. Mr. Woodrow Whiteley, Representing the Construction Industry Council
4. Mrs. Hope Blake, (Public Body Representative) – Deputy Financial Secretary – Ministry of Finance and Planning
5. Mrs. Kayla Sewell Mills, (Public Body Representative) – Principal Director – Office of the Cabinet Secretary
6. Mr. Earl Patterson, (Public Body Representative) - Deputy CEO/ Senior Director, Project Implementation – National Works Agency
7. Mr. Gary Lawrence, (Public Body Representative) – Vice President, Engineering - Port Authority of Jamaica
8. Mr. Donald Moore, (Public Body Representative) - Senior General Manager – Construction & Development – National Housing Trust – (Returning Member)

### **Contractor Registration Process Review**

Emanating from requests from stakeholders for a review of the Contractor Registration Process, the NCC, through the Office of the Cabinet entered into a contract with a Consultant, Mr. John Brooks, in March 2013, for a review of the existing Contractor Registration System as well as the development of a Contractor Performance Management Programme. This consultancy, which was originally slated to be completed by May 31, 2013, was extended to December 31, 2013.

### **Contractor Registration and Endorsement of Contract Award Recommendations**

During 2013, the TSD worked assiduously to reduce the time taken to process applications for registration and to this end, implemented several measures to increase the efficiency of its operation. Amongst these efforts was the issue of a Supplemental Registration document for Works Grades 1-4 Contractors, which provided clarification and further guidance in completing Works Grades 1-4 Applications. Thereby improving the quality of applications received. The Department also continued to reap benefits from the revised Application Form for Suppliers of Goods and Services which was introduced on November 1, 2012 and which was more user-friendly.

The TSD, whilst it experienced a general decline in the number of applications for all three registries: Works Grades 1-4 Contractors, Grade 5 Contractors and Suppliers of Goods and Services, saw an overall increase in both the number of endorsed contracts and the monetary value of these endorsed contracts. In fact, the reported number of endorsed contracts exceeded that which was recorded in 2010, 2011 and 2012; the figure was however 9.8% less than the 630 endorsed contracts reported in 2009. (Please see section on NCC Endorsement of Contract Award recommendations for further details).

### **Challenges and Concerns**

Though not a pervasive problem, there is still a cause for concern with respect to the proper use of the standard bidding documents by Procuring Entities. It has been noted that although the Procuring Entity may at times decide to utilize an award criteria which differs from the standard award criteria indicated in the relevant clause of the Instruction to Bidders, a proper modification to the clause is not included in the Bid Data Sheet.



Procuring Entities are therefore urged to closely examine the Bid Data Sheet which is issued for the respective tenders and to ensure that clauses contained within the Instruction to Bidders which do not apply or which are to be modified, are amended and reflected in the Bid Data Sheet, as appropriate.

## **REGISTRATION AND RE-REGISTRATION OF CONTRACTORS**

### **Suppliers of Goods and Services**

During the year 2013, nine hundred and thirty one (931) applications were received and eight hundred and eighty one (881) registration approvals were granted by the NCC. Of the eight hundred and eighty one (881) approvals, one hundred and fifty five (155) were new applicants, and seven hundred and twenty six (726) were re-registration. In addition to the eight hundred and eighty one (881) approvals there were nineteen (19) approvals granted for additional categories, to companies that were already registered.

Table 1 below illustrates the number of approvals granted by the NCC during the period 2007 to 2013.

**Table 1 - Number of Registrations Granted for Suppliers of Goods and Services (2007 – 2013)**

Year	New Registration	Re-Registration	Total Approvals Granted
2013	155	726	881
2012	293	1104	1397
2011	234	1162	1396
2010	316	1221	1537
2009	520	1278	1798
2008	697	1176	1873
2007	649	875	1524

There was a decrease in the total number of approvals for registration granted in 2013, when compared to the year 2012, which had a total of one thousand three hundred and ninety seven (1,397) approvals. This was as a result of the NCC's decision to increase the registration period from one (1) year to eighteen (18) months. The increase in the validity period for registrations began with all applications approved as at March 31, 2012. Consequently, applications which were approved between July and December 2012 would have valid registrations up to the year 2014, and would therefore not have applied for re-registration during the year 2013.

As at December 31, 2013, the total number of companies/businesses with valid registration on the NCC database was one thousand four hundred and sixty five (1,465). This figure does not reflect the total number of companies/businesses registered with the NCC for the year, as registration for each company has a different expiry date which is based on the date the registration was approved. Therefore, if a company was registered in March 2012, its registration would have been valid up to September 2013. If the company did not get re-registered the company would not be captured in the one thousand four hundred and sixty five (1,465) companies indicated.

Table 2 below, shows the number of registered companies/businesses on the NCC database in all the categories of Goods and Services as at December 31, 2013. Please note that the same company/business may be registered in more than one (1) category.

**Table 2: Number of Contractors Registered in Each Category of Goods and Services as at December 31, 2013**

Goods		Services	
Category Name	Number of Registered Contractors	Category Name	Number of Registered Contractors
Audio Visual Goods	40	Agricultural Services	12
Chemical and Pesticides	24	Audio Visual Services	41
Computers and Supplies	167	Catering	69
Electrical and Communication Supplies	106	Computers and Related Services	109
Electrical Appliance and Equipment	134	Courier Services	13
Furniture Supplies	85	Customs Brokerage	22
General Supplies	261	Garaging and Automotive Repair Services	29
Guns and Ammunition	1	General Services	273
Hardware and Haberdashery	81	Information Technology Services	99
Industrial, Construction, Equipment and Machinery	102	Insurance Services	28
Janitorial, Sanitation Supplies	70	Janitorial, Sanitation Services	106
Marine Supplies	17	Lithographic and Printing Services	59
Medical Pharmaceutical Equipment and Supplies	90	Marine Services	22
Merchandise	47	Photovoltaic and Wind Powered Systems	1
Motor Vehicle and Spares	22	Renewable Energy Systems	8
Motor Vehicle Spares and Accessories	79	Safety and Security Services	82
Musical Instruments	6	Towing and Wrecking	5
Office Equipment Supplies	98	Transportation and Haulage	214
Petroleum Products	8		
Photographic Equipment and Supplies	25		
Safety Products	86		
School Furniture	56		
Stationery Supplies and Books	108		
Textiles and Garments	40		
Tobacco Products	1		

Note:

- The category of Catering includes Canteen Concessionaire Services
- The category of General Services includes the category of: Pesticide Control Services, Equipment Rental, Real Estate Services, Advertising, Graphic Design, Training, Equipment Maintenance, Event Planning, Debt Collection Services, and Funeral Services amongst other areas of specialisation.

### Grades 1- 4 Works Contractors

In 2013, there was a marginal decline in the total number of Grades 1-4 Works Contractors, moving from two hundred and eighteen (218) in 2012 to one hundred and ninety five (195) in 2013. The percentage decline was 10%.

The number of new Grades 1 - 4 Works Contractors that were registered increased by approximately 209%, from eleven (11) in 2012 to thirty four (34) in 2013. Re-registered Works Contractors had a 22% decrease moving from two hundred and seven (207) in 2012 to one hundred and sixty one (161) in 2013.

In 2013, the continuing decline in the re-registered Works Contractors can be attributed to the increase in the registration period from twelve (12) months to eighteen (18) months. This initiative had a negative impact on the number of Grades 1-4 Contractors who would normally seek re-registration.

### Grade 5 Works Contractors

In relation to the total registration of Grade 5 Works Contractors, the OCG noted that in the case of newly registered Grade 5 Contractors, there was a decrease of 100%, moving from four (4) in 2012 to zero (0) in 2013. Re-registered Grade 5 Works Contractors had a decrease of approximately 46%, moving from thirteen (13) in 2012 to seven (7) in 2013.

Table 3 below illustrates the number of registered Grades 1-4 and Grade 5 Works Contractors for the period 2009 – 2013.

**Table 3 - Number of Registration Granted for Works Grades 1-4 and Works Grade 5 Contractors (2009 – 2013)**

Year	Category						Total
	WORKS GRADE 1-4			WORKS GRADE 5			
	NEW	R-r	Total	NEW	R-r	Total	
2013	34	161	195	-	7	7	202
2012	11	207	218	4	13	17	235
2011	8	211	219	10	9	19	238
2010	35	188	223	59	10	69	292
2009	142	377	519	3	15	18	537

New: New Registration

R-r: Re-registration

An analysis conducted on the number of Works Contractors registered by grade and category indicated that 'Building Construction' continues to hold the number one ranked position with one hundred and nineteen (119) registered Contractors. This represented the largest number of Contractors registered within any one Works category. Civil Engineering Works improved its ranking from fifth in 2012 to second in 2013 with one hundred and four (104), while General Road Works also improved its ranking moving from fourth in 2012 to third in 2013. Table 4 illustrates the top ten (10) registered Works Contractor Categories, which are ranked according to the number of Contractors registered per Category and the respective Grade Levels.

Within the top ten (10) categories identified in Table 4, the total number of Contractors registered at the Grade One (1) and Grade Four (4) levels accounted for 9% and 56%, respectively.

**Table 4 - Top Ten (10) Number of Works Contractors Registered by Category and Grade Level 2013**

Rank	Categories	Number of Grade 1 Contractors	Number of Grade 2 Contractors	Number of Grade 3 Contractors	Number of Grade 4 Contractors	Total Registered Contractors within the Category
1	Building Construction	14	18	23	64	119
2	Civil Engineering Works	19	18	19	48	104
3	General Road Works	11	14	20	47	92
4	Road Maintenance Works	5	10	25	49	89
5	Building Maintenance	0	0	17	70	87
6	Pipe Laying	12	11	18	32	73
7	Roofing	1	5	15	34	55
8	Painting and Decorative Finishes	1	7	13	32	53
9	Fencing	1	1	18	32	52
10	Interior Construction Works	2	7	13	28	50
	<b>Total</b>	<b>66</b>	<b>91</b>	<b>181</b>	<b>436</b>	<b>774</b>

### **NATIONAL CONTRACTS COMMISSION ENDORSEMENT OF CONTRACT AWARD RECOMMENDATIONS**

During 2013, a total of five hundred and sixty eight (568) recommendations for the award of contracts were endorsed by the NCC, with an aggregated value of Thirty Two Billion, Three Hundred and Eighty-One Million, Six Hundred and Thirty-Three Thousand and Twenty-Six Dollars (J\$32,381,633,026.00).

There was a minimal increase in the total number of endorsed contracts of approximately 11%, moving from five hundred and twelve (512) in 2012 to five hundred and sixty eight (568) in 2013 and an increase in the value of endorsed contracts of approximately 34% over the previous period, 2012.

