

OFFICE OF THE CONTRACTOR-GENERAL

Report of Investigation

Conducted into the Kingston and St. Andrew Corporation (KSAC)

EXECUTIVE SUMMARY

In October 2005, the Office of the Contractor General (OC-G) initiated an investigation of the KSAC, following a request from the then Ministry of Local Government, Community Development and Sports (MLGCD&S).

The investigation found that the KSAC did not follow the Government of Jamaica Procurement Guidelines, in the awarding of contracts, that Councilors were exercising undue autonomy in the choice of contractors, and that certain contractors were awarded an inordinate number of contracts.

Accordingly, recommendations were made to educate the Agency's procurement officers on the best practices, as outlined in the Government Procurement Handbook.

We have also recommended that the Ministry of Local Government must implement effective measures to ensure that the KSAC scrupulously adheres, at all times, to the Government Procurement Guidelines when procuring goods, works and services.

INTRODUCTION

Local Government was introduced in Jamaica around 1662-1663, some years after the British captured Jamaica in 1655. The early form of Local Government was called the "Vestry System". The Vestry of each parish was drawn from the lay magistrates and the clergy of the particular parish. These Vestries supported the clergy, maintained the churches, offered relief to the poor, maintained the few roads, and maintained public order. By the 1850s their rule had become corrupt and inefficient. It lasted for 200 years and was abolished in 1866 following the Morant Bay Rebellion.

It was replaced by a system of Municipal and Road Boards, whose membership was nominated by the Governor.

The parish structure which was created by Law 20 of 1867, the extension of its functions during the period 1866-86, and the creation of parochial boards in 1886, established the modern Local Government system that exists today. The Kingston City Council and St. Andrew Parochial Board were amalgamated to form the Kingston and St. Andrew Corporation (KSAC) in 1923. At present, the KSAC is comprised of 40 political divisions, including those of the Mayor and Deputy Mayor.

The procurement practice of this present system is now under Investigation.

Office of the Contractor-General

April 2006

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TERMS OF REFERENCE

The investigation focuses on contracts awarded during the financial year 2005/2006, and seeks to:

1. Identify areas of nonconformity with established procurement procedures;
2. Determine the procurement practices of the KSAC;
3. Make recommendations for appropriate actions, where applicable.

BACKGROUND

The Ministry of Local Government, Community Development and Sports, by letter dated 3rd August 2005, requested an investigation into the KSAC's contracts award process. Consequently, a meeting was convened on 7th October 2005, at the offices of the Kingston and St. Andrew Corporation (KSAC). The team from the Office of the Contractor-General (OC-G) was led by the Director of Licences and Permits, and included two senior Inspectors. The Mayor led the KSAC's team, which included the Town Clerk, the City Engineer, and a Works Overseer. Subsequent to the introductions, the meeting was informed of the reason for the Office of the Contractor-General's visit, and advised of the mode in which the investigation would be conducted.

METHODOLOGY

The methodology included the following:

1. Meetings and discussions at the offices of the KSAC in October, November and December of 2005 and March 2006;
2. An examination of Cash Book records and contract files.

FINDINGS

After scheduled meetings and discussions regarding the KSAC's procurement procedures, and after examination of the agency's files and ledgers, it was found that:

1. Contrary to Government Procurement Guidelines, contracts were awarded, based on the recommendation of and/or nomination, by the Councillors.
2. Contrary to Government Procurement Guidelines, there was no evidence of competition in the Councillors' selections.

3. Contrary to Government Procurement Guidelines, for works contracts over \$500,000.00, the KSAC stipulated that the contractors would only need to be registered with the National Contracts Commission.
4. Contrary to Government Procurement Guidelines, the Mayor and Deputy Mayor also nominated and/or recommended contractors for general contracts within their divisions.
5. Large contracts, that is contracts over \$500,000.00, go to the Finance Committee for approval. The Finance Committee is comprised of all the Councillors, the City Treasurer, the Town Clerk, the City Engineer and the Revenue Officer.
6. Contrary to Government Procurement Guidelines, the KSAC requires contractors to have an NIS number, only, to be eligible for contracts valued below \$120,000.00.
7. Contrary to Government Procurement Guidelines, the KSAC requires a Tax Compliance Certificate, only, for contractors to qualify for contracts valued above \$120,000.00.
8. The contract price for works is generally based on the KSAC's estimate.
9. KSAC's existing contract award regime has persisted for over four years.
10. The contract award process lacks transparency. There was no evidence that contracts were advertised, and that the evaluation and selection methodology for the award of contract were made known to the bidders.
11. The names of certain contractors recur in the ledger with alarming frequency. The full particulars of these payments are outlined in Appendix 1. For example:
 - 30 payments were made for works totaling \$9,987,496.82 to one Phillip Allison, who was not registered with the NCC. These payments were made over a three-month period, between October and December 2005. In December, Mr. Allison received 15 payments totaling \$5,522,186.82.
 - 15 Payments for works totaling \$4,352,930.00 were made to one Wayne Lawrence, who was not registered with the NCC. These payments were made over a three-month period, between October to December 2005. In December, Mr. Lawrence received 8 payments totaling \$3,214,850.00.
 - 8 payments for works totaling \$4,508,740.00 were made to one Jacqueline King, who was not registered with the NCC. These payments were made in December 2005.

CONCLUSION

The procurement practices of the KSAC were not in conformity with the Government Procurement Guidelines. Breaches in the procedure were evident in the lack of transparency, the lack of competitiveness in the award process, as well as in the engagement of contractors not registered with the NCC.

After examining the procurement activities at the KSAC, it was concluded that:

- The procurement guidelines, as set out in the Government Procurement Handbook, were not being followed.
- Councillors seem to have a strong influence on who gets the scarce resources (contracts).
- Some contractors seem to be “preferred” contractors, based on the frequency with which they were engaged.
- The Town Clerk and the City Engineer are willing and open to suggestions to improve the procurement process. To this end, the Town Clerk informed the investigating officer, at a meeting on 13th March 2006, that contractors were now being required to have NCC registration.

During discussions, the Town Clerk and the City Engineer, seemed interested in participating at a workshop on public sector procurement procedures at their department, as was suggested by the investigating officer. However, they remain reserved in their views on the effectiveness of competition in a politically charged environment.

- Some of the areas under the purview of the agency are so-called ‘garrison communities’. This factor tends to limit competition in the award of contracts in these areas.

RECOMMENDATIONS

As a result of our findings, we make the following recommendations:

1. Procurement Personnel at the KSAC must be familiarized with the procedures in the Public Sector Procurement Handbook and, in particular, the requirement for the registration of contractors. In addition, Councillors must be apprised of, or sensitized to, the importance of the principles of competitiveness, merit, and transparency in the public procurement process.
2. To assist in facilitating the above, the OC-G recommends that the Office of the Contractor-General conduct a Procurement Workshop, within the first quarter of fiscal year 2006/7 at the KSAC.
3. Above all, the Ministry of Local Government must implement effective measures to ensure that the KSAC scrupulously adheres, at all times, to the Government Procurement Guidelines when procuring goods, works and services.