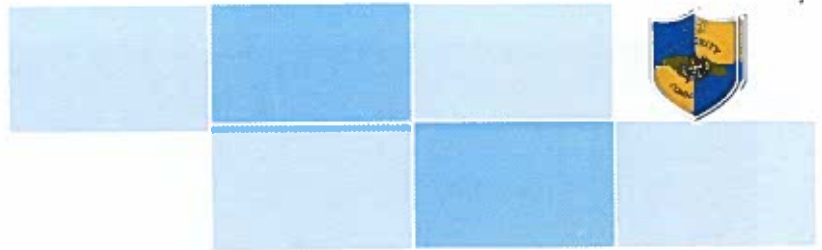




## **Report of Investigation**

**Concerning Allegations of Favouritism, Conflict of Interest, Impropriety and Irregularity in the award of a contract by the National Works Agency (NWA) under the East Portland Special Mitigation Programme, 2017**

**Integrity Commission March 2021**



This Publication until tabled in Parliament shall be confidential.

Sections 55 (4) and (5) of the Integrity Commission Act states:

"(4) Anything said or information supplied or any document or thing produced by any person for the purpose or in the course of any investigation by or proceedings before the Commission under this Act, shall be absolutely privileged in the same manner as if the investigation or proceedings were proceedings in a court of law.

(5) For the purposes of the Defamation Act, any report made by the Commission under this Act and any fair and accurate comment thereon shall be deemed to be privileged."

Section 56 of the Integrity Commission Act states:

"Subject to section 42(3)(b), every person having an official duty under this Act, or being employed or otherwise concerned in the administration of this Act (hereinafter called a concerned person) shall regard and deal with as secret and confidential, all information, statutory declarations, government contracts, prescribed licences and all other matters relating to any matter before the Commission, except that no disclosure made by the Commission or other concerned person in the proceedings for an offence under this Act or under the Perjury Act, by virtue of section 17(2) of that Act, shall be deemed inconsistent with any duty imposed by this subsection.

(2) The obligation as to secrecy and confidentiality imposed by this section, in relation to any documents, or information obtained under this Act continues to apply to a person despite the person having ceased to have an official duty, be employed or otherwise concerned in the administration of this Act.

(3) Every concerned person who is required under subsection (1) to deal with matters specified therein as secret and confidential who at any time communicates or attempts to communicate any such information, declaration, letter and other document or thing referred to in subsection (1) disclosed to him in the execution of any of the provisions of this Act to any person —

- (a) other than a person to whom he is authorized under this Act to communicate it; or
- (b) otherwise than for the purpose of this Act,

commits an offence and shall be liable on summary conviction in a Parish Court to a fine not exceeding one million dollars or to a term of imprisonment not exceeding one year.

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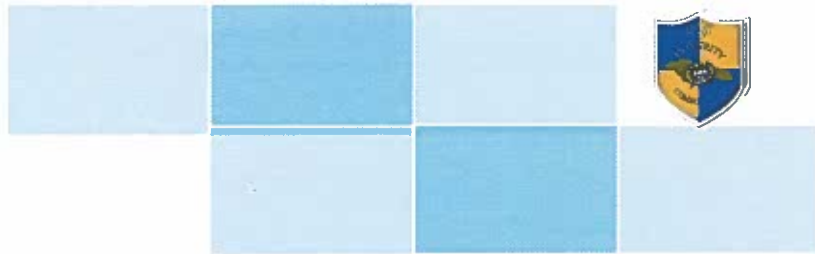
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## Summary of Investigation

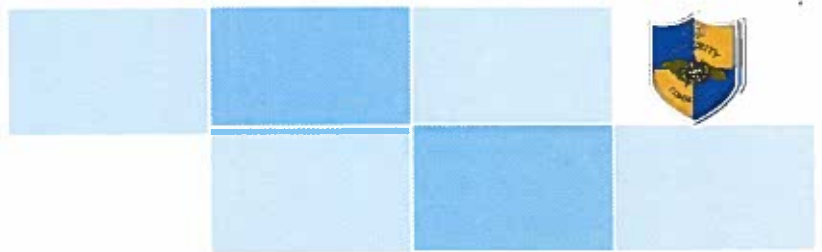
- 1.1 This investigation concerns allegations of favouritism, conflict of interest, impropriety and irregularity in the award of a contract under the East Portland Special Mitigation Programme. The referenced contract was awarded by the National Works Agency (NWA) between July and August 2017.
- 1.2 The decision of the OCG to commence the referenced investigation was prompted by an anonymous complaint dated September 21, 2017, which contained the following allegations:
  - 1.2.1 That some labourers were not compensated for the bushing and drain cleaning work executed under the referenced contract; and
  - 1.2.2 That the main contractor, identified as 'Peggy Aiken' was overseas at the time and was the personal accountant of the Member of Parliament for the constituency of Portland Eastern, Dr. Lynvale Bloomfield (deceased).
- 1.3 The aforementioned allegations and inferences raised several concerns for the Contractor General's Office, regarding the allegations of favoritism, conflict of interest, impropriety and irregularity in the recommendation and



award of the contract and whether the procurement processes employed by the NWA breached any applicable legislation, rules and/or regulations.

