



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

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October 30, 2006

TO: The Cabinet Secretary, the Financial Secretary and all Permanent Secretaries
All Accounting and Principal Officers of Public Bodies

CC: The Most Honourable Prime Minister and Honourable Ministers of Government
The Auditor General, the Attorney General and the Solicitor General
Chair, National Contracts Commission

Re: Formal Warning of Prosecution - Need for Strict Compliance with the Requisitions of the OCG

A. General Warning of Prosecution Regarding OCG Requisitions

The Office of the Contractor General (OCG) has for years been faced with a flagrant and nonchalant disregard, by Public Bodies and Public Officers, of those of its requisitions which are issued in pursuance of the lawful discharge of its mandates under the Contractor General Act.

As a recent example, of the 191 Public Bodies which have been directly served with the OCG's July 11, 2006 Quarterly Contracts Awards (QCA) Requisition, only 81 have to date responded by submitting their 2006 2nd Quarter QCA Reports. These Reports were due on September 15, 2006. With regard to the 2006 3rd Quarter QCA Reports, which are due on October 31, 2006, only 25 of the 191 Public Bodies have so far made the required submissions.

Formal notification of the OCG's initiative, to secure particulars of contracts which are being awarded within the \$250,000 to \$4 million value range, was first given to all Permanent Secretaries on April 10, 2006.

These alarming statistics have unequivocally confirmed what was suspected all along and what has been the subject of numerous unheeded reports and complaints by the country's successive Contractors General. The unlawful disregard for compliance with the OCG's requisitions, especially as it relates to requisitions for the supply of critical contract award data, is not only a cultural and embedded practice, it is manifestly systemic.

It is therefore now abundantly clear that the OCG is compelled to act and must do so forthrightly and dispassionately if it is to effectively discharge its several mandates under the law.

In the premises, the OCG wishes to formally notify all Public Bodies and Public Officers of the need to fully comply with the Office's requisitions, whether they are written or oral. Any Public Body or Public Officer who now fails to comply with a lawful requisition of the OCG will risk being subjected to criminal prosecution proceedings under the provisions of the Contractor General Act.



(2)

Accounting, Principal and/or other Officers of all Public Bodies should be guided by the provisions of Section 29 (a) and (b) of the Contractor General Act. Section 29 (a) and (b) provide as follows:

“29. *Every person who –*

- (a) *willfully makes any false statement to mislead or misleads or attempts to mislead a Contractor General or any other person in the execution of his functions under this Act; or*
- (b) *without lawful justification or excuse –*
 - (i) *obstructs, hinders or resists a Contractor General or any other person in the execution of his functions under this Act; or*
 - (ii) *fails to comply with any lawful requirement of a Contractor General or any other person under this Act ...*

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.”

Whenever a requisition is issued by the OCG, care should be taken in noting the deadline by which the requisition must be complied with. If you are in doubt as to what is required of you, or when it is required, please do contact us. Once the indicated deadline has passed and a Public Body has failed to fully comply with the requisition, the Accounting, Principal and/or other Officer of the delinquent Public Body will become liable to criminal prosecution for violating the provisions of Section 29.

Prosecutions of Accounting, Principal and/or other Officers of delinquent Public Bodies, when pursued under Section 29, will be initiated and directed at the discretion of the Director of Public Prosecutions, to whom all delinquent matters will be passed.

B. Specific Warning of Prosecution Regarding Submission of Quarterly Contract Award (QCA) Reports

All Public Bodies and their Accounting, Principal and other pertinent Officers are seriously urged to fully comply in a timely manner with the OCG’s Requisition, dated July 11, 2006, regarding the submission of Quarterly Contract Award (QCA) Reports.

Commencing with contracts which are awarded as of May 1, 2006, every Public Body is required to prepare, certify and submit, directly to the Contractor General, a Quarterly Contract Awards (QCA) Report of the particulars of each contract which it awards, whenever such contract is of a value of between J\$250,000 to J\$3,999,999.99.

Public Bodies are reminded that the QCA submission deadline dates for 2006 and 2007 are as follows:

- For contracts awarded in the 2nd Quarter of 2006, covering the months of May & June only: September 15, 2006;
- For contracts awarded in the 3rd Quarter of 2006, covering the months of July, August & September: October 31, 2006;



(3)

- For contracts awarded in the 4th Quarter of 2006, covering the months of October, November & December: January 31, 2007;
- For contracts awarded in the 1st Quarter of 2007, covering the months of January, February & March: April 30, 2007;
- For contracts awarded in the 2nd Quarter of 2007, covering the months of April, May & June: July 31, 2007;
- For contracts awarded in the 3rd Quarter of 2007, covering the months of July, August & September: October 31, 2007;
- For contracts awarded in the 4th Quarter of 2007, covering the months of October, November & December: January 31, 2008.

Public Bodies which have not yet submitted their 2006 2nd Quarter QCA Reports or their 2006 3rd Quarter QCA Reports, or which have submitted incomplete or inaccurate QCA Reports, are now hereby formally warned to submit the required and/or completed Reports no later than 12:00 Noon on November 30, 2006. A failure by any Public Body to meet this extended deadline will result in the matter being handed over to the Director of Public Prosecutions with a request for the appropriate criminal proceedings to be commenced to force compliance.

Copies of the OCG's QCA Requisition of July 11, 2006, the electronic QCA Report form and comprehensive instructions for completing and submitting the QCA Report, are all available for viewing or download from the OCG's website at www.ocg.gov.jm.

Any Public Body which requires clarification about the QCA Report requisition should feel free to contact the OCG in the care of its Communications Officer at 929-6460. Your enquiry will be promptly directed to the appropriate OCG Officer who will be happy to assist you.

Resorting to the imposition of the sanctions which are provided for under Section 29 of the Contractor General Act is not a course of action that the OCG is any at all desirous of taking. However, these are the sanctions which our Parliament, in its wisdom, has determined must be applied whenever Public Bodies or Public Officers ignore, or knowingly refuse or fail to submit to, the requisitions of the OCG.

The Office of the Contractor General therefore trusts that it will receive your full co-operation in this matter as it strives, itself, to discharge its own responsibilities and obligations under the law.

Very respectfully yours,

Greg Christie (Signed)

Greg Christie
Contractor General

Copy: Mr. Kent Pantry, QC, CD, Director of Public Prosecutions