

Office of the Contractor-General

Report of Investigation

Conducted into the Procurement Practices of the Jamaica Tourist Board

Ministry of Tourism

EXECUTIVE SUMMARY

On 2006 September 21, the Office of the Contractor General (OCG) formally convened an investigation into the procurement practices of the Jamaica Tourist Board (JTB) to ascertain the agency's degree of compliance with the Government Procurement Procedures Handbook (GPPH). The investigation of the JTB's procurement practices arose because of statements made by the Chairman, Mr. Dennis Morrison, in a newspaper article dated 2006 August 9.

Specific Terms of Reference were developed to guide the investigation within the parameters of Section 4 of the Contractor General Act, 1983, as well as the procurement guidelines established in the GPPH. Information regarding the agency's procurement activities prior to 2005 May 31 and after 2006 December 31, was used in order to give a realistic assessment of these activities.

Analysis of the JTB's procurement activities included the review of files, the entity's Quarterly Contract Award (QCA) Reports and National Contracts Commission's (NCC's) recommendations for the award of contracts.

Findings have revealed that the larger contracts undertaken by the JTB, for Public Relations and Marketing Services, were in compliance with the procurement guidelines, having received both NCC endorsement and Cabinet approval.

Instances of breaches of the procurement guidelines were pronounced in the sub-J\$4 Million bracket. The numerous instances of non-compliance in the sub-J\$4 Million bracket were

reflected in the number of contracts which were entered into for overseas promotional activities and co-operative marketing with overseas contractors.

In moving forward, it is recommended that the Jamaica Tourist Board be monitored more closely by the OCG and the Ministry of Tourism, and that the agency develop a procurement schedule which will assist in planning the timely submission of contracts to the NCC for approval.

The Office of the Contractor General also recommends that:

1. More vigorous monitoring of the agency is undertaken by the Office of the Contractor General and the Ministry of Tourism to ensure the JTB's compliance with the principles of the GPPH;
2. Given the scope of the JTB's procurement activities, the agency must develop a schedule of procurement activities in such a manner that will enable timely submissions to the NCC for the consideration of Sole Source contracts.
3. Steps must be taken by the Ministry of Tourism to arrest the procurement breaches that have been indentified and also to ensure that the Jamaica Tourist Board's procurement practitioners are properly trained to execute the procurement of goods, services and works.
4. Permanent Secretaries be more proactive and aggressive in developing, implementing and enforcing effective risk management systems, checks and balances and other appropriate management systems, in an effort to mitigate any possibility of deviations from the GPPH by Public Bodies and Public Officials who fall within their portfolio of responsibility

The application of the listed recommendations will greatly assist the Jamaica Tourist Board to become more compliant with the GPPH as well as with the legal principles which govern the award of Government contracts and which are embodied in the Contractor General Act.

INTRODUCTION

The investigation into the procurement practices of the JTB was launched in an attempt to decisively conclude whether the agency was adhering to the procurement procedures as established in the GPPH. As the agency responsible for tourism promotion and marketing activities on behalf of the Ministry of Tourism, the JTB often engages in promotional activities worldwide.

In fulfillment of the Terms of Reference of the investigation, documents pertaining to the contracts undertaken by the JTB were requisitioned and reviewed. Quarterly Contract Award (QCA) Reports were also incorporated into the investigation in order to provide a holistic assessment of the JTB's procurement practices as it relates to contracts valued at J\$250,000 upwards.

The findings of the report reflect the information as presented in both documents and reports provided by the Jamaica Tourist Board and are specific to the Terms of Reference. All findings have been contextualized to the types of services entered into by the JTB and how this could possibly affect adherence to the GPPH and the Contractor General Act as it relates to the principles of fairness, merit, impartiality and transparency.

TERMS OF REFERENCE

The terms of reference, as outlined for the purpose of the investigation, are:

1. To determine whether the procurement practices of the Jamaica Tourist Board over the period 2005 May 31 to 2006 December 31, were in accordance with the GOJ Procurement Guidelines.

BACKGROUND

The Office of the Contractor-General (OCG), acting on behalf of the Contractor General, through the Director of Licenses and Permits, initiated an investigation into the procurement practices of the JTB due primarily to a newspaper article which was written by Mr. Dennis Morrison about the Sandals White House investigation¹. In the newspaper article of 2006 August 9, Mr. Morrison, in reference to procurement practices surrounding Sandals Whitehouse, asserted:

I am in no doubt, as I have stated before, that tendering of some of these contracts would have been regarded, and will still now be regarded, as impractical given the propriety nature of the services involved. This point must not be missed even though we are angry about costly overruns related to waste and the burden they impose on taxpayers.

The assertions posited in the public domain by Mr. Morrison, comprised the main factor which triggered the investigation.

