



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

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## **MEDIA RELEASE**

### **CONTRACTOR GENERAL ANNOUNCES IMPLEMENTATION OF NEW INITIATIVE TO ENSURE ENHANCED COMPLIANCE WITH GOVERNMENT PROCUREMENT RULES**

**Kingston, May 20, 2008** – Contractor General, Greg Christie, has announced that his Office is now ready to embark upon the second phase of its Quarterly Contracts Awards (QCA) Report Regime to ensure that Public Bodies will comply with applicable Government Procurement Procedures in their awarding of Government contracts.

In a Letter of Notification which was dated May 16, 2008, and which was directed to the Cabinet Secretary, the Financial Secretary and all Accounting and/or Principal Officers of the country's 190 Procuring Public Bodies, the Contractor General advised that effective with 2008 3rd Quarter QCA Reports, the OCG will begin to conduct formal compliance assessments on all QCA reports which are submitted to it by Public Bodies.

Mr. Christie said that the new initiative will see the OCG utilizing a comprehensive suite of computer-aided assessment criteria, and techniques, to grade each Public Body's QCA Report. Allocated grades will depend upon the level of compliance, with the procurement procedures, that the assessment has revealed.

Following each assessment and grading exercise, certain formal remedial actions will then be implemented by the OCG to ensure that any non-compliant Public Body will become compliant.

Actions against a non-complaint Public Body will include the issue of a warning letter, enhanced scrutiny



of its procurement practices, the conduct of a compliance audit and/or the launch of a formal investigation into its procurement practices. Depending upon the gravity of any breaches which are identified, the OCG will also issue formal notifications of the matter to the portfolio Permanent Secretary, the portfolio Minister of Government, the Financial Secretary, the Auditor General and/or the Public Administration and Appropriations Committee of Parliament.

Instances of irregular procurement practices, which the Contractor General has advised may lead to any of the foregoing actions will include:

- (a) Contract awards to contractors who are not duly registered with the NCC;
- (b) A failure to utilize the appropriate tender methodologies and/or to secure the requisite approvals for contracts which fall within certain value bands;
- (c) A failure to obtain the requisite NCC approval for sole source procurements that are at or above the prescribed threshold limit (currently J\$1 Million);
- (d) A failure to request the required number of quotations for limited or selective tendering;
- (e) The award of a contract without obtaining the approval of the Agency's Procurement Committee;
- (f) Awarding a significant number of contracts to the same contractor without competition.

In his Letter of Notification, Mr. Christie also warned that Public Bodies should be mindful of the fact that efforts are reportedly under way to promulgate legislation which will criminalize certain breaches of the Government Procurement Procedures and Guidelines.

In the circumstances, "the OCG wishes to use this opportunity to respectfully encourage those Public Bodies which have not yet done so, to proceed with dispatch to establish effective procurement monitoring and due diligence mechanisms. Accounting and Accountable Officers should be proactive in this regard so as to ensure that all relevant procurements are executed in full compliance with applicable Government Procurement Procedures and Guidelines", the Contractor General cautioned in his letter.

The full text of the Contractor General's Letter of Notification is reproduced below as follows:



“May 16, 2008

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

CC: The Honourable Prime Minister and Honourable Ministers of Government  
The Chair of the Public Administration and Appropriations Committee of Parliament  
The Chair of the Public Accounts Committee of Parliament  
The Auditor General, the Attorney General, the Solicitor General and the Director of Public Prosecutions  
The Chair, National Contracts Commission

**Re: Notice of Implementation of 2nd Phase of the OCG’s Quarterly Contract Awards (QCA) Report Regime Initiative**

**BACKGROUND TO QCA INITIATIVE**

As you are aware, Section 4 (1) of the Contractor General Act mandates a Contractor-General to monitor the award and implementation of Government contracts, with a view, *inter alia*, to ensuring that such contracts are awarded impartially and on merit, and in circumstances which do not involve impropriety or irregularity.