#### 1.4 Summary of Key Findings

- 1.4.1 Dr. Lynvale Bloomfield confirmed that he recommended Mrs. Peggy Aiken to the National Works Agency for the award of a government contract and indicated that same was made via a telephone call with an NWA supervisor in July 2017.
- 1.4.2 Mr. Everton Hunter, Chief Executive Officer, National Works Agency (NWA) confirmed that the National Works Agency awarded a contract for de-bushing and drain cleaning work in the amount of Nine Hundred and Ninety Nine Thousand Five Hundred and Thirty Dollars (\$999,530.00) to Mrs. Peggy Aiken on July 28, 2017 under the Summer 2017 Special Mitigation Programme in East Portland.
- 1.4.3 Mr. Hunter also confirmed that the contract was awarded to Mrs. Aiken on the basis of the recommendation provided by the then Member of Parliament for Portland Eastern, Dr. Lynvale Bloomfield.
- 1.4.4 The NWA utilized the Direct Contracting procurement methodology for the award of the referenced contract to Mrs. Aiken.



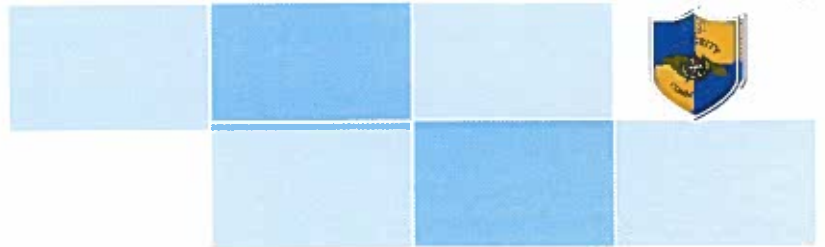
- 1.4.5 As the Implementing Agency, the NWA was responsible for monitoring and execution of the works as specified in the contract, verifying completion and facilitating payment to the contractor.
- 1.4.6 The referenced contract contained the following description of works, *"...cut away and remove from both sides of roadway all undergrowth, roots silt and debris, cut back overhanging trees to create a minimum overhead clearance of 3.3 meter above finish road surface and dispose of all debris at an approved dump site.."* to be executed at the following locations: *"Muirton to Ecclesdown, Muirton to Fair Prospect, Fair Prospect to Folly, Fellowship to Berrydale"*.
- 1.4.7 In response to inquiries regarding the nature of his relationship with Mrs. Aiken, Dr. Bloomfield stated that Mrs. Peggy Aiken had been his personal accountant since 2010.
- 1.4.8 Mrs. Aiken confirmed the existence of a longstanding professional relationship, and advised that she had been performing accounting services for Dr. Bloomfield's business from 2010 up to the date of her response to the OCG's requisition, dated May 22, 2018.
- 1.4.9 The DI is in possession of an Invoice dated August 18, 2017, addressed to the Port Antonio Office of the NWA under the letterhead of one



Peggy Aiken, in the amount of \$999,530.00 for work executed pursuant to the referenced contract.

1.4.10 On August 22, 2017, Mrs. Peggy Aiken requested an early payment of monies due under the referenced contract, in a letter addressed to the Director of Finance at the NWA. In the said letter, Mrs. Aiken based her request for an expedited payment on the grounds that labourers were to be paid from the contract sum and she intended to leave the island on September 6, 2017.

1.4.11 Mrs. Aiken also provided a copy of a cheque receipt book entry from the Portland Office of the NWA and indicated to the OCG that she collected a cheque bearing the following details: "NCB # 0099422" endorsed in the name of 'Peggy Aiken', for the amount of \$979,539.40 on September 22, 2017.



## Chapter 1 – Background

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2.1 This chapter sets out the background information concerning the investigation, the jurisdiction and the decision to investigate, the scope of the investigation and provides a profile of the persons pertinent to the investigation.

### Initiation of the Investigation

2.1.1 On January 22, 2018, the referenced investigation was initiated by the Office of the Contractor General (OCG), under Sections 4 and 15 of the then applicable Contractor General Act.

### Jurisdiction

2.1.2 By way of definition, Section 4(1)(a) of the then applicable Contractor General Act provided, *inter alia*, as follows:

“4- (1) Subject to the provisions of this Act, it shall be the function of a Contractor-General, on behalf of Parliament-

(a) to monitor the award and the implementation of government contracts with a view to ensuring that-

(i) such contracts are awarded impartially and on merit;



- (ii) the circumstances in which each contract is awarded or, as the case may be, terminated, do not involve impropriety or irregularity;
- (iii) without prejudice to the functions of any public body in relation to any contract, the implementation of each such contract conforms to the terms thereof; and..."

2.1.3 Further, and pursuant to Section 63 of the Integrity Commission Act, the Director of Investigation continued the investigation into the matter.

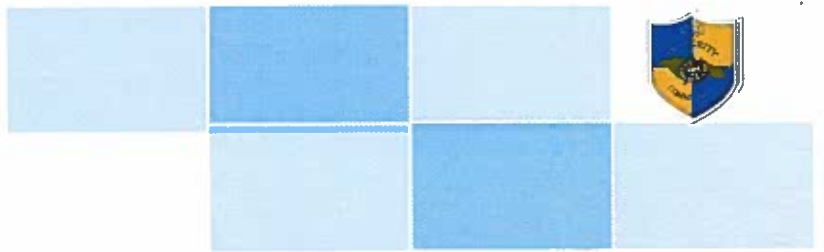
#### The Investigation

2.1.4 During the course of the investigation, the OCG and subsequently the Integrity Commission, conducted a comprehensive analysis of the sworn certified statements, supporting documents and records provided by the Respondents who were requisitioned.