Based upon the assertions made in Mr. Morrison's newspaper article, it was deemed necessary by the OCG to examine whether entities, for which he was Chairman, were adhering to the GPPH. This was due to Mr. Morrison's apparent lack of knowledge of the procurement procedures.

Consequently, a letter was written to Mr. Donald Dawson, Director of Tourism, on 2006 September 21, by the Director of Licenses and Permits, regarding the commencement of the process of monitoring and / or investigating aspects of the JTB's operation as it relates to the award of works, goods and services contracts. A request for information was made for all contracts valued at \$250,000 and above, in domestic or foreign currencies, executed between 2005 May 31 to 2006 August 31. This was to be provided to the OCG by 2006 October 12.

¹ Article entitled "Gorstew may have been right after all", extracted from the Jamaica Observer, August 9, 2006.

The investigation sought to examine various aspects of the JTB's procurement practices and, in particular, those contracts which were undertaken and/ or executed between 2005 May 31, and 2006 August 31.

The investigation also incorporated a detailed examination of contract and tender documents for goods, services and works procured by the JTB, both locally as well as for its foreign offices and activities. In instances where there were contracts which were executed prior to 2005 May 31, and were ongoing during the 2005 -2006 calendar year, such contracts were also examined in order to systematically identify the circumstances under which they were awarded and / or rolled over.

Although documents requisitioned for the investigation were specific to the 2005 May 31 to 2006 August 31 period, evidence of the agency's practices beyond 2006 August 31 has also been reviewed and has informed a comparative analysis to assess any improvements the JTB has made to its procurement practices.

METHODOLOGY

In order to fulfill the terms of reference and to objectively assess the procurement practices of the JTB, the under-mentioned methodology was used.

1. Review of requisitioned information related to contracts greater than J\$250,000.00 awarded between 2005 May to 2006 August;
2. Analysis of JTB Quarterly Contract Award Reports;
3. Analysis of list of contracts endorsed by the NCC.

FINDINGS

In a report submitted to the OCG dated 2006 November 9, for the period 2005 May 31 to 2006 August 31, the JTB asserted that several of its contracts had received the NCC's endorsement as well as Cabinet approval, where required. Among the contractors, for whom contracts were reported as being endorsed, were:

1. Foote Cone & Belding
2. Ruder Finn Incorporated
3. Financial Dynamics

The afore-mentioned contracts were primarily for the provision of advertising, marketing and promotional activities on behalf of the JTB. Based upon the aforementioned, as well as the reported expenditure on these contracts², it was considered prudent to check the veracity of the content of the report produced by the JTB, particularly as it related to the approval process.

A review of the NCC Contract Analysis report, which is an OCG internal report, indicated that no contract for the JTB was endorsed by the NCC for the period 2005 January to 2006 December. According to the information available from the NCC, prior to 2005, the last contract endorsed on behalf of the JTB was dated 2004 May 26. Included amongst the contracts which were endorsed by the NCC up to 2004 May 26 were the contracts entered into with Foote Cone and Belding, Ruder Finn and Financial Dynamics for advertising and public relations services. Subsequent to those contracts endorsed in 2004, the NCC endorsed no other contract for the JTB until 2007 January 24.

Upon further review of the information presented by the JTB, and subsequent meetings with Mrs. Maxine Saunderson, Chief Financial Officer, on 2007 May 24 and 25, clarification and further documentation were sought on those contracts which were reported as being endorsed

² Report and Spreadsheet Provided by the Jamaica Tourist Board, November 9, 2006

by the NCC and/or Cabinet during the 2005 May 31 – 2006 August 31 period. The under-mentioned is a synopsis of those findings:

Foote Cone & Belding

- a) Through a Cabinet Decision No. 21/04, dated 21.06.04, “the Cabinet approved the award of the contract to Foote Cone & Belding, with a proposed award of US\$1,085,000.00 per annum plus 10% markup on production costs.”³ The approval was “in connection with the award of a contract to provide advertising services worldwide for the Jamaica Tourist Board (JTB) for the three year period May 2004 to April 2007”.

The information presented by the JTB in its report of 2006 November 9 reflected payments made to the contractor over the contract period.