Tables 5 and 6 below, illustrate the total number of contracts which were endorsed by the NCC between 2009 and 2013:

**Table 5 – National Contracts Commission Endorsed Contracts (2009 – 2013)**

Year	No. Works	Value of Works \$J	No. Goods	Value of Goods \$J	No. Services	Value of Services \$J	Total No. of Endorsed Contracts	Total Value of Endorsed Contracts \$J
2013	180	11,769,078,879	144	8,737,706,750	244	11,874,847,397	568	32,381,633,026
2012	148	10,314,568,600	151	4,628,846,414	213	9,289,546,639	512	24,232,961,653
2011	175	14,137,796,921	162	8,052,332,407	218	7,821,048,775	555	30,011,178,103
2010	118	12,493,926,279	97	3,595,757,775	133	3,890,683,889	348	19,980,367,943
2009	197	38,201,687,543	189	26,463,640,655	244	9,018,351,218	630	73,683,679,416

**Table 6 - Percentage Change in National Contracts Commission Endorsed Contracts over Previous Year**

Year	Number of Works Contracts %	\$ Value of Works Contracts %	Number of Goods Contracts %	\$ Value of Goods Contracts %	Number of Services Contracts %	\$ Value of Services Contracts %	Overall % Change in No. of Contracts	Overall % Change in \$ Value of Contracts
2013	22	14	-5	89	15	28	11	34
2012	-15	-27	-7	-43	-2	19	8	-19
2011	48	13	67	124	64	101	59	50
2010	-40	-67	-49	-86	-46	-57	-44	-72
2009	-52	96	-25	72	-7	21	-32	75

**NCC Endorsed Contracts by Method of Procurement**

Of the five hundred and sixty eight (568) contract award recommendations, which were endorsed by the NCC in 2013, the Direct Contracting procurement methodology was utilised in three hundred and twelve (312) instances, which represents 55% of the total NCC endorsements. The Local Competitive Bidding procurement methodology was utilised in two hundred and one (201) instances, which represents 35% of the total NCC endorsements and was therefore, the second most frequent procurement methodology undertaken.

Table 7 below illustrates the total number of endorsed NCC contract recommendations by procurement methodology for the procurement of Works, Goods and Services.

**Table 7 – National Contracts Commission Endorsed Contracts by Method of Procurement (2013)**

Method of Procurement	Total No. Works	Total No. Goods	Total No. Services	Total No. of Endorsed Contracts	Percentage of Total No. of Endorsed Contracts	Total Value of Endorsed Contracts \$J
Direct Contracting	61	98	153	312	55	10,410,660,137
International Competitive Bidding	8	22	13	43	8	9,084,787,506
Limited Tender	1	-	7	8	1	483,603,164
Local Competitive Bidding	110	23	68	201	35	12,297,789,334
Other	-	1	3	4	1	104,792,885
Total	180	144	244	568	100	32,381,633,026

**NCC Endorsed Contracts by Value Range**

Table 8 below illustrates the value ranges of the contracts which were endorsed by the NCC during the year 2013.

**Table 8 - National Contracts Commission Endorsed Contracts (2013)**

Range	Number of Contracts	Percentage of Total Value of Endorsed Contracts	Total Value of Endorsed Contracts J\$
Under \$5M	35	6	100,299,942
\$5M - \$15M	150	26	1,402,729,039
Over \$15M - \$ 39,999,999.99M	248	44	6,153,745,577
Over \$40M -\$150M	95	17	7,221,371,337
Over \$150M	40	7	17,503,487,131
Total	568	100	32,381,633,026

\*Percentages are rounded off to the nearest value.

**Table 9 – National Contracts Commission Endorsed Contracts 02/01/2013-31/12/2013**

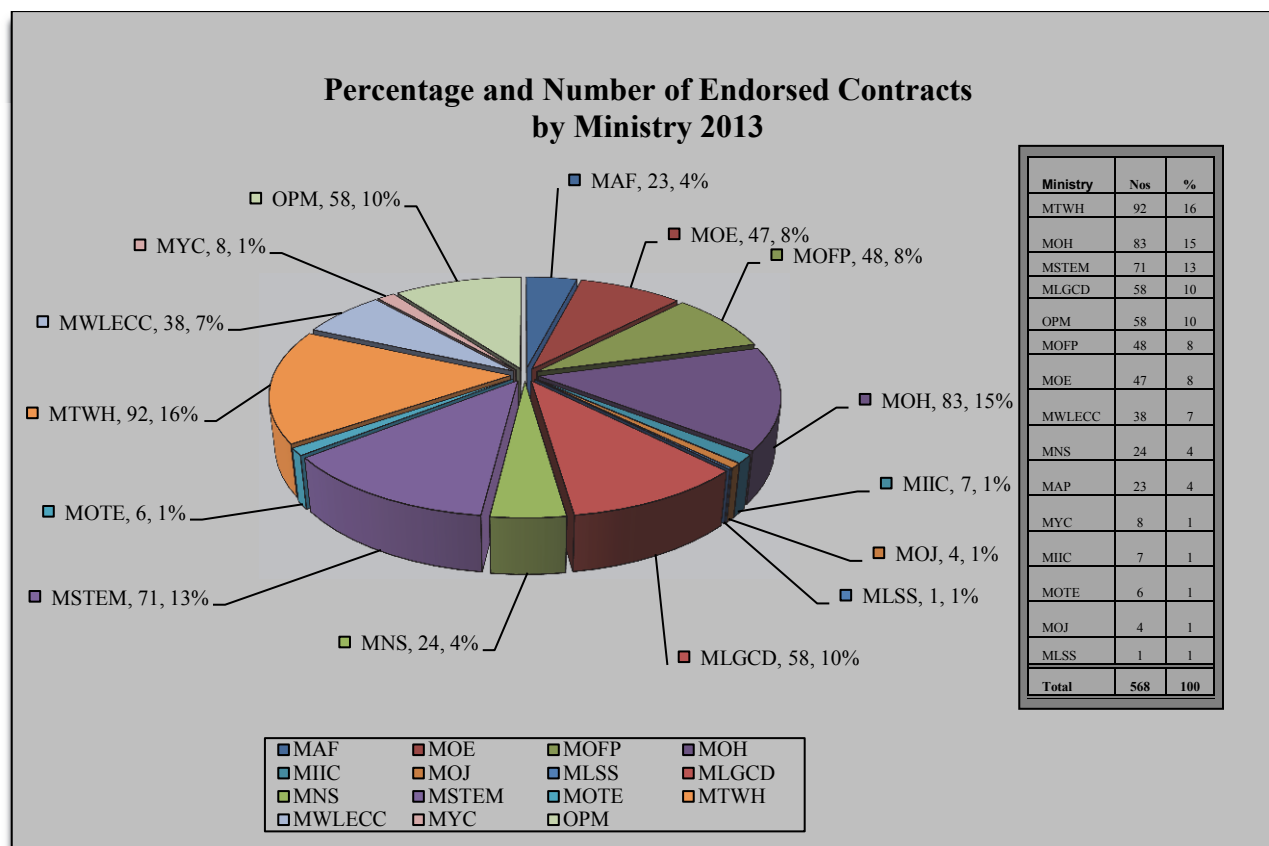
NATIONAL CONTRACTS COMMISSION ENDORSED CONTRACTS 02/01/2013 - 31/12/2013								
Currency	Exchange Rate	No. of Works Contracts	Value of Works Contract	No. of Goods Contracts	Value of Goods Contract	No. of Service Contracts	Value of Services Contract	TOTAL (Works, Goods & Services)
JA \$		165	JA 8,448,760,073	69	JA 2,269,087,825	177	JA 5,667,424,324	JA \$16,385,272,222
US \$		15	31,279,499	70	50,033,164	63	57,186,014	US \$138,498,677
JA EQU	106.15		JA 3,320,318,806		JA 5,311,020,333		JA 6,070,295,333	JA \$14,701,634,472
UK £		-	-	2	442,370	1	43,000	UK £ 485,370
JA EQU	174.72	-	-		JA 77,290,886		JA 7,512,960	JA \$84,803,846
EURO €		-	-	2	5,917,586	1	72,000	EURO € 5,989,586
JA EQU	137.28		-		JA 812,366,206		JA 9,884,160	JA \$822,250,366
CAD \$		-	-	1	2,650,000	2	1,184,162	CAD \$3,834,162
JA EQU	101.11	-	-		JA 267,941,500		JA \$119,730,620	JA \$387,672,120
GROSS TOTAL		180	JA \$11,769,078,879	144	JA \$8,737,706,750	244	JA \$11,874,847,397	JA \$32,381,633,026

The information is to the nearest dollar. The Bank of Jamaica (BOJ) average rate for January to December 2013, for US \$1.00 = JA \$106.15. The BOJ average rate for the Pound Sterling £1 = JA \$174.72. The BOJ average rate for the Canadian \$1 = JA \$101.11. The average rate for the EURO \$1.00 = JA \$137.28. The NCC endorsed five hundred and sixty eight (568) contracts for the year 2013.

Please note that the count for contracts denominated in dual currency is recorded under the number of contracts column which represents the most dominant currency. Consequently, three (3) service contracts which had both US\$ and JA\$ component were recorded in the number of contracts column for the US\$ currency row. Whilst one (1) service contract which was predominantly denominated in JA\$ was recorded in the number of contracts column for the JA\$ currency row.

### Percentage Distribution of Endorsed Contract Recommendations Submitted by Ministries

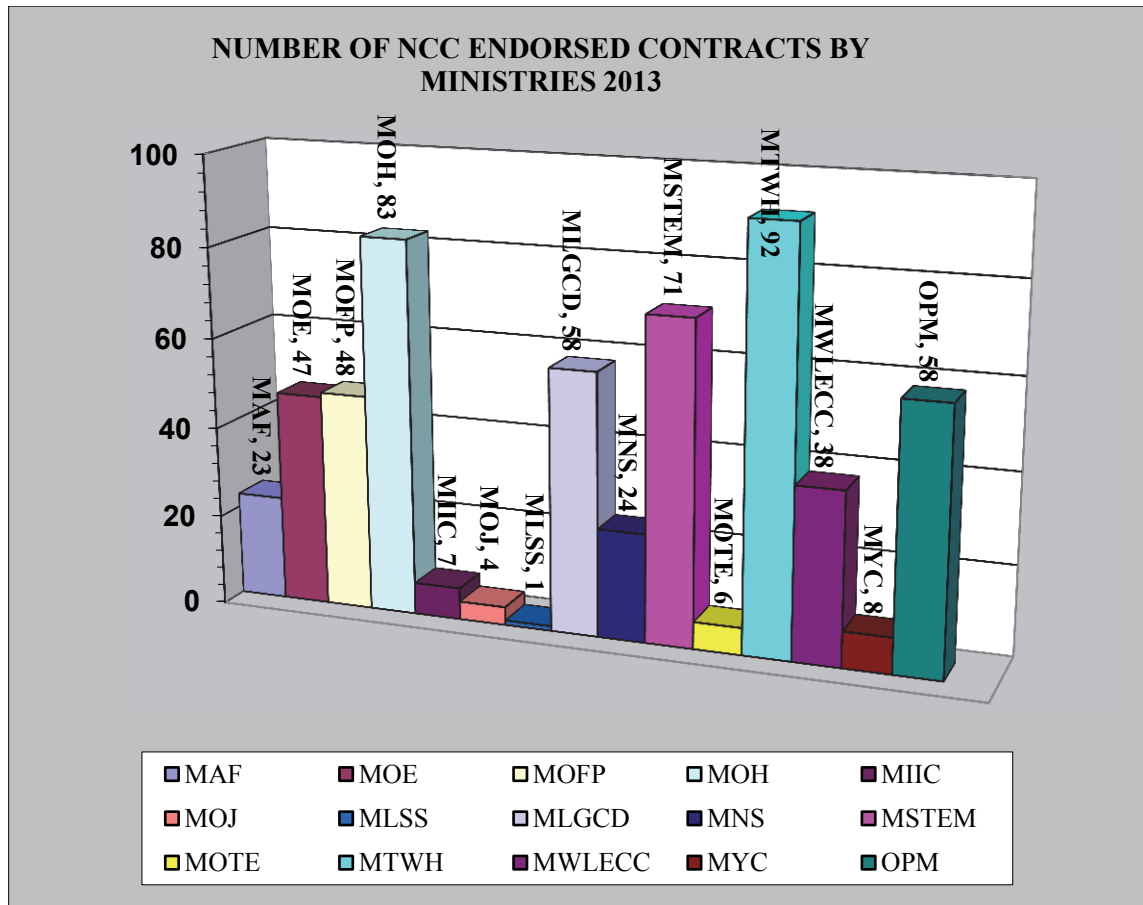
Figures 1 and 2 below illustrate the percentage distribution of recommended contract awards, which were submitted to the NCC in 2013, by various Government Ministries and had been subsequently endorsed.