#### Individuals Pertinent to the Investigation

2.1.5 The following Public Officials/Officers, former and present, were required to provide sworn written responses to formal Requisitions directed to them:

- (a) Dr. Lynvale Bloomfield, former Member of Parliament, Portland Eastern;
- (b) Mr. Everton Hunter, Chief Executive Officer, National Works Agency (NWA); and



(c) Mrs. Peggy Aiken, Contractor/Accounting Clerk.



## Chapter 2 – Terms of Reference

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3.1 This chapter sets out the scope of the investigation and the issues that were explored.

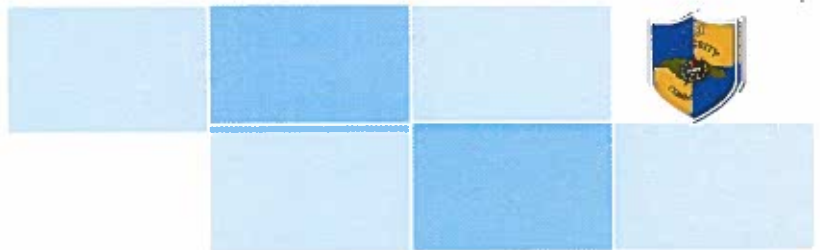
3.1.1 In conducting this investigation, the OCG sought to establish the following:

3.1.1.1 To determine the circumstances surrounding the recommendation, award and implementation of a contract to Mrs. Peggy Aiken for debushing and drain cleaning work executed under the Special Mitigation Programme for Summer 2017, implemented by the National Works Agency, in East Portland between July and August 2017;

3.1.1.2 To determine the nature of the relationship, if any, between Dr. Lynvale Bloomfield, Member of Parliament for Portland Eastern and Mrs. Peggy Aiken, Contractor;

3.1.1.3 To determine whether the alleged recommendation of Mrs. Peggy Aiken for the award of a government contract by Dr. Lynvale Bloomfield amounted to favouritism, impropriety, irregularity or a conflict of interest;

3.1.1.4 To determine whether the circumstances, which led to the award of a contract by the NWA to Mrs. Peggy Aiken under



the Special Mitigation Programme for Summer 2017, in East Portland, were in breach of the Government of Jamaica (GoJ) Public Procurement Procedures, the Public Procurement Act or any other applicable GoJ legislation or policies;

- 3.1.1.5 To determine whether recommendation(s) ought to be made to the Director of Corruption Prosecution (DCP); and
- 3.1.1.6 To determine whether recommendations ought to be made in respect of Anti-Corruption initiatives.



## Chapter 3 –Discussion of the Findings, Evidence and the Law

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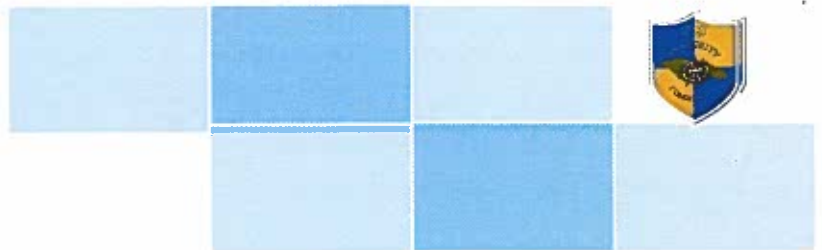
- 4.1 The chapter sets out the relevant laws, regulations and other policy directives in respect of the investigation, the evidence gathered and the discussion of the findings.

The Circumstances Surrounding the Recommendation, Award and Implementation of a Contract to Mrs. Peggy Aiken for Debushing and Drain Cleaning works executed under the Summer 2017 East Portland Special Mitigation Programme.

- 4.1.1 In light of the allegations, the OCG sought to ascertain from Mr. Everton Hunter, Chief Executive Officer, National Works Agency (NWA), the circumstances surrounding the recommendation, award and implementation of the referenced contract to Mrs. Peggy Aiken by the NWA.
- 4.1.2 Mr. Hunter confirmed that the NWA awarded a contract to Mrs. Peggy Aiken on July 28, 2017, in the amount of \$999,530.00 under the Special Mitigation Programme for Summer 2017 in Eastern Portland.<sup>1</sup>
- 4.1.3 In relation to the specific role of the NWA regarding contracts awarded under the Special Mitigation Programme for Summer 2017 in East

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<sup>1</sup> Response 1 from Mr. Everton Hunter, Chief Executive Officer, National Works Agency, dated February 8, 2018 to the OCG's Requisition dated January 26, 2018.



Portland, Mr. Hunter indicated that ***"The NWA was responsible for monitoring of the execution of the works as specified in the contract and verification of completed works to facilitate payment to the contractor upon satisfactory completion of same."***<sup>2</sup>

4.1.4 Mr. Hunter also advised the OCG that the referenced contract was for the following scope of works:

*"...the provision of labour to carry our [sic] debushing works along road sections at Muirton to Ecclesdown; Muirton to Fair Prospect; Fair Prospect to Folly; and Fellowship to Berrydale all in East Portland. The contract duration was nineteen (19) days.... The works commenced on July 31, 2017 and was completed on August 21, 2017."*<sup>3</sup>

4.1.5 In relation to the basis upon which the contract was awarded to Mrs. Aiken, Mr. Hunter stated the following:

*"The contract was awarded to Peggy Aiken under recommendation from the Member of Parliament. After which the NWA satisfied itself that the contractor was suitable to perform the works."*<sup>4</sup>

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<sup>2</sup> Response 6 from Mr. Everton Hunter, Chief Executive Officer, National Works Agency, dated February 8, 2018 to the Integrity Commission's Requisition dated January 26, 2018.