Ruder Finn Incorporated & Financial Dynamics Business Communications

- b) Cabinet Decision dated 06.10.03, states as follows, “... *in keeping with the endorsement of the National Contracts Commission, the Committee approved:*
- i. The award of the contract to provide public relations and marketing services in the USA, Canada and the Americas for the two year period October 2003 to September 2005 to Ruder Finn Americas in the amount of US 1,284,000.00 per annum; and*
 - ii. The award of the contract to provide public relations and marketing services in the United Kingdom and Europe, for the two year period October 2003 to September 2005, to Financial Dynamics Business Communications, in the amount of US\$ 478, 903.50 per annum*

The Cabinet noted and ratified the decisions taken by the Infrastructure Committee.⁴”

By way of letter dated 2005 September 6, the JTB requested permission from the NCC, ‘that consideration be given to extending the contracts for both agencies for a further two years to

³ Cabinet Decision Dated 21.06.04

⁴ Cabinet Decision Dated 06.10.03

allow for the full development and implementation of their programmes and projects...The process of putting these contracts out to tender is a very time consuming and expensive one and it would be far more beneficial if these funds could be used instead for promotional activities.”⁵ In responding to the request from the JTB, the NCC, by way of letter dated 2005 September 8, informed the JTB that it “ recommends an extension of one year to each existing contract, for Ruder Finn, Inc. and Financial Dynamics.”⁶ The letter of the same instant also stated that, “It is recommended that during the one-year extension, the JTB invites tenders for the services provided by these contractors.”⁷

The review of correspondence received from the JTB indicates that subsequent to the NCC letter of 2005 September 8, the JTB, by way of letter dated 2006 September 21, again requested a two-month extension to complete evaluation of tenders. The NCC granted a two-month extension to the JTB, by way of letter dated 2006 October 05.

On November 27, the JTB again requested permission from the NCC for an extension of the existing Ruder Finn and Financial Dynamics contracts. The extension was to be valid up to 2007 January 31. Approval for a further extension was granted by the NCC on 2006 December 08. Following the numerous requests for extensions, the contract for public relations and marketing in the United Kingdom was finally endorsed by the NCC on 2007 January 24 in the sum of £180, 000.00 in favour of McCluskey International Ltd.

In regard to the aforementioned, the JTB exercised the required level of adherence to the GPPH for the award of the contracts to Ruder Finn Inc. and Financial Dynamics Business Communications by seeking NCC endorsement and Cabinet Approval.

⁵ Letter dated 2005 September 6 from the JTB addressed to Mr. Donald Miller, Acting Chairman, NCC. The letter was signed by Mr. Paul Pennicook, Director of Tourism

⁶ Letter from the NCC dated 2005 September 8 addressed to Mrs. Barbara C. James, Permanent Secretary, Ministry of Tourism.

⁷ Ibid

OCA REPORT SUBMISSIONS

Second Quarter 2006

The Second Quarter QCA Report, 2006 May to June, revealed that Twenty-eight (28) contracts were awarded for the period. These contracts were between J\$250, 000 and J\$4 Million. Of the Twenty-eight (28) contracts, only four (4) were undertaken in Jamaica. The remaining contracts were all undertaken overseas.

The signed QCA Report indicated that none of the Twenty-eight (28) contracts were awarded to contractors with a Contractor NCC registration I.D and, as such, the contractors would not be deemed registered with the NCC. However, further checks revealed that two (2) of the Twenty-eight (28) contracts were in fact awarded to contractors registered with the NCC at the time of contract award. Also, of the Twenty-eight (28) contracts undertaken by the entity, only one (1) contract was reported as having received the approval of the JTB's Procurement Committee.

Twenty-four (24) of the Twenty-eight (28) contracts awarded during the 2nd Quarter were via the Sole Source procurement method. Of the twenty-four (24) Sole Source procurements, five (5) of these were in excess of One Million Dollars (J\$1,000,000.00) and would have required prior approval of the NCC as stipulated within the GPPH.

Third Quarter 2006

The Third Quarter QCA Report, 2006 July to September, indicated that Forty-four (44) contracts were awarded during the period. These contracts were between J\$250,000 and J\$4 Million. Of the Forty-four (44) contracts, only twelve (12) of these were undertaken in Jamaica. The remaining contracts were all undertaken overseas.

The signed Third Quarter report indicated that nine (9) of the contracts had been awarded to contractors with no Contractor NCC registration I.D. and only one (1) was awarded to a registered contractor.

The remaining Thirty-four (34) contracts were awarded to parties described as being 'non-Jamaican' and therefore not registered with the NCC.

Only two (2) of the Forty-four (44) contracts awarded during the Third Quarter of 2006 were reported as having received approval from the JTB's Procurement Committee.

Thirty-two (32) of the Forty-four (44) contracts awarded during the period were via the Sole Source method of procurement. Of these Thirty-two (32) contracts, three (3) were in excess of J\$1 Million Dollars and would have required prior approval from the NCC.

Fourth Quarter 2006

The Fourth Quarter QCA Report, 2006 October to December, indicated that Thirty-eight (38) contracts were awarded during the period. These contracts were between J\$250,000 and J\$4 Million. Of the Thirty-eight (38) contracts, only five (5) of these were undertaken in Jamaica. The remaining contracts were all undertaken overseas.

The signed Fourth Quarter Report indicated that none of the contractors had a Contractor NCC registration I.D and would have therefore not been registered with the NCC.