#### Legend

- |         |                                                         |           |                                                        |
|---------|---------------------------------------------------------|-----------|--------------------------------------------------------|
| 1. MAF  | Ministry of Agriculture & Fisheries                     | 8. MSTEM  | Ministry of Science, Technology, Energy & Mining       |
| 2. MIIC | Ministry of Industry, Investment and Commerce           | 9. MLSS   | Ministry of Labour & Social Security                   |
| 3. MOJ  | Ministry of Justice                                     | 10. OPM   | Office of the Prime Minister                           |
| 4. MTWH | Ministry of Transport, Works and Housing                | 11. MFPS  | Ministry of Finance and Planning                       |
| 5. MOE  | Ministry of Education                                   | 12. MNS   | Ministry of National Security                          |
| 6. MYCS | Ministry of Youth and Culture                           | 13. MHE   | Ministry of Health                                     |
| 7. MWH  | Ministry of Water, Land, Environment and Climate Change | 14. MOTE  | Ministry of Tourism and Entertainment                  |
|         |                                                         | 15. MLGCD | Ministry of Local Government and Community Development |





In 2013, the Ministry of Transport, Works and Housing and its related agencies, accounted for the highest number of NCC endorsed contract recommendations with a total of ninety-two (92) endorsements.

#### **NCC Endorsed Contracts by Goods, Works and Services**

Tables 7 to 9 below illustrate details of the total recommended contract awards by Procurement Type, which were endorsed by the NCC in 2013.

**Table 10 - NCC Endorsed Goods Contracts 2013**

Categories	No. of Contracts	% No. of Contracts	JA \$	US \$	UK £	EURO €	CND \$	TOTAL JA\$	% \$ Value
Audio Visual	2	1.39		1,035,189				109,885,312	1.26
Books & Stationery Supplies	10	6.94	653,443,353	4,073,670	442,370			1,163,154,310	13.31
Chemicals & Pesticides	1	0.69	26,985,660					26,985,660	0.31
Computers & Supplies	11	7.64	40,858,006	2,731,285				330,783,932	3.79
Electrical & Communication Supplies	6	4.17	5,500,000	611,823				70,445,017	0.81
Electrical Appliance & Equipment	2	1.39	26,000,000	193,920				46,584,645	0.53
General Supplies	21	14.58	319,284,098	2,648,230			2,650,000	868,335,176	9.94
Industrial, Construction Equipment & Machinery	24	16.67	103,711,831	21,817,884		5,917,586		3,232,046,374	36.99
Marine Supplies	1	0.69		272,895				28,967,804	0.33
Medical, Pharmaceutical Equipment & Supplies	45	31.25	535,302,405	14,393,710				2,063,194,769	23.61
Motor Vehicle & Spares	15	10.42	504,654,973	1,355,283				648,518,263	7.42
Motor Vehicle Spares & Accessories	3	2.08	10,909,101	619,601				76,679,747	0.88
Office Equipment Supplies	1	0.69	27,511,752					27,511,752	0.31
Petroleum Products	1	0.69	14,926,645					14,926,645	0.17
Safety Products	1	0.69		279,674				29,687,342	0.34
<b>Total</b>	<b>144</b>	<b>100</b>	<b>2,269,087,825</b>	<b>50,033,164</b>	<b>442,370</b>	<b>5,917,586</b>	<b>2,650,000</b>	<b>8,737,706,750</b>	<b>100.00</b>

*The Bank of Jamaica (BOJ) average rate for January to December 2013, for US \$1.00 = JA \$106.15. The Pound Sterling £1 = JA \$174.72. The Canadian \$1 = JA \$101.11. The Euro €1.00 = JA \$137.28. Figures are rounded off to the nearest value.*

**Table 11 - NCC Endorsed Works Contracts 2013**

Categories	No. of Contracts	% No. of Contracts	JA \$	US \$	TOTAL JA\$	% \$Value
Asphaltic Concrete Works	2	1.11	198,098,995		198,098,995	1.68
Bridge Construction	3	1.67	78,455,726		78,455,726	0.67
Building Construction	54	30.00	3,346,739,414		3,346,739,414	28.44
Building Maintenance	1	0.56	1,235,993		1,235,993	0.01
Civil Engineering	29	16.11	2,143,447,864	26,171,434	4,921,545,587	41.82
Electrical Works	6	3.33	40,658,658	537,225	97,685,060	0.83
Elevators, Escalators and Moving Walkway Systems	3	1.67	28,972,821	85,000	37,995,571	0.32
General Road Works	33	18.33	1,297,416,219		1,297,416,219	11.02
Heating, Ventilation, Air-Conditioning and Refrigeration	13	7.22	79,319,914	3,015,384	399,402,911	3.39
Information Technology Systems	2	1.10	31,881,063		31,881,063	0.27
Interior Construction Works	1	0.56	245,272,776		245,272,776	2.08
Landscaping	2	1.10	128,331,133		128,331,133	1.09
Marine Engineering	1	0.56	15,572,000		15,572,000	0.13
Mechanical Works	9	5.00	238,979,262	1,007,343	345,908,721	2.94
Medical Equipment	1	0.56		273,126	28,992,351	0.25
Pipe Laying	10	5.56	318,637,170		318,637,170	2.71
Roofing	2	1.10	40,524,530		40,524,530	0.34
Sandblasting	3	1.67	35,457,464		35,457,464	0.30
Security Systems	1	0.56		189,987	20,167,124	0.17
Systems Building	3	1.67	125,760,500		125,760,500	1.07
Tank Erection	1	0.56	53,998,571		53,998,571	0.46
<b>Total</b>	<b>180</b>	<b>100</b>	<b>8,448,760,073</b>	<b>31,279,499</b>	<b>11,769,078,879</b>	<b>100</b>

*The Bank of Jamaica (BOJ) average rate for January to December 2013, for US \$1.00 = JA \$106.15. The Pound Sterling £1 = JA \$174.72. The Canadian \$1 = JA \$101.11. The Euro €1.00 = JA \$137.28. Figures are rounded off to the nearest value.*

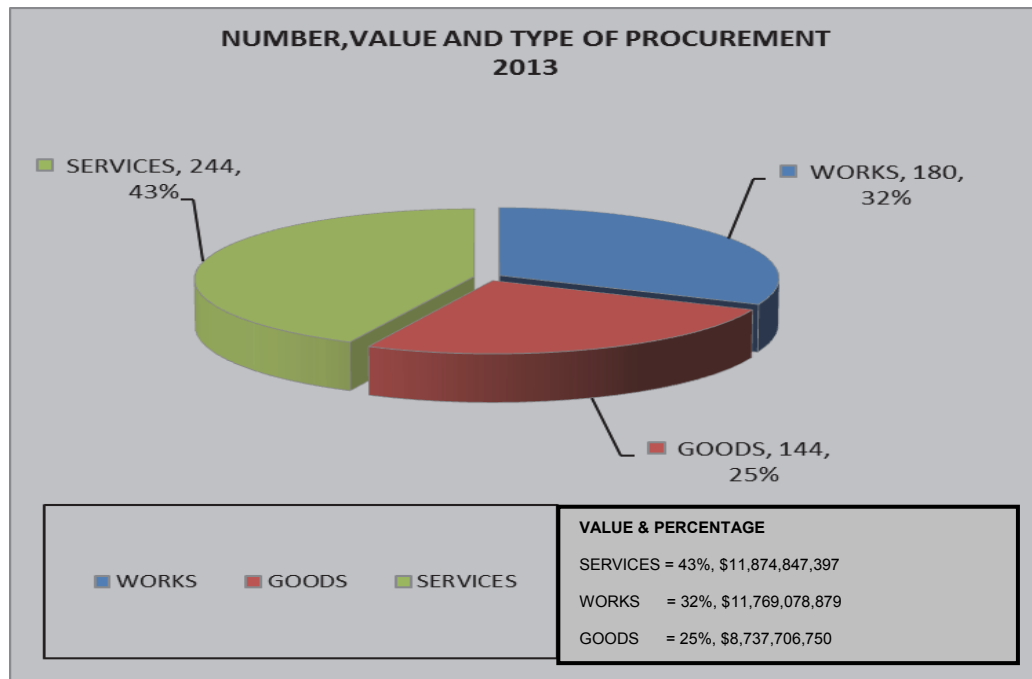
**Table 12 - NCC Endorsed Services Contracts 2013**

Categories	No. of Contracts	% No. of Contracts	JA \$	US \$	UK £	EURO €	CAN \$	TOTAL JA\$	% \$ Value
Catering	15	6.15	569,306,528					569,306,528	4.79
Computer and Related Services	3	1.23		703,232				74,648,126	0.63
Consulting Services	40	16.39	1,467,751,612	12,257,155	43,000			2,776,361,567	23.38
Courier Services	3	1.23	71,371,357					71,371,357	0.60
General Services	31	12.70	152,455,757	7,072,959		72,000		913,134,464	7.69
Information and Technology services	34	13.93	220,728,493	32,925,394			1,184,162	3,835,489,643	32.30
Insurance Services	3	1.23	31,228,148	4,222,721				479,469,982	4.04
Janitorial and Sanitation Services	11	4.51	434,286,597					434,286,597	3.66
Lithographic & Printing Services	2	0.82	53,900,000					53,900,000	0.45
Marine Services	4	1.64	39,372,000	299,700				71,185,155	0.60
Renewable Energy Systems	1	0.41	12,102,553					12,102,553	0.10
Safety & Security Services	42	17.21	1,929,038,464					1,929,038,464	16.24
Transportation & Haulage	55	22.54	654,552,961					654,552,961	5.52
<b>Total</b>	<b>244</b>	<b>100</b>	<b>5,636,094,470</b>	<b>57,481,161</b>	<b>43,000</b>	<b>72,000</b>	<b>1,184,162</b>	<b>11,874,847,397</b>	<b>100</b>
<i>The Bank of Jamaica (BOJ) average rate for January to December 2013, for US \$1.00 = JA \$106.15. The Pound Sterling £1 = JA \$174.72. The Canadian \$1 = JA \$101.11. The Euro €1.00 = JA \$137.28. Figures are rounded off to the nearest value.</i>									

### Number and Type of NCC Endorsed Contracts

Figure 3 below illustrates (a) the three (3) types of procurement; (b) the total number of contracts which were endorsed for each of the referenced type of procurement; (c) the aggregated value of the endorsements for each type of procurement; and (d) the referenced aggregated value of each type of procurement, expressed as a percentage of the cumulated endorsements in 2013.

