



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

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December 21, 2007

The Editor-in-Chief
The Gleaner Co. Ltd.
7 North St.
Kingston

Dear Sir:

Re: Correction of Misstatements Contained in Blue Cross Chairman's Letter to the Editor

We write further to a letter, in the captioned regard, which was written by Dr. Henry Lowe, Chairman of Blue Cross of Jamaica Limited (BCJL), in the December 21, 2007 edition of The Gleaner.

Dr. Lowe has made a number of assertions and statements which are regrettable. Given the import of the claims made, as well as the possible implications of perpetuating a misunderstanding upon the public and the country's tax-payers, we have deemed it imperative that we must provide the necessary clarifications.

In the first instance, the Chairman states that BCJL "has always supported an appropriate and timely tender process." We wish to remind the Chair that this position was not so demonstrated with regard to the said GEASO contract, which only came to be tendered in 2006, after a long period of ten years. For each year preceding, the GEASO contract was illegally awarded to BCJL, without tender and without open competition and transparency.

In the second instance, the Chairman states that the Request for Proposal (RFP) is the document that "guides the tender process and decision." While this may be true, the Government Procurement Procedures Handbook (GPPH) and the Contractor General Act are, in point of fact, the overarching legal standards by which the process of awarding Government contracts in Jamaica are governed.

One is likely to get the impression, from Dr. Lowe's letter, that the points accredited to BCJL and Life of Jamaica (LOJ), of 104 and 96, respectively, were the sole determinant factors for the award of the GEASO contract. Nothing, however, could be further from the truth.

The Chairman inadvertently omitted to make reference to the fact that the very RFP, upon which he has based the validity of his arguments, makes it crystal clear that these points were earned by the companies solely to pre-qualify them for further consideration for the award of the contract.



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Indeed, the RFP required each tenderer to pre-qualify by earning a minimum of 80 points. Once pre-qualified, the companies should have then been evaluated solely on cost, in accordance with the terms of the RFP and the GPPH/Government Procurement Policy – both of which required the winning tender to be cost-competitive. It is instructive to note that, in this very regard, the Chairman failed to communicate that the BCJL bid of \$216.96 million was substantially higher than the LOJ bid of \$148.93 million.

It was on the basis of this very significant, but unfortunately understated consideration, that the Consulting Actuary's recommendation, that the contract should be awarded to BCJL, was quite rightly rejected by both the Ministry of Finance and the National Contracts Commission – and the recommendation made that the contract should be awarded, instead, to LOJ.

Finally, the Chairman has asserted that “the (tender) evaluation process was flawed”. This appears to be a reference to the exclusion of the GEASO Monitoring Committee from the evaluation processes of the tender. I would like to state very clearly, once and for all, that the referenced *guiding* document, the RFP, did not make provision for the participation of the GEASO Monitoring Committee in the GEASO tender evaluation process. Neither, for that matter, does the GPPH or the Contractor General Act.

Further, and as the OCG has articulated in its 81-page GEASO Report to Parliament (see www.ocg.gov.jm), even if the RFP did contain such a provision, which it did not, it would have been in contravention of the GPPH and the Contractor General Act and, accordingly, could not lawfully stand.

The OCG remains extremely concerned about, and disturbed by, the Cabinet's decision to re-tender the GEASO contract – especially following after the National Contracts Commission's endorsement of the recommendation that the contract should be awarded to LOJ – and the OCG's unequivocal and strong urging that the contract should be so awarded.

My Office continues to await the courtesy of a formal advisory from the Cabinet about its decision and, more importantly, the reasons why it has ignored the considered and substantiated recommendations of the two independent Parliamentary Commissions which were established by law to rule on such matters – namely the National Contracts Commission and the Office of the Contractor General.

Very respectfully yours,

Greg Christie (Signed)

Greg Christie
Contractor General