

## Office of the Contractor General

### Requisition for Provision of Information

Public Body Contract Awards (J\$250,000 – J\$3,999,999.99 in Value)

#### Some Justifications for the Requisition (Revised)

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All Public Bodies should have a clear understanding and appreciation of the reasons why the subject Requisition is being made. It is also important that they have an understanding of the objectives of the Requisition.

- (1) Section 4(1) of the Contractor General Act specifically mandates the Contractor General to monitor the award and implementation of Government contracts with a view to ensuring (a), that such contracts are awarded impartially and on merit (b), that the circumstances in which such contracts are awarded or terminated do not involve impropriety or irregularity and (c), that the implementation of such contracts conforms to the terms thereof.
- (2) Subject only to the resources and the assets which are at his disposal, the Contractor General is therefore obliged to ensure, as best as is practicable in the given circumstances, that the public sector procurement process delivers value to the tax-payer, is merit based, is free from corruption, impropriety and irregularity, is transparent, impartial, competitive, fair, efficient and effective, and is conducted in compliance with existing Government Procurement Procedures.
- (3) Consistent with the foregoing mandate, a number of attempts have been made in the past to secure from Public Bodies, particulars which relate to the contracts which they have awarded which are below the value of \$4 million. (Contracts of \$4 million and over, in value, are currently subject to mandatory review and endorsement by the National Contracts Commission). Additionally, the Contractor General has recently tried to engage the Government to constructively address this issue. However, for a variety of reasons, these efforts have so far failed to bear any meaningful fruit in the hands of the Office of the Contractor General (OCG).
- (4) In the interim, and while recommendations for Government contract awards of a value of \$4 million and above are subjected to extensive scrutiny and independent review by the National Contracts Commission (NCC) and the OCG, the process which involves the award of contracts with a value of \$3,999,999.99 and below, continues to be presided over by the Government Ministry and/or Public Body which eventually awards the contract.
- (5) The further continuation of this circumstance is unacceptable to the OCG for several reasons.
  - (a) One is that, except for the general accounting audits of the affairs of Public Sector agencies which are conducted by the Auditor General, there is no independent scrutiny of a routine, methodical or comprehensive nature of these contract awards.
  - (b) Second, no one, inclusive of the Contractor General, knows whether the Public Bodies who are awarding these contracts are doing so in a manner which is fully consistent with the public sector procurement process ideals which have been outlined above.

- (c) Third, the contract award process for these contracts lacks transparency.
- (d) Fourth, and as a consequence, the public's perception of corruption in the Public Sector procurement process, to the extent that that perception exists and to the extent that it relates to this grouping of contracts, will understandably persist so long as the situation remains un-addressed.
- (6) Such a situation is neither in the interest of the State, the public, the tax-payer, the Government or Public Bodies themselves. It is untenable and it requires urgent and effective corrective action. Indeed, there is a very persuasive argument to be made that remedial action in this matter has been long overdue.
- (7) Furthermore, it is vitally imperative that practical and effective mechanisms are developed to enhance the level of compliance with, and behavioural discipline towards, Government's Procurement Procedures right across the entire Public Sector procurement spectrum.
- (8) Currently, no one knows exactly how many contracts in the sub \$4 million category are being awarded annually by Public Bodies. It is reasonable to assume that the number is in the thousands. If this is indeed the case, it is a load which the NCC, its Sector Committees and the OCG would be clearly unable to bear, given their present review regimes and their pre-existing structural and resource constraints.
- (9) In lieu thereof, and as a consequence, it is evident that an alternate but effective scrutinizing mechanism must be urgently found to deal with contracts which are below the \$4 million threshold.
- (10) It is against this backdrop, therefore, that the subject Requisition is now being made.
- (11) By no measure will it constitute a panacea nor is it intended to be a panacea. However, if it is fully complied with, then taken together with the existing NCC/OCG review regime for contracts of a value of \$4 million and above, the State would have finally established a practicable mechanism which would ensure that every contract award of a value of \$250,000 and above would be capable of being independently scrutinized ... even if some are to be scrutinized after the fact.
- (12) This unprecedented level of scrutiny would be achieved in a number of ways. Consistent with its newly crafted strategic plans, the OCG, upon its regular receipt of the subject QCA Reports, and assuming its receipt of additional resources from the State, would now be positioned to do the following:
- (a) Conduct specialized analyses of the QCA Reports to intelligently inform its contract monitoring and investigation activities and to assist it in identifying the following:
- instances of non-compliance with established Government Procurement Procedures;
  - suspected tender and contract award irregularities;
  - instances of so called "contract splintering";
  - multiple contract awards to the same contractor;
- (b) Publish the data which is received on the OCG's official website. The objective here would be to secure optimum publicity of the contract award particulars to all stakeholders, inclusive of the media, the public at large, competing contractors and of course the Government itself.

This, in turn, would:

- secure maximum transparency as it relates to certain key particulars of each contract award;
  - serve as a deterrent to those who would be inclined to deviate from, or circumvent, the established Government Procurement Procedures;
  - serve as a deterrent to those who would be inclined to introduce elements of corruption, impropriety and even inefficiency in the process of Government contract awards;
- (c) Monitor and identify certain trends in the public sector procurement and contract award process and prepare and publish special reports which are related thereto.
- (d) Determine and publish the aggregate values of contracts which are awarded in the J\$250,000 to J\$3,999,999.99 range.

(13) Special provision has been made for what has been alluded to in the Requisition as a “grace period”. The sole objective of the “grace period” is to ensure that all Public Bodies are afforded adequate time in which to establish the requisite internal reporting systems and due diligence procedures to assure their compliance with the Requisition.

(14) The “grace period” does not in any way detract from the fact that May 1, 2006 remains the date from which all contracts of a value of between \$250,000 and \$3,999,999.99 will be formally brought within the purview of the Requisition.

In light of the foregoing, the OCG trusts that it can anticipate the full and unconditional support of all Public Bodies in complying with the Requisition.

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Greg Christie  
Contractor General

July 11, 2006