**Figure 3**



**Table 13 - Number and Type of NCC Endorsed Contracts for Period 2009 – 2013**

Year	Works Contracts		Goods Contracts		Services Contracts		Total Number of contracts
	Number of contracts	%	Number of contracts	%	Number of contracts	%	
2013	180	32	144	25	244	43	568
2012	148	29	151	29	213	42	512
2011	175	32	162	29	218	39	555
2010	118	34	97	28	133	38	348
2009	197	52	189	36	244	12	630

## Top Ten Endorsement Categories

Following an in-depth analysis of the endorsed recommendations for the award of contracts, a summary of the top ten agencies by volume and value of endorsed recommendations for the award of contracts was undertaken and is detailed below in Tables 14 – 16. For the period under review, the Service category “Transportation and Haulage” was ranked number one having the highest number of endorsed recommendations for the award of contracts with a total of fifty five (55) endorsements in 2013. This represented approximately 10% of the total number of endorsements and accounted for 2% of the total dollar value of endorsed recommendations. In 2013, the top category for Goods was “Medical, Pharmaceutical Equipment & Supplies” with a total of forty five (45) endorsed recommendations which accounted for approximately 8% of the total value of endorsed recommendations. On the other hand, the top category for Works was “Building Construction” with a total of fifty four (54) endorsed recommendations which accounted for approximately 10% of the total value of endorsed recommendations.

**Table 14 - Top Ten Categories in which Contracts were Endorsed 2013**

Rank	Categories	Type Of Contract	Number Of Contracts	Total JA\$
1	Transportation & Haulage	Service	55	654,552,961
2	Building Construction	Works	54	3,346,739,414
3	Medical, Pharmaceutical Equipment & Supplies	Goods	45	2,063,194,769
4	Safety & Security Services	Service	42	1,929,038,464
5	Consulting Services	Service	40	2,776,361,567
6	Information and Technology Services	Service	34	3,835,489,643
7	General Road Works	Works	33	1,297,416,219
8	General Services	Service	31	913,134,464
9	Civil Engineering	Works	29	4,921,545,587
10	Industrial, Construction Equipment & Machinery	Goods	24	3,232,046,374

The National Solid Waste Management Authority with a total of fifty five (55) endorsements was represented as the Public Body which received the most endorsed recommendations and which accounted for approximately 10% of the total number of endorsed recommendations during 2013. Despite accounting for the highest number of endorsed contracts, the National Solid Waste Management Authority's total dollar value of endorsed recommendations for the award of contract of \$442M was surpassed by the thirty (30) endorsements for the National Water Commission with a total of \$7.2B, which accounted for 22% of the total value endorsed in 2013.

**Table 15 - Top Ten Agencies/Entities with the Highest Number of Endorsed Recommendations for Award of Contract 2013**

Rank	Government Agency	No. of contracts	JA\$ Value	Direct Contracting	Limited Tender	Selective Tender	Open Tender	Other
1	National Solid Waste Management Authority	55	442,900,480.36	54	-	1	-	-
2	Petrojam Limited	49	1,213,322,821.30	40	-	9	-	-
3	Port Authority of Jamaica	31	2,729,458,506.15	20	1	8	1	1
4	National Water Commission	30	7,193,706,429.00	7	-	18	5	-
5	National Health Fund (NHF)	27	1,214,136,241.84	12	-	1	14	-
6	Jamaica Social Investment Fund	25	650,933,977.70	-	-	24	1	-
7	Ministry of Education	21	1,463,487,258.74	11	-	9	1	-
8	Ministry of Transport & Works	21	442,313,864.30	19	-	2	-	-
9	Ministry of Agriculture & Fisheries (MAF)	18	993,765,964.33	1	1	16	-	-
10	Heart Trust/NTA	17	656,040,323.41	2	-	15	-	-
	<b>Total</b>	<b>294</b>	<b>17,000,065,867.13</b>	<b>166</b>	<b>2</b>	<b>103</b>	<b>22</b>	<b>1</b>

**Table 16 - Top Ten Agencies/Entities with the Highest Value of Endorsed Recommendations for Award of Contract 2013**

Rank	Government Agency	No. of Contracts	JA\$ Value	Direct Contracting	Limited Tender	Selective Tender	Open Tender	Other
1	National Water Commission	30	7,193,706,429.00	7	-	18	5	-
2	Port Authority of Jamaica	31	2,729,458,506.15	20	1	8	1	1
3	Ministry of Finance and the Public Service	10	2,631,094,809.77	5	-	3	2	-
4	University of Technology, Jamaica	7	2,129,480,903.67	1	-	2	4	-
5	Ministry of Education	21	1,463,487,258.74	11	-	9	1	-
6	National Health Fund (NHF)	27	1,214,136,241.84	12	-	1	14	-
7	Petrojam Limited	49	1,213,322,821.30	40	-	9	-	-
8	Ministry of Agriculture & Fisheries (MAF)	18	993,765,964.33	1	1	16	-	-
9	South East Regional Health Authority (SERHA)	12	867,898,915.83	3	1	7	1	-
10	Fiscal Services Ltd (FSL)	9	820,495,220.49	5	2	2	-	-
	<b>Total</b>	<b>214</b>	<b>21,256,847,071</b>	<b>105</b>	<b>5</b>	<b>75</b>	<b>28</b>	<b>1</b>

### Consultancy Contracts

The Ministry of Finance, via Circular No. 6, which was dated February 3, 2009, and Circular No. 1, which was dated February 18, 2011, has indicated that professionals who are members of Professional Societies approved by the Government of Jamaica are recognized as Consultants. These professional bodies include Accountants, Architects, Engineers, Attorneys, Land Surveyors and Medical Doctors. The term Consultancy Service is generally used to describe services that are intellectual in nature. Currently, the NCC does not maintain a registry of Consultants.

During 2013, the NCC endorsed forty (40) recommendations for the award of contracts which were by nature consultancy contracts. These contracts amounted to J\$2.7B and accounted for 8.6% of the total endorsed recommendations for the award of contract.

### NCC SECTOR COMMITTEES

The NCC, through its eight (8) Sector Committees, reviews the recommendations for the award of contracts that are valued over J\$15,000,000.00 which are submitted by the Government Procuring Entities for the approval of the National Contracts Commission. The Sector Committees consist of members with particular expertise in varying fields within the Public Sector.



During the year 2013, the NCC Sector Committees convened one hundred and thirteen (113) meetings, at which a total of three hundred and forty one (341) recommendations for the award of contracts were reviewed.

In 2013, there was an increase of 3.6% in the number of recommendations which were reviewed by the NCC Sector Committees, when compared to the year 2012. Table 17 below illustrates the number of submissions considered by each Sector Committee for the year 2013 compared to 2012.

**Table 17 – Submissions to Sector Committees for the Year 2013 Compared to 2012**

NCC Sector Committees	No. of Works		No. of Goods		No. of Services		Total	
	2013	2012	2013	2012	2013	2012	2013	2012
The Port Authority of Jamaica	7	8	12	8	16	11	35	27
Ministry of Health	28	16	17	18	17	20	62	54
Jamaica Social Investment Fund	27	42	0	0	1	10	28	45
Urban Development Corporation	0	2	3	1	4	5	7	8
Ministry of Education	13	12	11	21	35	17	59	50
Ministry of Water ,Land ,Environment & Climate Change	29	11	05	4	12	18	46	33
National Works Agency	30	38	21	21	49	53	100	112
Specialist Insurance	-	-	-	-	4	*	4	*
<b>Total</b>	<b>134</b>	<b>129</b>	<b>69</b>	<b>73</b>	<b>138</b>	<b>134</b>	<b>341</b>	<b>329</b>

\*The Specialist Insurance Sector Committee was not reported on for the year 2012

Table 18 below illustrates the number of Sector Committee meetings for the years 2012 and 2013 and also shows the number of Public Sector Agencies that are assigned to each Committee.

The National Works Agency Sector Committee, which has the largest number of assigned Agencies (120), convened a total of thirty one (31) meetings. This represents the highest number of meetings for any one Sector Committee for the period. The Ministry of Health Sector Committee convened the second highest number of meetings with a total of twenty (20) and the Ministry of Education Sector Committee has the third highest, having convened a total of nineteen (19) meetings.

**Table 18 - National Contracts Commission Sector Committee Meetings for 2013 Compared to 2012**

NCC Sector Committees	Number of Meetings in 2013	Number of Meetings in 2012	Number of Agencies / Departments Assigned
The Port Authority of Jamaica	11	9	13
Ministry of Health	20	12	46
Jamaica Social Investment Fund	7	9	6
Urban Development Corporation	5	4	30
Ministry of Education	19	21	74
Ministry of Water ,Land ,Environment & Climate Change	16	20	39
National Works Agency	31	35	120
Specialist Insurance	4	*	All Agencies report to this Sector
<b>Total</b>	<b>113</b>	<b>110</b>	<b>328</b>

\*The Specialist Insurance Sector Committee was not reported on for the year 2012

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## **CORPORATE SERVICES DIVISION**

The Corporate Services Division (CSD) is the largest division within the Office of the Contractor General (OCG) and is comprised of the Human Resource Management Department, Office Management Department, the Registry and the Finance and Accounting Department.

In the calendar period 2013, the CSD operated within the tight fiscal constraint which was set by the Government of Jamaica. The work of the Division was subjected to an audit by the Auditor General's Department (AGD) and the CSD team was again commended for being compliant with the Government of Jamaica Financial Administration and Audit Act.

### **HUMAN RESOURCE MANAGEMENT**

The CSD joined with our colleagues in welcoming our new Contractor-General, Mr. Dirk Harrison, along with eight (8) new staff members who joined the OCG Team in 2013.

The OCG's Organizational Structure was revised in 2013. The position of Consultant was eliminated and a Technical Services Manager position was reclassified to that of a Technical Officer.

Accordingly, the OCG's approved Organizational Structure now consists of sixty-three (63) posts. As at December 31, 2013, there were two (2) vacant positions. (Please see Appendices X - Organisational Chart and XI Staff Situation 2013).

### **Staff Training**

The OCG remains committed to providing an environment in which its staff members develop professional best practices, through both external and internal training. The Budget and Expenditure for training was increased in 2013.

Additionally, in 2013 the OCG was able to register an unprecedented one hundred and sixteen (116) participants in forty (40) training programmes, seminars and/or workshops both locally and overseas. This feat was achieved through partnerships with local and overseas agencies, which also actively embrace the vision of a corrupt free Jamaica.

Of the programmes which were engaged, seven (7) were organised with an Anti-corruption theme/objective. Additionally, eight (8) members of the OCG staff participated in the Jamaica Constabulary Force, Level I Detective Training Programme.

The Human Resource Management Department remains committed to identifying quality training programmes aimed at enhancing the human resource asset of the OCG and increasing its capacity to discharge its mandate in a more effective and efficient manner.

### **Awards and Recognition Programme**

The OCG's Annual Awards and Recognition Ceremony with respect to performances for the year 2013 was hosted in January 2014. The tenure and service of an outgoing Senior Director was also recognised.