In furtherance of its mandate, the Office of the Contractor General (OCG), on July 11, 2006, issued a formal Requisition to over 190 Procuring Public Bodies to submit to the OCG, Quarterly Contract Award (QCA) Reports of the particulars of contracts which they have awarded, which are within the value band of J\$250,000 to J\$3,999,999.99.

QCA Reports are required to be submitted to the OCG, in arrears and in approved hard and electronic copy formats, within 30 days of the ending of each calendar quarter. The OCG’s QCA Report Regime was implemented retroactively to May 1, 2006. It has, therefore, been in full operation for two (2) years.

**STRATEGIC OBJECTIVES OF QCA INITIATIVE**

Among the strategic objectives which the OCG had indicated that it would have realized from its Initiative, were the following:

- (1) A practical, efficient, fool-proof and cost-effective mechanism to enable Procuring Public Bodies to routinely record and report, to the OCG, the material particulars of every Government contract award of J\$250,000 to J\$3,999,999.99, in value, so that same will be capable of being independently evaluated and scrutinized. (It should be noted that the OCG has long had the capacity to collate and to evaluate the material particulars of NCC endorsed recommendations for the award of Government contracts of J\$4 Million and over, in value).
- (2) The publication of the QCA reported data on the OCG’s official website. The objective here was (a) to secure maximum publicity and transparency of the relevant contract award particulars, (b) to deter any possible inclinations on the part of Public Bodies to deviate from, or to circumvent, the established procurement procedures and, (c) to discourage the introduction of elements of corruption and impropriety in the Government contract award process.
- (3) The ability to identify and to monitor certain trends in the public sector procurement process and to prepare and publish special reports thereon.
- (4) The capacity to reliably conduct computer-aided analyses of QCA Report data. The key expected deliverable here was the ability to intelligently inform the OCG’s contract monitoring and investigation activities and to assist it to identify, among other things, instances of (a) non-compliance on the part of Public Bodies with the established Government Procurement Procedures and Guidelines and, (b) any suspected tender or contract award irregularities.



### QCA STRATEGIC OBJECTIVES NOW SUBSTANTIALLY ATTAINED

I am now happy to report that the OCG has substantially attained all of the afore-stated objectives. This is evidenced, in part, by the fact that the great majority of the country's 190 Procuring Public Bodies are currently submitting their QCA Reports within the prescribed time-lines. In point of fact, the compliance rate for the on-time submission of QCA Reports has grown from 13% for the 2006 3<sup>RD</sup> Quarter to 92% for the 2008 1<sup>ST</sup> Quarter.

Additionally, any member of the public can now freely view, on the OCG's website, electronic copies of the actual QCA Reports which have been filed by the country's Public Bodies. More than 1,200 QCA Reports are currently available for scrutiny on the website. They detail the key particulars of virtually every reported Government contract which has been awarded between May 1, 2006 and March 31, 2008, within the value band of J\$250,000 to J\$3,999,999.99. The OCG's website is continuously updated with new information whenever new QCA Reports are filed with the OCG and are approved for upload. In addition, NCC contract endorsements of J\$4 Million in value, and above, going back to June 2000, can also now be examined on the OCG's website. All this has brought an unprecedented level of transparency to the material particulars of Government contract awards.

Finally, and effective with its 2007 Annual Report which will shortly be submitted to Parliament, the OCG will begin to publish a summary of the critical data and trends which it has elucidated from QCA Reports. In the future, similar and other specialized reports will be published periodically by the OCG.

The OCG feels obliged to express its sincere appreciation to you and to your Procurement Officers and other support staff. Your efforts and endeavors to cooperate with the OCG in the discharge of its functions, and to ensure that a higher level of compliance with the Government's Procurement Procedures and Guidelines is achieved, must be acknowledged and commended.

### IMPLEMENTATION OF SECOND PHASE OF QCA INITIATIVE

Now that the QCA Reporting process is firmly established, the OCG wishes to formally announce that it is ready to embark upon the second phase of the Initiative. This new phase of the QCA Report Regime Initiative will involve a systematic and comprehensive assessment of the contract award particulars which are routinely reported by Public Bodies in their QCA Reports. In short, the OCG is now ready to execute its newly developed capacity which is referenced in item #4 above.