<sup>3</sup> Response 3 from Mr. Everton Hunter, Chief Executive Officer, National Works Agency, dated February 8, 2018 to the OCG's Requisition dated January 26, 2018.

<sup>4</sup> Response 1(a) from Mr. Everton Hunter, Chief Executive Officer, National Works Agency, dated May 29, 2018 to the Integrity Commission's Requisition dated May 15, 2018.



4.1.6 In furtherance of the OCG's investigation, the DI requisitioned Dr. Bloomfield on May 15, 2018 to ascertain the extent of his knowledge and/or involvement in the recommendation, award and implementation of the referenced contract.

4.1.7 Based on the foregoing, Dr. Bloomfield advised the DI, *inter alia*, that he was approached by the NWA, in his capacity as Member of Parliament, and invited to recommend a number of contractors and that "...Peggy Aiken was one of such." He further stated, *inter alia*, that the recommendation was made based on "...the contractors [sic] professional ability and capacity and track record of honesty and integrity." <sup>5</sup>

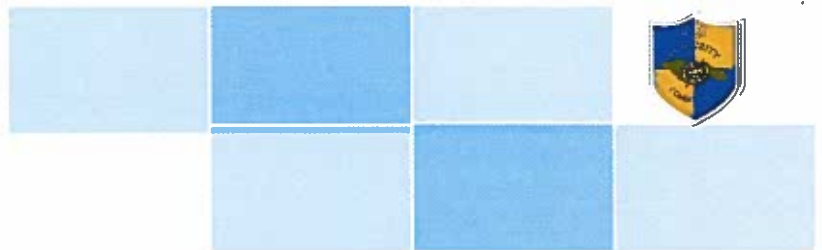
4.1.8 Dr. Bloomfield also indicated that after making the recommendation, his involvement in the contract ended and the NWA had full supervisory responsibility with respect to the referenced contract.<sup>6</sup>

4.1.9 In light of the foregoing, the DI then sought to ascertain from Mrs. Peggy Aiken, the extent of her awareness and/or involvement in the circumstances which led to the award of the contract. In this regard, Mrs. Aiken confirmed the existence of a contract between herself and the

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<sup>5</sup> Responses 1(c) and 3(d) from Dr. Lynvale Bloomfield, Member of Parliament, Portland Eastern, dated June 4, 2018 to the Integrity Commission's Requisition dated May 15, 2018.

<sup>6</sup> Responses 1(d) and 1(e) from Dr. Lynvale Bloomfield, Member of Parliament, Portland Eastern, dated June 4, 2018 to the Integrity Commission's Requisition dated May 15, 2018.



NWA for debushing and drain cleaning work in the amount of \$999,530.00, under the Special Mitigation Programme in East Portland. She confirmed that the contract was awarded on July 28, 2017 and that work commenced on July 31, 2017.<sup>7</sup>

4.1.10 Mrs. Aiken further advised the DI, *inter alia*, that there was no "...special selection process..." which led to the award of the contract to her.

*"The Member of Parliament was asked my [sic] NWA to give a list of names and I was one of them, and I was selected based on my accountability."*<sup>8</sup>

4.1.11 The DI also made inquiries regarding the allegations concerning non-payment of work executed by labourers pursuant to the said contract, as well as Mrs. Aiken's alleged departure from the island.

4.1.12 The DI is in possession of an Invoice under the letterhead of "Peggy Aiken" dated August 18, 2017, which was submitted to the Port Antonio Office of the National Works Agency in the amount of \$999,530.00.<sup>9</sup>

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<sup>7</sup> Response 1 from Mrs. Peggy Aiken, Contractor/Accounting Clerk, dated May 22, 2018 to the Integrity Commission's Requisition dated May 15, 2018.

<sup>8</sup> Response 3 from Mrs. Peggy Aiken, Contractor/Accounting Clerk, dated May 22, 2018 to the Integrity Commission's Requisition dated May 15, 2018.

<sup>9</sup> Invoice dated August 18, 2017 addressed to the National Works Agency's Port Antonio Office by Mrs. Peggy Aiken.



4.1.13 The DI notes that the referenced invoice appeared to be stamped with the inscriptions, "SERVICES SATISFACTORILY PERFORMED. INVOICE CERTIFIED FOR PAYMENT" and "APPROVED FOR PAYMENT".