Members of staff were presented with awards in the following categories:

- Employee of the year;
- Most helpful employee; and
- Long service award (service in excess of fifteen years and over)

The OCG employees continue to perform at a high standard, which made it challenging in some instances to select a single recipient in each category. However, with a set of efficient criteria, some of our very exemplary colleagues were selected and made due recipients of awards.

### **The Social Activity Committee**

The Social Activities Committee (SAC) is a committee, whose members are nominated by the OCG Staff. The SAC has the responsibility of promoting social interaction and creating an environment of comradery amongst the OCG Staff.

During the reporting period the SAC hosted the following events:

- Quarterly Birthday Socials
- Valentine's Day Treat
- Mother's Day Treat
- Father's Day Treat
- Movie Evenings
- Christmas Pixie
- Joint Christmas Tree-Lighting Ceremony with the Planning Institute of Jamaica (PIOJ)
- The Committee also organised a visit to a Children's Home

The Committee also facilitated the OCG's participation in the PIOJ hosted Emancipation Celebrations, which were held in July 2013, through to August 2013.

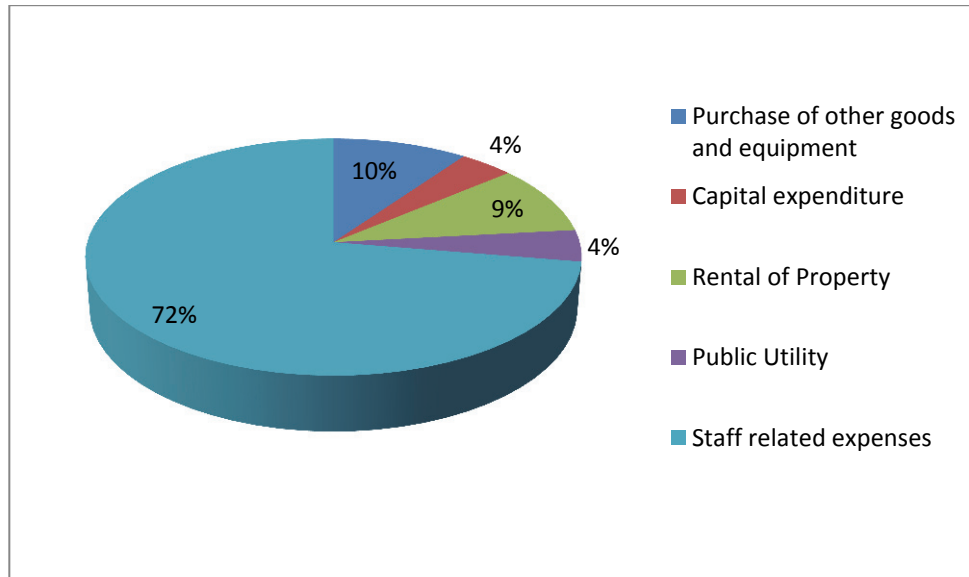
Eleven (11) entities participated in the spirited summer event, namely: the PIOJ, Office of Disaster Preparedness and Emergency Management (ODPEM), Statistical Institute of Jamaica (STATIN), the National Housing Trust (NHT), Ministry of Finance and Planning (MOFP), National Environment and Planning Agency (NEPA), The Independent Commission of Investigations (INDECOM), Jamaica Social Investment Fund (JSIF) Jamaica Library Service (JLS), Urban Development Corporation (UDC) and the OCG.

The OCG family was elated with our sole event victory, "last man standing" and a commendable 4<sup>th</sup> place finish amongst the eleven (11) participating teams.

### **OFFICE MANAGEMENT DEPARTMENT**

The Office Management Department has direct responsibility for the procurement and the management of OCG assets. The Department purchased capital items and other goods and services in the Calendar year 2013, largely from the OCG's 2013/2014 Recurrent Budget.

The OCG's Recurrent Budget of Two Hundred and Thirty-Two Million, Seven Hundred and Twenty-Three Thousand Dollars (\$232,723,000.00), provided for purchase of other goods and equipment and capital expenditure, capped at Twenty-Three Million, and Eighty-Two Thousand Dollars (\$23,082,000.00) and Nine Million, Three Hundred and Twenty-Six Thousand Dollars (\$9,326,000.00), respectively. In the foregoing regard, only ten percent (10%) and four percent (4%) of the total Recurrent Budget Allocation provided for the purchase of goods and equipment and capital items. The remainder of the budget provided for the rental of property, utilities and staff related expenses. Please see Figure 1 below:

**Figure 1 - Proportion of the OCG's budget which provides for procurement**

Of the allocation which was provided for procurement, the following capital items and equipment were acquired.

**Table 1 – Capital Items acquired in 2013**

Items Procured	Quantity
Task Chair	31
Regular Chair for TSD Meeting Room	4
Laptop	1
4 Drawer Filing Cabinet	6
5 Drawer Lateral Filing Cabinet	4
Tape Recorder	3
Camera	3
Photocopier	1
Mobile Printer	1
Radio	1
Air Conditioning Unit	1

## Rental of Property

### Rental and Maintenance of Property

Rental and Maintenance Expenditure, which consumes approximately nine percent (9%) of the total budget, is determined by the Lease Agreement which was signed between the PIOJ and the OCG, and which was made effective on January 1, 2008. The Lease Agreement was entered into for a period of ten (10) years and expires on December 31, 2017.

The rental rate was initially set at Five Hundred and Fifty Dollars (\$550.00) per square foot per annum. The OCG occupies 13,062 sq. ft. The Lease Agreement stipulates that the rental rate should be increased each year by seven percent (7%), compounded for year two (2) through to the sixth year of the Lease and thereafter, annually, by eight point five percent (8.5%) for the remainder of the term. Accordingly, rent for the period January 2013-December 2013 was charged at Seven Hundred and Seventy One Dollars and Forty Cents (\$771.40) per square foot per annum.

The Lease Agreement also stipulates that maintenance costs be calculated at a rate of Five Hundred and Fifty Dollars (\$550.00) per square foot in the first year and thereafter a fixed estimated monthly maintenance fee is to be charged based upon the cost to efficiently manage the Building. Additionally, the maintenance fee is to be budgeted annually. The actual expense is to be audited at the end of each year, by an Auditor appointed by the PIOJ, and the required adjustments made where necessary.

On July 8, 2013, the PIOJ advised of actual audited maintenance expenditure which was apportioned to the OCG for the periods January 1, 2011 – December 31, 2011 and January 1, 2012 – December 31, 2012 as listed in the table below:

**Table 2 – Actual maintenance expenditure**

Billing period	Actual maintenance expenditure apportioned to the OCG
January 1, 2011 – December 31, 2011	\$13,661,946.00
January 1, 2012 – December 31, 2012	\$13,020,110.00

As the OCG was billed at the rate of Eleven Million Five Hundred and Eighty Three Thousand, Seven Hundred and Seventy Three Dollars (\$11,583,773) per annum, for the referenced periods, and there was an amount which was brought forward from the prior period, there are now arrears in excess of Five Million Dollars (\$5,000,000.00), which are due and payable to the PIOJ for maintenance fees.

## **Utilities**

### Water Consumption

The OCG does not have an individually assigned water or electricity meter. Water charges are recovered through the Lease Agreement, PIOJ/OCG, which was made effective in 2008.

### Electricity Consumption

Electricity charge is billed by the PIOJ on a monthly basis. The average amount that was paid by the OCG, for electricity, during the reporting period was Six Hundred and Forty Nine Thousand, Seven Hundred and Twenty Nine Dollar and Sixty-Seven Cents (\$649,729.67) monthly. The aforementioned represents a ten percent (10%) increase over the similar period in 2012. The increase can be attributed to increased fuel charge, which is levied by the Jamaica Public Service.

### Telephone Usage

The average amount that was paid by the OCG for telephone services was Two Hundred and Fifty Three Thousand, Four Hundred and Ninety Dollars and Eighty-Nine Cents (\$253,490.89) monthly. Line rentals and other fixed charges is the larger portion of telephone expenses. The OCG continues its honour system where it's staff identifies the personal calls which are made and the amounts are recovered. The OCG also implemented a Closed User Group system in September 2013.

## **THE REGISTRY**

The OCG's Registry has direct responsibility for document management. The Registry continued the implementation of the Electronic Document Management Programme in 2013.

The Electronic Document Management Programme was also initiated by the Registry in 2011. The implementation of the electronic system is being completed on a phased basis. The complete implementation will recognize greater operational efficiencies for the OCG.

## **FINANCE & ACCOUNTING DEPARTMENT**

The Finance and Accounting Department continued to support the OCG in the year 2013, by improving its budgeting and the financial accounting processes, thereby ensuring that the functions were executed in an efficient, compliant and effective manner.

### **The Accounting period March 2012 - April 2013**

The Approved Budget for the OCG for the period April 2012 – March 2013 was Two Hundred and Nine Million, Six Hundred and Ninety-Five Thousand Dollars (\$209,695,000.00), which included statutory expenditure estimates of Eight Million, Four Hundred and Thirty-One Thousand Dollars (\$8,431,000.00) and other estimates of Two Hundred and One Million, Two Hundred and Sixty-Four Thousand Dollars (\$201,264,000.00). In February 2013, additional financial support was sought and approval was given for same. The foregoing was sought to satisfy Compensation which was due to the outgoing Contractor General, meet payments for the arrears which were due from the seven percent (7%) wage increase and to meet obligations for additional retiring benefits.

The increased allocation which was provided through a Supplementary Estimate of Seventeen Million, Eight Hundred and Eighty-Nine Thousand Dollars (\$17,889,000.00) and which was approved in the last quarter of the Financial Year ending March 2013, provided support for Statutory Compensation – Four Million, Seven Hundred Thousand Dollars (\$4,700,000.00), Compensation – Five Million, Four Hundred and Fourteen Thousand Dollars (\$5,414,000.00), Travel and Subsistence – Three Million, Seven Hundred and Seventy-Five Thousand Dollars (\$3,775,000.00) and Retiring Benefits – Four Million Dollars (\$4,000,000.00).

The OCG spent a total of Thirteen Million, One Hundred and Thirty-One Thousand Dollars (\$13,131,000.00) for statutory compensation and Two Hundred and One Million, Two Hundred and Sixteen Thousand, Four Hundred and Ninety-One Dollars and Sixty-Four Cents (\$201,216,491.64) for other obligations for the Financial Period April 2012 – March 2013. A total of Forty Seven Thousand, Five Hundred and Eight Dollars and Thirty-Six Cents (\$47,508.36) was surrendered to the Consolidated Fund subsequent to the Financial Year End.

### **Estimates of Expenditure for the period March 2013 - April 2014**

The OCG's Estimate of Expenditure Proposals for the Financial Year 2013 – 2014 was drafted and submitted to the Ministry of Finance and Planning on March 1, 2014. The Draft Estimates were prepared to accommodate the Ministry's proposed budgetary ceiling of Two Hundred and Thirty-Two Million, Seven Hundred and Twenty-Three Thousand Dollars (\$232,723,000.00). The OCG received full support for its estimates of expenditure.

