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## **PRESS RELEASE**

### **CONTRACTOR-GENERAL WARNS OF FALLOUT FROM THE DELAY IN APPOINTMENT OF THE NATIONAL CONTRACTS COMMISSION**

A recent news story, which appeared in the print media on Friday, June 9, asserted that “Prime Minister Portia Simpson Miller has the right to name the eight members of the (National Contracts) Commission”. In addition, the Minister of Information, Mr. Colin Campbell, is also reported to have stated that “the Prime Minister had settled on the names of the seven other members of the commission, and would be forwarding the names to the Governor General this week.” However, Contractor-General, Greg Christie, has declared both statements to be “inaccurate and undoubtedly made unintentionally”.

The National Contracts Commission (NCC), which is an independent Commission, is composed of a panel of eight members. Each member of the panel is required to be appointed by the Governor General in accordance with the provisions of the Third Schedule to the Contractor General Act. Once appointed, the member serves for a term

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of seven years. The Third Schedule to the Contractor General Act is unequivocally clear as to how the eight member panel must be composed.

The NCC is composed of: a Chair, who is appointed by the Governor General from a panel of three persons nominated by the Contractor General; one member who is appointed from a panel of five persons nominated by the Professional Societies Association of Jamaica; one member who is appointed from a panel of five persons nominated by the Construction Industry Council; and five members who are appointed from a panel of five persons designated by the Cabinet.

“The Government's involvement in the NCC appointment process is therefore limited to the designation of only five members of the Commission and not eight as has been mistakenly asserted,” Mr. Christie said. “Additionally, it is the Cabinet, and not the Prime Minister, which has the statutory authority to make the five designations.”

Citing as disturbing a statement which the media has attributed to the Minister of Information that “the commission has sat for three weeks, but it just means that it just means that when you name the commission they would have to review those (delayed) contracts as well”, the Contractor-General said, “it would appear that the full impact of

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what is already a crisis situation which is prevailing in the country's public sector procurement system, has not yet been grasped by the Government.”

Among the NCC's primary functions, are the regular review and endorsement of government contract award recommendations of \$4 million in value and above, the registration of new contractors and the annual re-registration of previously certified contractors.

Due to the structure and the logistics of its deliberative process, the NCC meets once weekly, on a rotational basis, to handle these issues. Last year, because of the sheer volume of the work which came before it, the NCC was required to convene 49 weekly meetings. So far, this year, its work has grown significantly in annualized terms. As at May 10, for example, the NCC had already endorsed approx. 190 contract award recommendations versus approx. 400 for all of 2005.

As things now stand, and because its full panel has not yet been appointed, the NCC has already missed 4 of its regularly scheduled weekly meetings. These meetings would have been convened on May 17, 24 and 31 and on June 7. In consequence,

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several contract award recommendations have already come into the pipeline and are awaiting the NCC's studied review.

“The delay in their consideration by the NCC will obviously, in turn, delay the award and the performance of the subject contracts with varying consequences. In addition, the delay is likely to adversely impact the quoted costs on the tenders, which could result in negative implications for the public purse down the road, whether in terms of contract variations, cost escalations or otherwise,” Mr. Christie said.

The Contractor-General also warned that there could be a further fallout from the sustained delay in the appointment of the NCC in that numerous contractors are now concerned that they could miss tender deadlines and thus become disenfranchised from bidding on multi-million dollar Government contract awards.

“Their fear is real as there is simply no NCC in place to register or re-register them with due expedition,” Mr. Christie said. “Currently, over 70 goods, services and works contractors are awaiting registration or re-registration by the NCC”, the Contractor-General warned.

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In fact, the technical services division of the Office of the Contractor-General is being bombarded on a daily basis by an ever increasing number of contractors, who are unable to comprehend the reasons for this inexplicable tardiness in the NCC appointment process.

He stated lastly that once the NCC is appointed into office, it will have a significant learning curve to climb, a factor Mr. Christie said which will further exacerbate an already gone-bad situation.

“This situation could have been avoided and should have been avoided,” Mr. Christie said. “From as early as March 10, a full 2 months prior to the impending expiry of the tenure of the then panel of the NCC on May 16, 2006, I wrote to the Cabinet Secretary urging Cabinet to move with dispatch to ensure that a new panel would be appointed in good time to take office on May 17”.

And the Contractor-General added that “Despite further written and oral representations which were directed by me to the Cabinet through the Office of the Cabinet Secretary, May 17 has come and gone and we are now almost mid-way through the month of June, yet there is still no new NCC panel in place.”

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“His Excellency, The Governor General, Professor Kenneth Hall, was also comprehensively briefed by me in writing on March 10 and the matter raised by me again, on April 3, in a meeting which I had requested with him”, Mr. Christie said. He noted, however, that the Governor General is unable to act until and unless he receives the relevant NCC member designations, inclusive of the five which are due from the Cabinet.

So far, only one member of the panel, Ms. Shirley Tyndall, has been appointed by His Excellency. Ms. Tyndall’s appointment, as the new Chair of the NCC, took effect on May 17.

Mr. Christie laments that, in the interim, and pending the naming and appointment of the remaining 7 members of the panel, the critical and important work of the NCC will continue to go un-addressed.

“This will result in significant cost and efficiency implications, not just for the country's public sector procurement process but also for several private sector contractors. In the final analysis, the tax-payers of the country will be made to pay. It

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is indeed ironic and disturbing that these are the very circumstances which the NCC itself was established to prevent”, he said.

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