4.1.14 Additionally, the DI also examined a NWA Measurement Sheet containing remarks indicating that work executed under the said contract was "100% Complete" and that payment was recommended by one Chad Cobourne and subsequently approved by one Kemar Mshana, on August 25, 2017.<sup>10</sup>

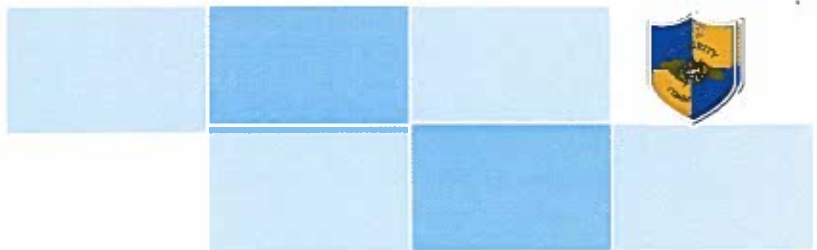
4.1.15 In relation to payments made pursuant to the contract, Mrs. Aiken advised the DI that she requested an early payment of monies due under the contract, in a letter to the NWA dated August 22, 2017. She stated, *inter alia*, that her request was made on the ground that she intended to leave the island on September 6, 2017 and that labourers were to be paid from the amount.<sup>11</sup>

4.1.16 The DI is in possession of a copy of the said letter, which bears a stamp indicating that it was received by the National Works Agency's Portland Office on August 22, 2017.

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<sup>10</sup> NWA Measurement Sheet Special Mitigation Programme (SMP) 2017 East Portland, Payment Application Number: 00

<sup>11</sup> Letter dated August 22, 2017 from Peggy Aiken to the Director of Finance and Accounts, National Works Agency.



4.1.17 A copy of Mrs. Aiken's passport was also reviewed, which confirmed that she arrived in New York, USA on September 7, 2017 and returned to Jamaica on September 22, 2017.

4.1.18 Mrs. Aiken further stated that on the date of her return to the island, she signed for and collected a cheque from the Portland Office of the NWA, which she later cashed and "...made the relevant payment to the labourers."<sup>12</sup>

4.1.19 The DI is in possession of a copy cheque receipt book entry, from the Portland Office of the NWA, which indicates that a cheque bearing the following details: "NCB # 0099422" endorsed in the name of Peggy Aiken", for the amount of \$979,539.40 appears to have been collected by one "P. Aiken" on September 22, 2017.<sup>13</sup>

4.1.20 It should be noted that the said entry bears a passport number and expiration details in the column containing the signature of the recipient, which correspond with the details of Mrs. Aiken's passport<sup>14</sup>.

4.1.21 At this juncture, the DI emphasizes that while Mrs. Aiken submitted documentary evidence substantiating her receipt of the payment from the NWA, no evidence was provided to support her assertion that she

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<sup>12</sup> Response 7 from Mrs. Peggy Aiken, Contractor/Accounting Clerk, dated May 22, 2018 to the Integrity Commission's Requisition dated May 15, 2018.

<sup>13</sup> Copy Receipt of Cheque Payment Record – Peggy Aiken dated September 22, 2017.

<sup>14</sup> Certified copy of pages 2-5 and 16-17 of Passport of Peggy Letecia Marshall-Aiken nee Minott, dated May 22, 2018.



made payment to the labourers upon her return to the island on September 22, 2017.

4.1.22 In response to the allegations concerning non-payment for work executed pursuant to the referenced contract, Dr. Bloomfield stated the following:

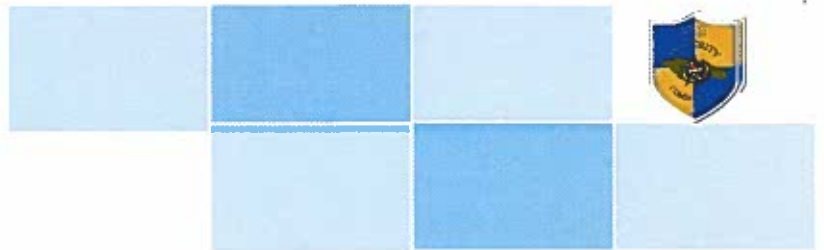
*"The allegations were made out of frustration by some person or persons with the delay by the National Works Agency in the payments being delivered to the contractor, despite a clear explanation to all concerned.*

*This is regular consistent efficiency challenge with the agency and is not unusual. It is the first time that anyone has seen it necessary to make a formal complaint or allegation as all payments have always been made (and have been made) despite agency delays and despite the advisory that this is a regular procedural occurrence." <sup>15</sup>*

4.1.23 It is instructive to note that Dr. Bloomfield did not indicate the source of his knowledge, regarding the alleged "clear explanation to all concerned", particularly within the context of his previous statement to

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<sup>15</sup> Response 6 from Dr. Lynvale Bloomfield, Member of Parliament, Portland Eastern, dated June 4, 2018 to the Integrity Commission's Requisition dated May 15, 2018.



the effect that he had “...no involvement in the contract subsequent to the recommendation.”<sup>16</sup>

4.1.24 It should also be noted that Dr. Bloomfield's indication that “...all payments have always been made (and have been made) despite agency delays...” was equally unsubstantiated by supporting documentation.

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<sup>16</sup> Response 1(e) from Dr. Lynvale Bloomfield, Member of Parliament, Portland Eastern, dated June 4, 2018 to the Integrity Commission's Requisition dated May 15, 2018.