### **Warrant Allocation as at December 2013**

The Warrant Allocation, as at December 31 2013, was One Hundred and Seventy Million, Four Hundred and Twenty-Nine Thousand, Eight Hundred and Forty-Four Dollars and Sixty-Eight Cents (\$170,429,844.68) with a remaining balance of Fifty-Three Million, Eight Hundred and Sixty-Two Thousand, One Hundred and Fifty-Five Dollars and Thirty-Two Cents (\$53,862,155.32) for the last quarter of the Financial Year.

### **Appropriation Account March 2012 - April 2013**

The Appropriation Account for the Financial Year ended March 31, 2013, was submitted on July 24, 2013. A set of revised statements were also submitted on November 6, 2013. The surplus of Forty-Seven Thousand, Five Hundred and Eight Dollars and Thirty-Six Cents (\$47,508.36) was certified by the AGD on December 13, 2013. Please refer to the Summary of the OCG's Appropriation Account which is listed in Table 3 below.

## Annual Return Declarations

The OCG's Annual Return Declarations for the Year 2012 were submitted electronically through the Jamaica Tax Administration Department's new online portal. The Returns were submitted before the March 31, 2013 deadline.

### Auditor General's Comments over the last 14 years

A review of the Auditor General's Reports over the last 14 years has consistently revealed that the OCG's Financial Accounts, during the period April 1999 to March 2013, were a fair representation of the OCG's financial transactions and that proper accounting records were kept by the OCG throughout the period – all resulting in a generally satisfactory state of affairs. Please see the extract from the Auditor General's Report which is appended to the Appropriation Account.

**Table 3 - The Office of the Contractor General**

### General Summary of Appropriation

#### Accounts (1999 – 2013)

Financial Year	Total Approved Estimates	Actual Expenditure	Surplus to be Surrendered to the Consolidated Fund
	\$	\$	\$
April '99' - March '00'	43,653,000.00	43,627,605.20	25,394.80
April '00' - March '01'	49,182,000.00	49,163,829.73	18,170.27
April '01' - March '02'	49,989,000.00	49,972,180.49	16,819.51
April '02' - March '03'	70,638,000.00	68,696,485.99	1,941,514.01
April '03' - March '04'	73,163,000.00	71,490,924.73	1,672,075.27
April '04' - March '05'	68,137,000.00	67,470,092.00	666,908.00
April '05' - March '06'	84,294,000.00	80,307,269.10	3,986,730.90
April '06' - March '07'	92,971,000.00	92,704,231.66	266,768.34
April '07' - March '08'	154,398,000.00	146,663,647.29	7,734,352.71
April '08' - March '09'	189,042,000.00	177,060,955.42	11,981,044.58
April '09' - March '10'	170,727,000.00	168,540,488.73	2,186,511.27
April '10' - March '11'	180,519,000.00	176,106,347.60	4,412,652.40
April '11' - March '12'	199,002,000.00	198,938,962.99	63,037.01
April '12' - March '13'	214,453,000.00	214,405,491.64	47,508.36
<b>Total</b>	<b>1,640,168,000.00</b>	<b>1,605,148,512.57</b>	<b>35,019,487.43</b>



## **INFORMATION SYSTEMS DIVISION**

In 2013, the Office of the Contractor General's (OCG's) Information Systems Division (ISD) continued to provide technological support for the operations of the OCG and the National Contracts Commission (NCC). This was accomplished through the provision of software development, systems administration and support services to the Division's internal stakeholders.

### **PROJECTS**

Following the successful implementation of the OCG's first Windows Active Directory Server (ADS) in 2012, the ISD embarked on other related projects geared towards further strengthening its ability to centrally manage network services, increasing operational efficiencies and generally providing more value to its users.

#### **Email Server Upgrade**

In November 2013, the ISD upgraded its internal email management server to a Windows Exchange Server. The solution provided enterprise level messaging as well as customizable collaborative services which enhanced the overall communication experience. The upgrade immediately increased user productivity, improved security and enhanced administrative control.

#### **Email Spam Filtering and Service Continuity**

To further safeguard the availability of the organization's email services, the OCG commissioned an email filtering, spam and virus detection solution. The service provided a centralized gateway which enhanced our abilities to monitor the flow of email and proactively detect and isolate issues. Additionally, the solution incorporates business continuity features, which securely stores email messages sent to the organization in the event of an email server failure.

#### **End User Upgrades**

In 2013 the ISD upgraded and standardized the Operating Systems and Productivity software packages on all workstations to Windows 7 and Office 2010, respectively. The project further created value for the organization through the additional productivity and security features deployed with these packages.

#### **Leave Management System**

A Leave Management System (LMS) was developed to support a key Corporate Services Division task. The LMS allows employees within the organization to generate their Leave Application as well as access leave balances, view current application status and leave history.

### **SUPPORT OF STRATEGIC PORTFOLIOS**

#### **The Office of the Contractor General (OCG) and National Contracts Commission (NCC) Websites**

The OCG utilises and maintains the following two (2) websites.

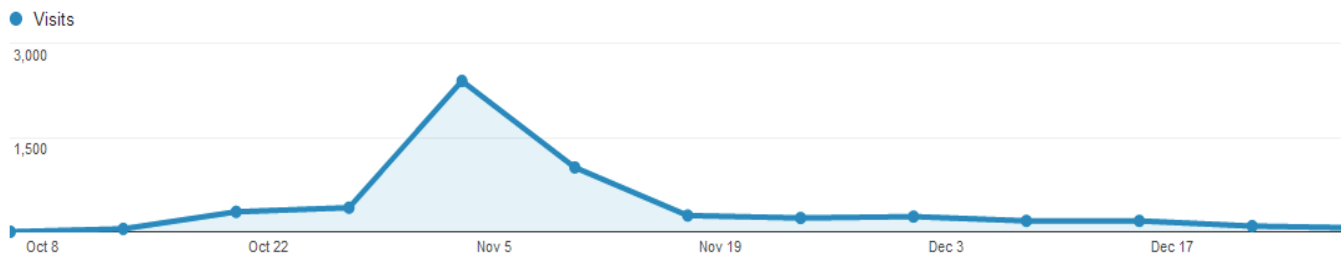
- The Office of the Contractor General's website – [www.ocg.gov.jm](http://www.ocg.gov.jm)
- The National Contracts Commission's website – [www.ncc.gov.jm](http://www.ncc.gov.jm)

The OCG's websites continued to provide support to the OCG's internal and external stakeholders by providing pertinent information on matters which relate to the work of the OCG and the NCC.

The primary purpose of the websites is to ensure transparency in the Government of Jamaica's (GOJ's) Procurement and Contract Award Processes. The websites also seek to ensure that relevant and timely information, which relates to the monitoring and investigative functions of the OCG, are easily accessible to all stakeholders.

In October 2013 the OCG revamped its website which included the categorization of site content, to promote the ease at which information is found, as well as improved capabilities to capture and report statistics on website traffic. Please see the following two diagrams which provide some insight into the frequency in which the website is accessed and visitor interests.

**Graph showing website visits over the period October to December 2013**



Averaging 1794 Visits per month over the three (3) month period

**Table showing the top 5 most visited pages on OCG's website**

VISITS	PAGE	DESCRIPTION
3339	Career Opportunities	Advertisements of vacant positions within the organization
1448	NCC Registered and Qualified Contractors	A public search tool that allows users to find NCC Registered Contractors either by their registered category or by name.
778	Web Applications	The launching point for the OCG Web Portal, Prescribed Licence Database and the Procurement Notice Board
554	GoJ Procurement Procedures	Page where copies of the GoJ Procurement Policies and Procedures are published
336	Contact Us	Page providing contact information for the Office of the Contractor General

### Twitter - @OCGJamaica

In September 2013, the OCG launched a Twitter account as part of a strategic objective to provide a more effective and efficient channel through which to communicate information about its various operating mandates to the public. The Twitter Account is intended to better leverage the organization to disseminate information to its stakeholders in a clear, accurate and timely manner.

### OCG Web Portal

The OCG's Web Portal was developed to advance the receipt, consolidation and assessment of contract awards which were made by Public Bodies. The system was launched in the third (3<sup>rd</sup>) quarter of 2012 and facilitated an expansion in the scope of the Quarterly Contract Awards (QCA) Regime. Public Bodies are now required to report on all contracts awarded over J\$500,000.00, which would include contracts that required the endorsement of the NCC.

Public Bodies' contract award information submitted via the OCG's Web Portal are published on the OCG's website and may be accessed via the URL <http://www.ocg.gov.jm/ocg/view/qca-consol>

### **Procurement Notice Board**

The GOJ Procurement Notice Board is an online tool used to search for procurement opportunities issued by Public Bodies. Suppliers and the general public may search the notice board for these opportunities based on keyword, category, agency or required grade. Members of the public also have the option to register in order to receive email notifications whenever the notice board is updated with a procurement opportunity that matches their interest.

The Procurement Notice Board may be accessed via the URL <http://procurement.gov.jm>

### **Prescribed Licences Information Database (PLID)**

The OCG's Prescribed Licences Information Database (PLID) facilitates the systematic and formal monitoring, by the OCG, of the licensing activities executed by GOJ Public Bodies.

The PLID system is comprised of a public and private portal, both of which can be accessed from the OCG's website. Access to the private portal is restricted to Public Bodies, and facilitates the capture of information related to the Public Bodies' licensing activities. The public portal allows the general public access to view information captured by the PLID system.

The portal may be accessed via the URL [http://www.ocg.gov.jm/ocg/qpl\\_home\\_page.php](http://www.ocg.gov.jm/ocg/qpl_home_page.php).

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## SPECIAL INVESTIGATIONS DIVISION

The Office of the Contractor General (OCG), during the 2013 calendar year, concluded four (4) Special Investigations, which were conducted pursuant to the discretionary powers, which are reserved for the Contractor General (CG), under Sections 15 and 16 of the Contractor General Act (1983) (the Act).

Having regard to the mandatory requirements of Section 20 (1) of the Act, the Reports of Investigation for all four (4) matters were promptly submitted to *“the principal officer of the Public Body concerned and the Minister having (portfolio) responsibility therefor.”* Further, and as provided under Sections 21 and 28(2) of the Act, the said Reports of Investigation were laid before both Houses of Parliament.

The four (4) published Reports of Investigation are as follows:

1. Special Report of Investigation - Conducted into the Proposal to Divest the Government of Jamaica's Forty-Five Percent (45%) Stake in Jamalco (former Ministry of Energy and Mining) – published January 2013;
2. Special Report of Investigation - Conducted into the Circumstances Surrounding Suspected Sham Contractors who were Awarded Millions of Dollars of Contracts by the National Housing Trust (NHT) – published January 2013;
3. Report of Special Investigation - Right to Supply 360 Megawatts of Power to the National Grid (Office of Utilities Regulation/Ministry of Science, Technology, Energy and Mining) – published September 2013; and
4. Special Report of Investigation - Complaint Regarding the Award of Contract(s) to Construct/Repair and to Rent Shops at the Spalding Market (Clarendon Parish Council/Ministry of Local Government & Community Development) – published September 2013.

It is to be noted that during the reporting period under review, in addition to the four (4) Investigation Reports which were completed and published, the Special Investigations Division conducted investigations into a total of fourteen (14) other matters that were either brought forward or commenced in 2013. Instructively, of the fourteen (14) ongoing Investigations, six (6) commenced in 2013.