Effective with all 2008 3<sup>rd</sup> Quarter Reports, the OCG will begin to conduct formal compliance assessments on QCA submissions. These assessments will be structured to identify and to measure specific areas of non-compliance with applicable procurement procedures, and then to work with non-compliant Public Bodies to ensure that they become compliant.

Essentially, the OCG will utilize a comprehensive suite of computer-aided assessment criteria, and techniques, to grade each Public Body's QCA Report in one of four categories, namely Level 1 through Level 4. Allocated grades will depend upon the level of compliance, with the procurement procedures, that the assessment has revealed. Following each assessment and grading exercise, certain formal remedial actions will then be undertaken by the OCG. Initially, they will be as follows:

#### Level 1

A compliance grade of between 96% and 100% will be regarded as acceptable and no further action will be taken.

#### Level 2

A compliance grade of between 70% and 95% will trigger the issue of an OCG Letter of Warning to the affected Public Body. The Letter of Warning will highlight the areas of non-compliance that have been identified. The Public Body will also be placed on an OCG "Watch-List". In essence, this means that the OCG will take a keen interest in the Agency's procurement activities during the next QCA reporting period and, in particular, the areas in which the breaches were identified.

#### Level 3

A compliance grade of between 60% and 69% will be treated as being indicative of an unacceptable level of procedural breaches. This will warrant a formal OCG integrity audit of the Public Body's procurement practices over a specified period of time.

#### Level 4

A compliance grade of under 60% will be treated as evidence of a systemic, serious, fundamental, critical and/or substantial failure on the part of the offending Public Body to comply with the GPPH. Any such grade will automatically give rise to the



launch of a formal Investigation by the OCG into the procurement practices of the Public Body.

All Level 2, 3 and 4 assessments will be notified in writing to the relevant Permanent Secretary who is vested with portfolio responsibility for the non-compliant Public Body. Level 3 and 4 assessments will also be reported to the Financial Secretary and to the Minister with portfolio responsibility for the subject Public Body.

Additionally, all Level 4 assessments will be formally reported to the Auditor General and, more importantly, to the Public Administration and Appropriations Committee of Parliament (PAAC). It is expected that these State authorities, in due course, and at their discretion, will conduct their own enquires into the activities of any of the offending Agencies.

In this regard, I must record that I have already appeared before the PAAC, at its request, to explore ways in which the Commission of the Contractor General can work and collaborate with Parliament to develop effective monitoring and enforcement mechanisms which are aimed at securing enhanced levels of probity and accountability in public expenditure.

Instances of non-compliance and/or irregular procurement practices, which may lead to one or more of the above-mentioned actions, will include:

- (a) Contract awards to contractors who are not duly registered with the NCC;
- (b) A failure to utilize the appropriate tender methodologies and/or to secure the requisite approvals for contracts which fall within certain value bands;
- (c) A failure to obtain the requisite NCC approval for sole source procurements that are at or above the prescribed threshold limit (currently J\$1 Million);
- (d) A failure to request the required number of quotations for limited or selective tendering;
- (e) The award of a contract without obtaining the approval of the Agency's Procurement Committee;
- (f) Awarding a significant number of contracts to the same contractor without competition.

Public Bodies should also be mindful of the fact that efforts are reportedly under way to promulgate legislation which will criminalize certain breaches of the Government Procurement Procedures and Guidelines.

Having regard to all of the afore-mentioned, the OCG wishes to use this opportunity to respectfully encourage those Public Bodies which have not yet done so, to proceed with dispatch to establish effective procurement monitoring and due diligence mechanisms. Accounting and Accountable Officers should be proactive in this regard so as to ensure that all relevant procurements are executed in full compliance with applicable Government Procurement Procedures and Guidelines.

On behalf of the OCG and myself, I ask that you accept my sincere gratitude for your anticipated co-operation in this matter as the OCG strives, itself, to diligently discharge its own responsibilities and obligations under the law.

Respectfully yours,

Greg Christie (Signed)

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Greg Christie  
Contractor General"

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