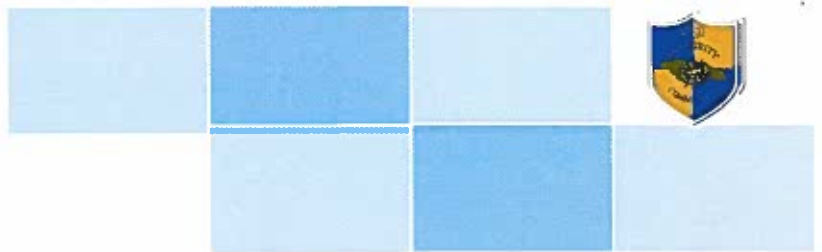
The Nature of the Relationship between Dr. Lynvale Bloomfield, Member of Parliament for Portland Eastern and Mrs. Peggy Aiken, Contractor.

- 4.3.1 In an attempt to determine the veracity of allegations that Mrs. Peggy Aiken was the personal accountant of Dr. Lynvale Bloomfield at the time of his recommendation of her to the NWA, the DI inquired of both parties, as to the nature and extent of their personal and/or professional relationship.
- 4.3.2 In his response, Dr. Bloomfield advised the DI of a professional relationship with Mrs. Aiken and confirmed that she was his accountant. He stated further that Mrs. Aiken has been employed by him since 2010 to do “...*administrative/accounting with respect to my business and files my tax returns.*”<sup>17</sup>
- 4.3.3 Further, Mrs. Aiken also provided the following information with respect to the nature of her relationship with Dr. Bloomfield, “*Dr. Lynvale Bloomfield is my member of Parliament and also my client.*” Mrs. Aiken confirmed that she has been performing accounting services for his business from 2010 to present.<sup>18</sup>

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<sup>17</sup> Response 2 from Dr. Lynvale Bloomfield, Member of Parliament, Portland Eastern, dated June 4, 2018 to the Integrity Commission's Requisition dated May 15, 2018.

<sup>18</sup> Response 4 from Mrs. Peggy Aiken, Contractor/Accounting Clerk, dated May 22, 2018 to the Integrity Commission's Requisition dated May 15, 2018.



4.3.4 It should be noted at this juncture that Mr. Everton Hunter advised the DI, *inter alia*, that “...the NWA officers responsible for supervision of the project are not aware of a relationship, professionally or otherwise between the contractor and the referenced Member of Parliament.”<sup>19</sup>

4.3.5 In light of the foregoing, the DI highlights that Dr. Bloomfield made a recommendation to the NWA, in his capacity as Member of Parliament, for the award of a government contract to Mrs. Aiken, who was employed as his accountant at the material time.

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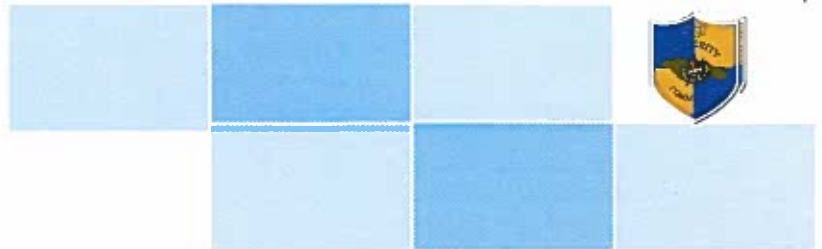
<sup>19</sup> Response 1 from Mr. Everton Hunter, Chief Executive Officer, National Works Agency, dated February 8, 2018 to the Integrity Commission's Requisition dated January 26, 2018.



The Propriety of Dr. Lynvale Bloomfield's Recommendation of Mrs. Peggy Aiken for the award of a Government Contract.

- 4.4.1 In light of findings which indicate that a longstanding professional relationship existed between Dr. Bloomfield and Mrs. Aiken at the time that he recommended her for the award of a government contract, the DI considers it prudent to examine whether the circumstances created a conflict of interest or amounted to favouritism or irregularity.
- 4.4.2 Based on the foregoing, the DI makes reference to Section 4.2 of the GoJ Handbook of Public Procurement Procedures Volume 1 (GPPPH, 2014) which details the standard to which public officers/officials are held in relation to issues regarding conflicts of interest.
- 4.4.3 The referenced section of the GoJ Handbook of Public Procurement Procedures Volume 1 (GPPPH, 2014) requires personnel involved in the procurement process to be free from interests or relationships that are actually or potentially detrimental to the best interests of the Government, and that said personnel should not participate in any transaction involving any entity in which they have even minor interests. The section further states,

*"...It is the duty of all staff and any other Public Officers and officials directly or indirectly involved in the procurement process... to declare any potential conflicts of interest.*



***A conflict of interest will arise when the individual has a direct or indirect relationship with a contractor, which may affect or might reasonably be deemed by others, to affect impartiality on any matter related to his/her duties.*"<sup>20</sup> (DI Emphasis)**

4.4.4 In the instant case, the established professional relationship between Dr. Lynvale Bloomfield and Mrs. Peggy Aiken constitutes a direct relationship with a contractor.

4.4.5 In light of the foregoing circumstances, this relationship is one which may reasonably be deemed by others to affect Dr. Bloomfield's impartiality in the recommendation of contractors for the award of government contracts.

4.4.6 The referenced section further requires that a Public Officer "...shall declare any relationship with a Bidder, contractor or consultant **and shall take no part in either the decision-making process or the implementation of any contract** where such a relationship exists." (DI Emphasis)

4.4.7 By virtue of the referenced section, the duty imposed on Dr. Bloomfield extended further than the obligation to declare an actual or potential conflict of interest. The section also requires that he refrain from taking

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<sup>20</sup> Section 4.2.1, Government of Jamaica Handbook of Public Procurement Procedures, Volume 1, March 2014.



part in either the decision making process or the implementation of the referenced contract.