Once an Investigation Report is submitted by the CG, the Parliament, the Speaker of the House of Representatives, and the President of the Senate, are thereupon, obliged, by Section 28 (3) of the Act, to table the Reports in each House “as soon as possible”. Pursuant to Section 28 (4) of the Act, and in the public's interest, the complete contents of these four (4) Reports were also uploaded to the OCG's website, upon the respective tabling of each, for public viewing. The reports are currently available for viewing or download from the OCG's website at <http://www.ocg.gov.jm>.

Additionally, several formal Referrals have been made by the OCG, regarding the offending Public Officers, to the appropriate State Authorities for the requisite action(s) to be taken by them in keeping with the requirements of Section 21 of the Act. During the reporting year, from two (2) of the above referenced Investigation Reports, a total of eight (8) Referrals were made to the respective State Authorities, for their independent investigations to be undertaken, based upon the findings of irregularities and impropriety, and in consideration of the recommendations and conclusions made therein. (See Appendix for Referrals)

**SOME KEY ISSUES WHICH HAVE BEEN IDENTIFIED BY THE OCG IN ITS INVESTIGATION REPORTS**

In the conduct of the referenced Special Reports of Investigation, the OCG identified numerous issues in the procurement and contract award process which included governance, impropriety, irregularity, conflict of interest and unethical conduct, poor planning, and a lack of competition, transparency and value for money in public contracting. In each respect, the Office has made several remedial recommendations, pursuant to Section 20(1) of the Act, against such practices.

The OCG continues to make such recommendations with the hope that, *inter alia*, Public Officials/Officers would, in consideration of same, dissuade from employing and committing the same actions and inactions which has continuously led to the contravention of the applicable contract award rules, procedures, policies, protocols and governing laws. During 2013, the OCG made several recommendations with respect to, *inter alia*, the following issues which were reported to the OCG and/or identified during our numerous Investigations:

1. Conflict of Interest and Unethical Conduct;
2. Breaches of the Contractor General Act and other applicable laws and/or regulations, such as the Public Bodies Management and Accountability Act, the Financial Administration and Audit Act and the Corruption Prevention Act;
3. Breach of Procedures and Policy on the part of a Minister and Member of Parliament;
4. Breach of Duty on the part of Accounting and Accountable Officers;
5. Breach of Duty on the part of Boards of Directors; and
6. Challenges to the OCG's Statutory Authority.

The OCG strongly believes that the Public Sector should be functioning in a manner and form that promotes due care, transparency and integrity, and for all Public Officers/Officials to be held accountable for such actions which are in contravention of the strictures of the Procurement Procedures and governing laws.

Having regard to the foregoing, the following represents some of the key Recommendations which have been made, during the period under review:

**SUMMARY OF KEY RECOMMENDATIONS**

1. Direct Recommendations were made to Public Bodies and/or Public Officials/Officers with respect to breaches, irregularities and/or possible impropriety identified, during the course of the subject Investigations.
2. Several recommendations were advanced with respect to the incident of political interference in the award of contracts by Public Bodies, particularly as it regards Parish Councils and primarily as follows:
  - a. The OCG recommends that a legislative and/or governance framework be established to guide Ministers of Government and Members of Parliament as it concerns their roles, functions, responsibilities and involvement in the decision making processes of Public Bodies. The legislative and/or governance framework should detail the appropriate sanctions which can be adopted should a Minister and/or Member of Parliament overstep his/her authority as it concerns the functions of a Public Body.
  - b. It is strongly recommended that Members of Parliament and/or Ministers of Government should not, unilaterally, irrespective of the intention, or lack thereof, commit Public Bodies to transactions and/or arrangements for which such decisions rightfully reside with the responsibility of the Head of Entity and/or established Committees.

The OCG's recommendation is premised upon the fact that the selection and/or recommendation for the award of contracts, by a Public Official, in violation of established guidelines and procedural requirements, can create the perception of political corruption as defined by Transparency International. Suffice to say, without the proper checks and balances, and independent selection and award criterion, same presents an opportunity to politically colour a contract award and, if left unchecked, creates an opportunity for varied forms of corruption.

- c. The OCG recommends that there be an absolute separation of the responsibilities of the Members of Parliament in regard to the identification and/or approval of projects which are to be undertaken in their Constituency and the selection and/or approval of Contractors to execute the identified works. In the event that an absolute separation is not feasible, the OCG recommends that the appropriate checks and balances be put in place to ensure that there is no undue political interference.
  - d. The OCG recommends that an accountability framework should be created and implemented to clearly outline the reporting relationships and obligations of Officers at Parish Councils.
3. The OCG also made recommendations expressing grave concerns with certain public disclosures which presented the possibility of comprising the award of contracts:
- a. Public Officials should be careful when making public pronouncements which have the ability to potentially undermine legitimate processes concerning a Government of Jamaica (GOJ) opportunity, while these processes are ongoing.

Further, should it be necessary that a public pronouncement is required, then Public Officials need to be appropriately and sufficiently informed, prior to making same. Public Officials must keep an arm's length during the course of the process.

- b. Investigative journalists need to exercise greater care in the issuance of published material (articles) which have the potential to expose persons. The disclosure of names and/or sensitive information ought to be avoided.
4. The OCG recommends that there must be a strengthening of the relevant due diligence systems which are employed by Public Bodies, upon the receipt of applications/offers which are received by investors and to ensure that there is a high level of scrutiny in such processes which are being undertaken by Public Bodies.

The OCG is of the considered opinion that communication with investors are not to be undertaken outside of a formal process, as this will affect the probity, fairness and transparency which is required to ensure that value for money is obtained.

5. The OCG reminded all Public Officers, inclusive of Board Members of Public Bodies, who abuse their office and authority for personal gain and/or for the benefit of others, that there are circumstances in which such conduct is likely to rise to the level of a criminal act of corruption.

The provisions that are contained in Section 14(1)(b) of the Corruption Prevention Act are instructive in this regard. They provide simply that, "*A public servant commits an act of corruption if he, in the performance of his public functions, does any act or omits to do any act for the purpose of obtaining any illicit benefit for himself or any other person*".

6. The OCG recommends that Executive Agencies and Procuring Entities take a more proactive and aggressive role in developing, implementing and enforcing effective risk management systems, checks and balances and other appropriate management systems, in an effort to mitigate against any possibility of collusion, fraud and corruption; as well as to ensure that government contracts are awarded to legitimate and competent Contractors and based on merit and impartiality.

## Special Recommendation

The OCG would like to recommend that where Referrals are made by the Commission to the different State Authorities, albeit each having its own independence, it is of critical importance that efforts be made to build a communal relationship, having one goal and objective, that is, to stamp out the emergence and prevalence of corruption in the Public Sector Procurement and Contract Award process.

## REFFERALS

As noted above, upon the completion of the referenced Investigation Reports, a total of five (5) Referrals were made to the Director of Public Prosecutions (DPP), two (2) to the Auditor General's Department and one (1) to the Commissioner of Police, for further investigations to be undertaken into the respective matters.

Of the five (5) matters that were referred to the DPP, one (1) matter was prosecuted, pursuant to Section 29 of the Act, for knowingly misleading the CG during a Judicial Proceedings which was being conducted pursuant to Section 18 of the Act.

With respect to the remaining four (4) Referrals, one (1) concerned Investigation No. 2 listed above, while the other three (3) were made in respect of Investigation No. 4. To-date, the OCG has not been in receipt of an Opinion from the Office of the DPP with respect to the Referral which was made in Investigation No. 2. As it regards the latter, the DPP indicated that there was insufficient material evidence to prosecute.

## COURT PROCEEDINGS

During the reporting year, in addition to the one (1) matter referred and prosecuted in 2013, there was a continuation of certain matters from the previous year which sought to challenge the statutory authority of the Commission of the Contractor General, *inter alia*, to carry out its mandate pursuant to Sections 4, 15 and 16 of the Act. The following represents a brief summary of the status of such matters:

### **1. Breach of Section 29 of the Contractor General Act against the Hon. Danville Walker, OJ, for failure to comply with a lawful statutory Requisition.**

The Hon. Danville Walker sought Administrative Orders by way of Judicial Review. The Orders sought include an Order for leave for Judicial Review of the Notice of Formal Requisition for Information and Documentation issued by the Contractor General to refer the matter to the DPP for the institution of his prosecution and a declaration that the said Notice of Formal Requisition is in excess of the OCG's jurisdiction, *ultra vires* and void.

Leave was refused due to the failure of the Hon. Danville Walker to overcome procedural bars. The Hon. Danville Walker sought to renew his application for leave for Judicial Review but was also unsuccessful in that instance as the presiding judge found, in April 2013, *inter alia*, that the DPP had already laid charges and the Hon. Danville Walker belatedly responded to the Requisition in question. The OCG was awarded limited costs at the Supreme Court.

The trial in respect of the breach of Section 29 of the Act is not yet concluded.



**2. Application for Judicial Review against the OCG sought by the Minister of Transport, Works and Housing, Dr. the Hon. Omar Davies.**

The Minister of Transport, Works and Housing on June 22, 2012, sought Judicial Review against the OCG as it challenged, *inter alia*, the OCG's jurisdiction to monitor the pre-contractual stages of Government contracts and to monitor the activities of a voluntary advisory body. Leave to file Judicial Review, in this regard, was refused by the presiding judge on February 1, 2013. On February 8, 2013, the Minister of Transport, Works and Housing, renewed his application for Leave to Apply for Judicial Review. The Minister of Transport, Works and Housing later withdrew its application in July 2013, "*having regard to certain deliberations taking place with respect to legislation under consideration in the matter*".

**3. Application for Judicial Review regarding the OCG sought by the Hon. Gordon Stewart, OJ.**

The substantive matter regarding the Application for Judicial Review against the jurisdiction of the OCG to investigate the divestment of the Sandals Whitehouse Hotel, was heard in the Supreme Court between the period of October 22, 2013 and October 25, 2013. Arguments were also put forward regarding the interpretation and applicability of the term 'government contract'. No timeline was given by the Court as to the date or approximate time within which a judgment would be handed down. The OCG awaits the judgment of the Court in this matter.

**4. Breach of Section 29 of the Contractor General Act for knowingly misleading the Contractor General during the conduct of its Section 18 Judicial Hearing.**

The OCG, having referred certain matters to the Office of the DPP on September 16, 2013, received the Director's Findings on September 26, 2013. The Director opined, *inter alia*, that with respect to the OCG's referral, pursuant to Section 29 of the Act, regarding Mr. Scean Barnswell, Mayor, Clarendon Parish Council, there was "...clear evidentiary material to institute criminal proceeding against Mr. Scean Barnswell for **"Attempting to Mislead the Contractor General contrary [sic] section 29 (a) of the Contractor General Act"**".

## **INTRODUCTION OF JUDICIAL HEARINGS AND ADDITIONAL INVESTIGATIVE TRAINING FOR THE DIVISION**

Toward the end of the first quarter of 2013, certain innovative training mechanisms for the enhancement of investigative skills were introduced to the Division. One such mechanism involved the commencement of Judicial Hearings and the Summoning of persons of interest, pursuant to Section 18 of the Act. This initiative has aided in efficiency and complemented the efficacy of gathering information via standard requisitioning and interviewing.

