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MEDIA RELEASE

OFFICE OF THE CONTRACTOR-GENERAL EXPRESSES CONCERN REGARDING GOVERNMENT'S DISREGARD FOR ITS CONSIDERED RECOMMENDATIONS AND FINDINGS – ANXIOUSLY AWAITS IMPOSITION OF CRIMINAL SANCTIONS

Kingston, November 26, 2007 – The Office of the Contractor General (OCG) has for years called for the imposition of criminal and other sanctions for breaches of the Government Procurement Rules. The OCG shares the Honourable Prime Minister's inferred view that not complying with the Government Procurement Procedures and Guidelines has become "... much too easy, too risk-free".

The deliberate ease with which these Rules have been ignored by Public Bodies and Senior Public Officials has been particularly evident throughout the recent procurement for a new Government Employees' Administrative Services Only (GEASO) Health Insurance Scheme contract.

In so far as this specific procurement is concerned, the Government of Jamaica, as represented by both its immediate past and present administrations, has demonstrated a disturbing disregard not just for its own Procurement Rules but also for the National Contracts Commission (NCC), the OCG, and the contract award principles which are enshrined in Section 4 (1) (a) of the Contractor General Act.

Previously, since 1995, the GEASO contract has been repeatedly awarded each year by the Government on an uncompetitive basis and, on each such occasion, the award was made to one carrier, namely Blue Cross of Jamaica. These annual awards of the GEASO contract to Blue Cross of Jamaica were made in undisputed violation of the Contractor General Act and the Government's own Procurement Rules.



As regards the current GEASO contract award procurement, which was commenced in earnest in 2006, it is particularly instructive to note that the Government, inclusive of the present administration, has ignored the reasoned positions, findings and recommendations of the NCC and the OCG. Some of the findings of the OCG which have been disregarded include the following:

1. That the former Ministry of Finance's recommendation to award the new GEASO contract to Life of Jamaica Limited (LOJ), and the NCC's endorsement of that recommendation in May 2007, were meritorious, proper and rule compliant and, therefore, should not be disturbed.
2. That the June/July 2007 decision of the former administration to establish a Special Committee, comprising members of the GEASO Monitoring Committee and others, to review the recommendation, was improper and irregular and constituted a grave violation of the Procurement Rules and the Contractor General Act. It is material to note that the illegality of the involvement of the GEASO Monitoring Committee in the tender evaluation process was conceded in writing by the Financial Secretary from as early as February 8, 2006, with the full knowledge and the tacit consent of the then Minister of Finance, the Cabinet Secretary and the Solicitor General.
3. That the reason which was advanced by the former administration for establishing the Special Review Committee, namely that the tender evaluation process was 'flawed', was groundless and incapable of any credible substantiation.
4. That the directive of the present administration for the Special Committee to complete its review, despite the urgings of the OCG to the contrary, was equally improper and irregular and constituted a grave violation of the Procurement Rules and the Contractor General Act.

These positions, findings and recommendations, among others, are now extensively documented and credibly substantiated, in (a) an official 81 page OCG Report which was tabled in the House of Representatives on October 23, 2007 and in the Senate on November 9, 2007, and (b) a letter which was written by the Contractor General to the Prime Minister, the Honourable Bruce Golding, on November 9, 2007. In the interest of public transparency, the full contents of the OCG's Report have been published on the OCG's website at www.ocg.gov.jm.



It is the considered view of the OCG that the actions of the Government in the GEASO matter have significantly undermined the integrity and the effective enforcement capacity of the NCC and the OCG.

Since these two (2) institutions are the sole independent Commissions which have been established by our nation's Parliament to ensure probity, competition, merit, impartiality and transparency in the Government's awarding of contracts, the critical question which now arises for answer is in what circumstances will the Government choose not to be guided by the substantiated findings and recommendations of the NCC and the OCG and, by extension, by the Rule of Law.

Will the Government ignore the NCC, the OCG, its own Procurement Rules and/or the Contractor General Act when it is expedient to do so? This is a matter which must be urgently and effectively addressed.

Until it is, there is little that the OCG can do but to let its voice be heard and to anxiously await the legislation of criminal and other sanctions for breaches of the Government Procurement Rules. In the latter regard, the OCG will continue to remain optimistic given the efforts that are already underway to deliver on the promise which was made by the Honourable Prime Minister, Mr. Bruce Golding, in his Inaugural Swearing-In Address of September 11, 2007. At that time, the Prime Minister had stated thus: "... We are going to make it more difficult, more hazardous with stiff penalties for violations. We intend to impose criminal sanctions for breaches of the rules governing the award of government contracts ..."

The OCG commits that once these sanctions are legislated, the Commission of the Contractor General will be diligent and resolute, as it has been in the past, in the discharge of its statutory mandates to ensure that the interests of the People and Taxpayers of Jamaica are effectively secured and protected.

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