



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

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The Editor
[The Gleaner Company Limited]
[The Jamaica Observer]
[The Sunday Herald]

Dear Editor:

I should be grateful if you would be so kind as to allow me the opportunity to clarify the positions of the Office of the Contractor General (OCG) as regards the GEASO Health Scheme contract award matter.

The OCG supports the right of the GEASO Monitoring Committee to bargain for, and to secure, a substantive and participatory role in the decision-making processes which impact the livelihood of the Public Servants who they represent.

If it has been agreed between the Government and the GEASO Monitoring Committee that such rights are to extend to the right of the Committee to play a participatory role in the procurement of the GEASO Health Scheme contract, then that is a matter between the Government and the Committee. However, if the circumstances are such that the purported extension of the right is not recognized by the Government's Procurement Procedures Handbook (GPPH), or by the Contractor General Act, then the OCG will understandably have an interest.

In keeping with its mandate to monitor the Government's contract award process, the OCG is obliged to ensure the propriety of Government contract awards. It is in this respect that the OCG has observed that the GPPH, and the Contractor General Act, as they currently stand, provide no discernable bases upon which the GEASO Monitoring Committee can lawfully participate in the procurement process.

When the GEASO Health Scheme Contract was last put to tender in 1995, neither the National Contracts Commission (NCC) regime nor the GPPH were in existence. This is a very important fact which needs to be recognized since they have changed the rules of the game which obtained prior to 2000 and to which the GEASO Monitoring Committee was accustomed.

Having said that, it is extremely critical to understand that the foregoing are not views which are held solely by the OCG. The Ministry of Finance, which has been leading the GEASO process, has communicated, in writing, to the OCG, that these are observations which are reflective of not only its own position, but also the position of the Cabinet and the Government of Jamaica.



(2)

The Ministry's communication of February 8, 2006, in the foregoing regard, was copied to the Minister of Finance, the Solicitor General and to the Cabinet Secretary. To date, it has not been withdrawn or denied by any of these authorities.

It is particularly for these reasons, therefore, that the OCG has expressed its astonishment that the Government has now enjoined the GEASO Committee, and the Unions, in a review process which it has conceded has no sustainable basis in law.

It is also for these reasons that the OCG cannot, in good conscience, support what is being done. We understand that the position which we have taken may not be perceived to be a popular one. However, what matters is that it is the right and principled one and it is in this context that the OCG hopes that its positions will be dispassionately judged and understood.

In a very cordial and candid telephone discussion which I had yesterday with the President of the Jamaica Civil Service Association, Mr. Wayne Jones, we discussed these matters. I harbor no doubt that Mr. Jones is committed, as I am, to the principle of due process and to the un-conditional adherence to the rule of law.

During our discussions, I expressed to Mr. Jones, my concern that while the current GEASO review process may appear to be a victory for the GEASO Monitoring Committee, the victory may nonetheless be short-lived. Why is this?

If the right of the GEASO Monitoring Committee to participate in the Government contract award process is not embodied in the GPPH, or secured under the law, then the Committee will have nothing more than an illusory right - a right which is likely to evaporate should it be challenged in the appropriate forum.

Whatever, therefore, may result from the current GEASO contract award process, genuine efforts should be made to ensure that the appropriate due process measures are taken to effectively enshrine the desired rights of the Public Servant in the GPPH and under the law.

Finally, the OCG wishes to make it clear that it unconditionally supports the right of the Public to be advised of the relevant technical considerations which have guided the Ministry of Finance's Recommendation to award the GEASO contract to Life of Jamaica Ltd. (LOJ) and to reject the recommendations of the Consulting Actuary.

The OCG has so far urged the Ministry of Finance four (4) times, in writing, to disclose these facts to the Public. In our most recent letter to the Minister of Finance, which was dated July 13, 2007, we respectfully re-iterated our request. We advised the Minister that it was our belief that without a full and prompt public disclosure, the legitimacy of the actions of the Ministry, and the NCC, would be rightly challenged for want of transparency, and that confusion and suspicion will reign.



(3)

We have also submitted to the Minister, for his review, a Draft of the OCG's 17 page Preliminary Monitoring Report in this matter. The Draft Report seeks to summarize the OCG's assessment, as at June 2007, of the Tendering and Evaluation Processes which have led to the Ministry's Recommendation, to the National Contracts Commission (NCC), to award the subject GEASO Health Scheme contract to LOJ.

The OCG's assessment is based primarily upon the documentation which the Ministry of Finance has so far provided to us, and to the NCC. Accordingly, we have asked the Ministry to submit, by Friday, July 20, 2007, any information to which it is privy which it believes could materially alter any of the observations which we have made or the Conclusions which we have arrived at in our Draft Report.

Once our Report is finalized, we will formally submit same to the Parliament of Jamaica. Thereafter, and in the interest of public transparency, we will publish same.

Please accept my sincere gratitude for assisting me to publicly clarify the OCG's positions on a matter which we are all agreed is of significant national importance.

Very respectfully yours,

Greg Christie (Signed)

Greg Christie
Contractor General