Further, Investigators received advanced training in the areas of Procurement and Corruption, Fraud Detection, Forensics and Report Writing. One (1) Special Investigator also received extensive training at the Jamaica Constabulary Force and graduated from the Level One Core Skills Detective Training Course.

## **CONCLUDING REMARKS**

The year 2013 saw growth and several changes in the Special Investigations Unit, particularly in relation to investigative techniques and strategies, amongst other training opportunities, both locally and internationally.

As the Unit continues to develop, and improve upon its techniques, in fulfilment of the OCG's mandates, we remain committed to diligently serving the public's interest and to ensuring that where breaches and incidents of irregularity and impropriety in the procurement and contract award processes are identified, the most appropriate investigative tools are applied to expeditiously and comprehensively investigate same.

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## **SUMMARY OF SPECIAL INVESTIGATION REFERRALS**

SUMMARY OF REFERRALS MADE & RECOMMENDATIONS FOR PROSECUTION IN RELATION TO FORMAL INVESTIGATIONS CONDUCTED BY THE OCG									
STATUS REPORT AS AT DECEMBER 31, 2013									
Record No.	Year of Completion of Investigation	Name of Investigation	Name(s) of Person(s) Referred/Recommended	Date of Referral/Recommendation	Reason(s) / Nature of Referral/Recommendation	State Authority to which Referral/Recommendation was Made			Action Taken to Date/Remarks
Referrals Made Pursuant to Section 21/ Recommendations for Prosecution Made Pursuant to Section 29 of the Contractor-General Act									
1	2013	Special Report of Investigation conducted into the Circumstances Surrounding Suspected Sham Contractors who were Awarded Millions of Dollars of Contracts by the National Housing Trust (NHT)	Accountable Officers of the NHT, and/or Public Officers of the NHT	January 2013	For the failure of the NHT to report the award of certain contracts which were awarded to the 'sham contractors' to the OCG, by way of its QCA Report.  For such action as the Auditor General may deem to be applicable, against the then Accountable Officer(s) of the NHT.  For such actions that the Jamaica Constabulary Force deem to be applicable in relation to the, <i>prima facie</i> , evidence of Fraud.	✓	✓	Commissioner of Police	Letters of acknowledgement were received from the Commissioner of Police, Mr. Owen Ellington and the Director of Public Prosecution, Ms. Paula Llewellyn.
2	2013	Special Report of Investigation - Complaint Regarding the Award of Contract(s) to Construct/Repair and to Rent Shops at Spalding Market.	His Worship the Mayor of May Pen Scean Barnswell  Clarendon Parish Council	September 2013  September 2013	For knowingly misleading the Contractor General during the conduct of the Section 18 Judicial Proceeding, contrary to Section 29 of the Contractor-General Act  To consider: (a) conducting an investigation into the failure of the Clarendon Parish Council to either demand the collection of revenue and/or the payment of fees due and payable to it in relation to the wooden shops which are located in the parking lot of the Spalding Market, and (b) reviewing the financial operations with a view to, inter alia, quantify any revenue which was foregone by the Clarendon Parish Council.	✓	✓		Charged and taken to court by the DPP. First Court appearance was on October 8, 2013.  N/A

SUMMARY OF REFERRALS MADE & RECOMMENDATIONS FOR PROSECUTION IN RELATION TO FORMAL INVESTIGATIONS CONDUCTED BY THE OCG									
STATUS REPORT AS AT DECEMBER 31, 2013									
Record No.	Year of Completion of Investigation	Name of Investigation	Name(s) of Person(s) Referred/Recommended	Date of Referral/Recommendation	Reason(s) / Nature of Referral/Recommendation	State Authority to which Referral/Recommendation was Made			Action Taken to Date/Remarks
Referrals Made Pursuant to Section 21/ Recommendations for Prosecution						Made Pursuant to Section 29 of the Contractor-General Act			
			Hon. Richard Azan	September 2013	For facilitating the construction of the illegal wooden shops upon government land without the requisite permission and/or approval. The noted actions bypassed the established approval process administered by the Clarendon Parish Council. Mr. Azan through his actions or inaction(s) and/or omission, created the basis upon which Mr. John Bryant proceeded with the construction of the wooden shops. Mr. Azan in convening and/or participating in a meeting, where here, rate were set for the lease of the illegally constructed wooden shops and the designation of the person responsible for the collection of the rent further implicates the Hon. Richard Azan in the web of conspiracy.	DPP	Auditor General	Commissioner of Police	The Director of Public Prosecutions has ruled that no criminal charges will be laid against Mr. Azan. The DDP has indicated that, having perused and analysed all of the material provided, she failed to see any basis in criminal law or fact to ground criminal charges in respect of the offence of conspiracy to defraud or under the Corruption Prevention Act against anyone in the Spalding Market affair.
			Mrs. Bridget Daley-Dixon	September 2013	For collecting the rental at the Constituency Office for the wooden shops which are situated on the land of the Clarendon Parish Council. As a consequence the revenue that rightfully belonged to the Clarendon Parish Council was diverted to Mr. John Bryant through Mrs. Daley Dixon.	✓			The Director of Public Prosecutions has ruled that no criminal charges will be laid.

SUMMARY OF REFERRALS MADE & RECOMMENDATIONS FOR PROSECUTION IN RELATION TO FORMAL INVESTIGATIONS CONDUCTED BY THE OCG									
STATUS REPORT AS AT DECEMBER 31, 2013									
Record No.	Year of Completion of Investigation	Name of Investigation	Name(s) of Person(s) Referred/Recommended	Date of Referral/Recommendation	Reason(s) / Nature of Referral/Recommendation	State Authority to which Referral/Recommendation was Made			Action Taken to Date/Remarks
Referrals Made Pursuant to Section 21/ Recommendations for Prosecution						DPP	Auditor General	Commissioner of Police	
			Mr. John Bryant	September 2013	For illegally erecting the Shops and collected rent for the illegally erected shops without the authority of the Clarendon Parish Council. He particularly agreed to set rates which were to be paid by occupants even though he had no authority to do so and with the facilitation of the Member of Parliament. As a result of Mr. Bryant collecting rent from the occupants of the wooden shops, the usual market fees which were required to have been collected by the Parish Council for vending were not so collected from the occupants of the wooden shops.	✓			The Director of Public Prosecutions has ruled that no criminal charges will be laid.

## **APPROPRIATION ACCOUNT**



0400 - Office of the Contractor General  
16 Oxford Road

Page Number : 1  
06/11/2013  
09:00

# FS6 - Statement of Expenditure by Objects (Object Summary) - Selected Items ONLY

Financial years : 05 (2012/2013) Financial Pattern : 10 - Recurrent Voted									
Period Number: 1 (Close) To: 12 (Open) (Apr 01 2012 - Mar 31 2013)									
Activity/Programme	Sub-Programme	Sub-Function	Project	Warrant Allocate	Approved Vote	Month Expense	YTD Expense	Advance	Un-Discharged Commitment
1	2	3	4	5	6	7	8	9	10
Code	Description	1	2	3	4	5	6	7	8
21	Compensation of Emp	105,139,000.00	105,139,000.00	3,301,905.10	100,526,364.46	00.00	00.00	100,526,364.46	4,612,635.54
Object		25,292,000.00	25,292,000.00	2,298,525.57	25,559,531.37	00.00	00.00	25,559,531.37	-267,531.37
22	Travel Expenses and	21,100,000.00	21,100,000.00	1,743,837.90	20,391,917.95	00.00	00.00	20,391,917.95	708,082.05
Object		10,000,000.00	10,000,000.00	997,405.42	10,996,900.72	00.00	00.00	10,996,900.72	-996,900.72
23	Rental of Property,	16,557,000.00	16,557,000.00	1,399,069.67	22,199,472.31	00.00	00.00	22,199,472.31	-5,642,472.31
Object		32,837,000.00	32,837,000.00	3,573,308.04	31,916,340.13	00.00	00.00	31,916,340.13	920,659.87
24	Public Utility Serv	3,528,000.00	3,528,000.00	00.00	2,814,964.70	00.00	00.00	2,814,964.70	713,035.30
Object									
25	Purchase of Goods								
Object									
26	Retirement of Equip								
Object									
31	Purchase of Equipme								
Object									
Total for Financial Pattern : 10 - Recurrent Voted		214,453,000.00	214,453,000.00	13,314,151.70	214,405,491.64	00.00	00.00	214,405,491.64	47,508.36

Accountant

Date: 06/11/2013

Dir of Finance/  
Financial Controller

Date: 06/11/2013

Accounting Officer

Date: 06/11/2013



## **OFFICE OF THE CONTRACTOR-GENERAL**

### **APPROPRIATION ACCOUNT**

**YEAR ENDED 31<sup>ST</sup> MARCH 2013**

Explanation of the causes of variation between approved estimates and expenditure of object heads:

**21 - COMPENSATION OF EMPLOYEE**

The under expenditure of \$4,612,635.54 was the result of an over provision in the First Supplementary Estimates which was used to offset the increased cost of goods and services over the period.

**22 - TRAVEL EXPENSE AND SUBSISTENCE ALLOWANCE**

The over-expenditure of \$267,531.37 was the result of an under estimation in the First Supplementary Estimates.

**23 - RENTAL OF PROPERTY, MACHINERY AND EQUIPMENT**

The balance of \$708,082.05 was used to offset cost incurred under purchase of goods and services.

**24 - PUBLIC UTILITY SERVICE**

The over- expenditure of \$996,900.72 was the result of increases in the cost of Electricity and telephone usage over the period.

**25 - PURCHASE OF OTHER GOODS AND SERVICES**

The over expenditure of \$5,642,472.31 was the result of an under provision in the Approved Estimates and an increase in the cost of goods and services over the period.

**28 - RETIRING BENEFITS**

The under-expenditure of \$920,659.87 was the result of an over estimation in the Estimates of Expenditure.

**31 - PURCHASE OF EQUIPMENT**

The under-expenditure of \$713,035.30 was a result of savings realized due to the receipt of a grant from the Canadian International Development Agency (CIDA) to implement a project for the institutional strengthening of the Office through technology.

Dirk Harrison (signed)

.....

Dirk Harrison

CONTRACTOR-GENERAL

November 11, 2013

.....

Date

**EXCERPTS FROM THE AUDITOR GENERAL'S REPORT TO THE ACCOUNTING OFFICER OF THE OFFICE OF THE CONTRACTOR GENERAL – DATED, DECEMBER 12, 2013**

**Report on the Appropriation Account**

I have audited the accompanying Appropriation Account of the Office of the Contractor General – Head 0400 which comprise the Accounts by Objects, Activity / Projects and explanatory statement of the causes for variation between approved estimates and expenditure as at March 31, 2013.

**Opinion**

In my opinion, the Attached Appropriation Account is a fair representation of the financial transactions for the year ended March 31, 2013 in accordance with Section 24 I(1)(a)(b) of the Financial Administration and Audit Act.

**Report on Additional Requirements of the Financial Administration and Audit Act**

I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, proper accounting records have been maintained and the Appropriation Account is in agreement therewith and gives the information required in the manner so required.

Pamela Monroe Ellis (Mrs.) (Signed)  
**Auditor General**





## **OFFICE OF THE CONTRACTOR-GENERAL**

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16 Oxford Road  
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