4.4.8 It should be noted that the DI has seen no documentary evidence to indicate that either of the aforementioned obligations were discharged on the part of Dr. Lynvale Bloomfield, as required by Section 4.2 of the GPPH, 2014.

4.4.9 In relation to Dr. Bloomfield's recommendation of Mrs. Peggy Aiken, the DI also deems it necessary to define the following term:

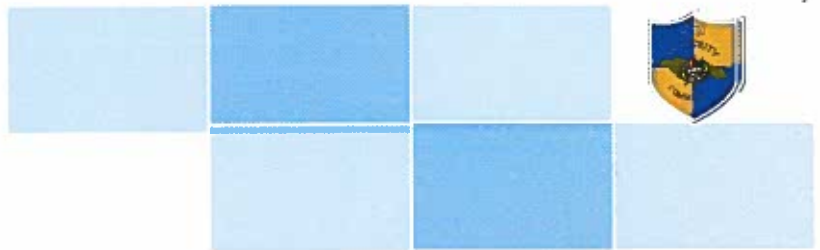
(a) favoritism refers to a "...preference or selection, usually [of] individuals, based on factors other than merit."<sup>21</sup>

4.4.10 The DI highlights that neither Dr. Bloomfield nor the NWA, submitted any information which indicated the use of any objective evaluation process in the selection of Mrs. Aiken for the execution of the referenced contract.

4.4.11 Notwithstanding the foregoing, Mrs. Aiken advised the DI that she was selected based on her "...accountability".

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<sup>21</sup> Black's Law Dictionary, Ninth Edition. Thompson Reuters 2009.



The Utilization of the Direct Contracting Procurement Methodology which led to the award of a Contract to Mrs. Peggy Aiken, by the NWA, under the Special Mitigation Programme for Summer 2017, in East Portland.

4.5.1 In an attempt to determine the procurement methodology employed by the Implementing Agency in the award of the contract to Mrs. Peggy Aiken, the OCG approached Mr. Everton Hunter, who provided the following responses:

***"...the award was made via Direct Contracting based on the value of the allocation."***

*"The work to be executed was labour intensive and as such required local input in the selection of labour from the respective community in which the works are to be executed. There was no requirement for advertisement or issuing of tender documents for the implementation of the works."*<sup>22</sup>

4.5.2 Mr. Hunter further stated, *inter alia*, that because the works were implemented using the Direct Contracting methodology, no evaluation process was undertaken by the NWA and ***"...only one contractor was nominated..."***<sup>23</sup>

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<sup>22</sup> Responses 5(c) and 9 from Mr. Everton Hunter, Chief Executive Officer, National Works Agency, dated February 8, 2018 to the OCG's Requisition dated January 26, 2018.

<sup>23</sup> Response 11 from Mr. Everton Hunter, Chief Executive Officer, National Works Agency, dated February 8, 2018 to the OCG's Requisition dated January 26, 2018.



4.5.3 As it relates to the utilization of the Direct Contracting methodology, the DI wishes to highlight the Ministry of Finance and the Public Service Circular No: 27 dated September 28, 2016 which reflects an increase in the procurement contract approval limits. In this regard, the referenced Circular indicates that contracts for works with a maximum of JMD\$2,000,000.00 required prior approval of the Head of Procuring Entity only.<sup>24</sup>

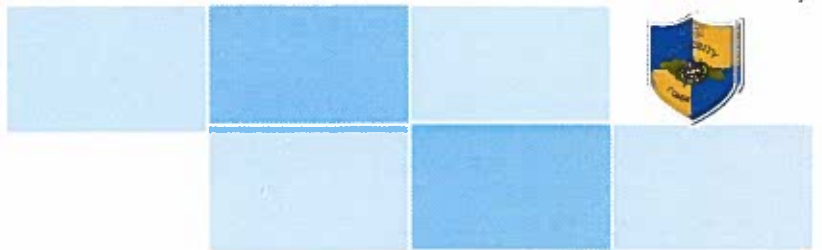
4.5.4 The DI also noted the response of Mr. Hunter, CEO of the Procuring Entity, in which he indicated that the award of the contract to Mrs. Peggy Aiken was “...a standard operating procedure for works of this nature within the prescribed limit of Direct Contracting for works below \$2Million.”<sup>25</sup>

4.5.5 The DI further notes that based on the directives contained in the then Office of the Contractor General's statutory Requisition for the regular provision of information regarding Public Body contract awards, dated November 20, 2008, government agencies are required to report information using the Quarterly Contract Award (QCA) database, regarding the award of contracts above the value threshold of \$500,000.00.

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<sup>24</sup> Ministry of Finance and the Public Service Circular No: 27 dated September 28, 2016

<sup>25</sup> Response 1(a) from Mr. Everton Hunter, Chief Executive Officer, National Works Agency, dated May 29, 2018 to the Integrity Commission's Requisition dated May 15, 2018.