Thirty-two (32) of the Thirty-eight (38) contracts awarded during the period were via the Sole Source method of procurement. Of these Thirty-two (32) contracts, six (6) were in excess of J\$1 Million Dollars and would have required prior approval from the NCC.

Listed below are the respective Sole Source contracts, as reported on the JTB's Quarterly Contract Award (QCA) Reports for the 2nd, 3rd and 4th Quarters of 2006. All of the listed contracts would have required prior approval from the NCC.

**List of Sub-J\$4 Million Contracts reported as being awarded via Sole Source during
Y/E 2006 December 31**

Contract Award Date	Contractor	Contract Description	Contract Value J\$
2006-05-01	TRAC Representations (India) PVT Ltd	Marketing Representation	1,782,000
2006-05-02	Air Canada Vacations	Co-op Advertising	1,538,795
2006-05-02	National Leisure Group	Co-op Advertising	1,493,871
2006-05-02	Mark Travel	Co-op Advertising	1,888,188
2006-06-28	Apple Vacations	Bonus- Commission for Travel Agent	2,563,851
2006-07-28	Red Seals Tours	Co-op Advertising	1,650,000
2006-07-13	IBM World Trade Corporation	Lotus Domino Note and Web Access Software	1,549,800
2006-08-29	Kadoke Displays Ltd	Exhibit Space ITME	1,621,581
2006-10-31	Funjet Vacations	2006 Co-op	2,003,100
2006-12-19	Sunsplash Tours	2007 Spring Break College Newspaper Advertising	1,994,982
2006-10-26	Kadoke Displays Ltd	ITME/Motivation Show, Chicago. September 26-28, 2006	3,173,980
2006-11-30	Ritz Carlton Golf & Spa	Participation	1,459,050
2006-12-20	The National Premium Show Inc	IT & ME/ The Motivation Show	2,310,854
2006-12-19	Sun Splash Tours	2007 Spring Break	1,994,982

There is no evidence to indicate that the JTB received prior written approval from the NCC for any of the contracts listed above⁸. It must be noted that of the Fourteen Sole Source contracts above J\$1 Million reported on the Quarterly Contract Award Reports by the JTB during 2006, several of the contracts reflected payments on 'Cooperative Marketing Agreements' and

⁸ Refer to File No. 22-013- JSIF Sector Committee File.

participation at promotional events between the JTB and foreign entities. However, irrespective of the type of activities in which the JTB engages, it is believed that through proper planning, Sole Source contracts of this nature can be submitted to the NCC and receive its approval prior to award.

It is also recognized that the JTB has offices worldwide and so procurement is not a centralized activity. It is therefore incumbent upon the Head Office, located in Kingston, Jamaica, to ensure that the necessary management structures are in place to allow the overseas offices to be aware of, and to become compliant with, the requirements of the GPPH.

CONCLUSION

The findings to date show that the JTB was not in strict compliance with the GPPH - particularly in the sub-J\$4 Million category. The breaches identified are specific to the award of contracts in the sub-J\$4 Million threshold. It must be noted that NCC and Cabinet approval were given for the three major contracts entered into by the JTB during the period under investigation i.e., contracts awarded to Foote Cone and Belding, Ruder Finn and Financial Dynamics for advertising and public relations services.

It is apparent that the JTB needs specific guidance in the application of the GPPH in its procurement process, particularly as it relates to overseas promotional activities. Consideration must also be given to the management mechanisms which are to be developed in order to ensure compliance with the GPPH throughout the JTB's international offices.

RECOMMENDATIONS

The initial findings indicate that the JTB is not adhering to the procurement guidelines particularly as it relates to overseas promotional activities. It is therefore recommended that:

1. More vigorous monitoring of the agency is undertaken by the Office of the Contractor General and the Ministry of Tourism to ensure the JTB's compliance with the principles of the GPPH;
2. Given the scope of the JTB's procurement activities, the agency must develop a schedule of procurement activities in such a manner that will enable timely submissions to the NCC for the consideration of Sole Source contracts.
3. Steps must be taken by the Ministry of Tourism to arrest the procurement breaches that have been indentified and also to ensure that the Jamaica Tourist Board's procurement practitioners are properly trained to execute the procurement of goods, services and works.
4. Permanent Secretaries need to be more proactive and aggressive in developing, implementing and enforcing effective risk management systems, checks and balances and other appropriate management systems, in an effort to mitigate any possibility of deviations from the GPPH by Public Bodies and Public Officials who fall within their portfolio of responsibility.

It is our considered view that the application of the listed recommendations will greatly assist the Jamaica Tourist Board to become more compliant with the GPPH as well as with the legal principles which govern the award of Government contracts and which are embodied in the Contractor General Act.