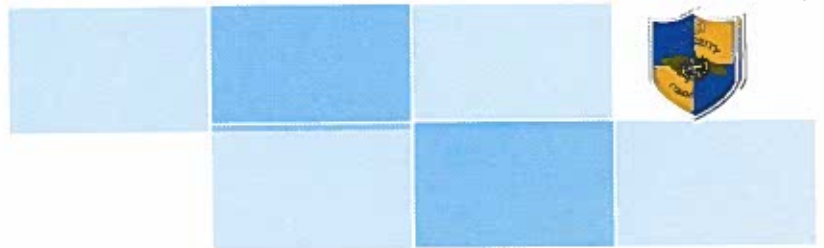
4.5.6 A search of the said QCA Consolidated Report database reflected that the National Works Agency reported 1,668 contracts in 2017. However the referenced contract which was awarded to Mrs. Peggy Aiken in July 2017, in the amount of \$999,530.00, was not among them.



## Chapter 4 – Conclusions

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- 5.1 This chapter sets out the conclusions drawn from the investigation.
- 5.2 This investigation was initiated to examine the circumstances surrounding alleged acts of favoritism, conflict of interest, impropriety and irregularity in the award of a contract under the East Portland Special Mitigation Programme implemented by the National Works Agency (NWA) between July and August 2017.
- 5.2.1 The DI concludes that Mrs. Peggy Aiken was awarded a contract by the National Works Agency (NWA) on July 28, 2017 in the amount of \$999,530.00, for drain cleaning and debushing work, under the Special Mitigation Program in Eastern Portland.
- 5.2.2 The DI also concludes that the contract was awarded to Mrs. Peggy Aiken specifically on the basis of a recommendation made to the NWA, by the Member of Parliament for Eastern Portland, Dr. Lynvale Bloomfield.
- 5.2.3 Notwithstanding the request made by the DI for the NWA to indicate the basis upon which the contract was awarded to Mrs. Aiken, the DI concludes that the NWA failed to clearly outline the process utilized to determine the suitability of the contractor, other than Dr. Bloomfield's recommendation.

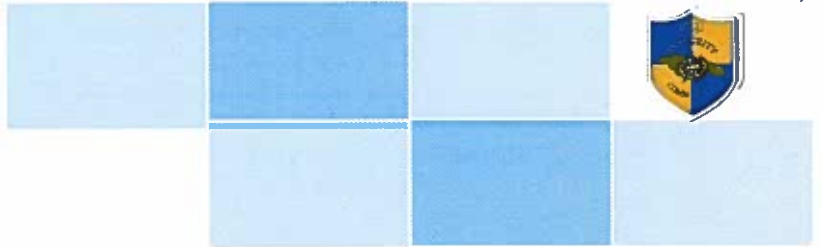


- 5.2.4 The DI further concludes that at the time of the recommendation, Dr. Lynvale Bloomfield had a longstanding professional relationship with Mrs. Aiken, who was employed as his personal accountant.
- 5.2.5 The DI concludes that Dr. Bloomfield's failure to make any disclosures to the NWA, regarding the nature of his professional relationship with Mrs. Aiken, amounted to a breach of Section 4.2.1 of the GPPPH, 2014 which imposes a duty on Public Officers to declare any relationship with a contractor as well as any personal interest that may affect or might reasonably be deemed by others, to affect their impartiality in any matter relevant to their duties.
- 5.2.6 In light of the fact that Mrs. Peggy Aiken was the personal accountant of Dr. Bloomfield, the DI concludes that his recommendation of her to the NWA, for the award of a government contract, was irregular and indicative of favoritism. The DI's conclusion is based on Section 4.2.1 of the GPPPH, 2014 which requires Public Officers to refrain from taking part in the decision making process or the implementation of any contract where a relationship exists between a Public Officer and a contractor.
- 5.2.7 The DI further concludes that the process by which the NWA verbally requested recommendations for contractors, as well as by which Dr. Bloomfield verbally provided the said recommendations in his capacity as Member of Parliament, was irregular and lacked transparency. The DI's conclusion is based on Section A8.22 of the GPPPH, 2014 which requires



the Procuring Entity to maintain records of each contract award for a minimum period of seven (7) years.

- 5.2.8 The DI concludes that Dr. Bloomfield's recommendation of Mrs. Peggy Aiken constitutes a conflict of interest, contrary to Section 4.2 of the GPPH, 2014.
- 5.2.9 The DI concludes that there is no evidence to support a finding of a breach of the procurement guidelines in relation to the use of the Direct Contracting methodology in the selection of the contractor by the NWA.
- 5.2.10 In light of evidence indicating that the NWA reported 1,668 contracts via the Quarterly Contract Award (QCA) Consolidated Report database in 2017, the DI concludes that the NWA was aware of its obligation to report information regarding the award of contracts above the value threshold of JMD\$500,000.00.
- 5.2.11 The DI further concludes that the then Accounting and Accountable officers of the NWA breached Sections 29(a) and (b) (ii) of the Contractor-General Act, as a result of their failure to submit the requisite QCA Reports to the OCG, advising of the award of a contract to Mrs. Peggy Aiken in July 2017, in the amount of \$999,530.00.
- 5.2.12 The DI concludes that payments in relation to the referenced contract were made by the NWA to Mrs. Peggy Aiken. However, the DI has seen no



evidence to substantiate Mrs. Aiken's statements that the labourers were compensated for work executed under the referenced contract.



## Chapter 5 - Recommendations and Anti-Corruption Initiatives

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- 6.1 This chapter outlines initiatives directed at minimizing the existence and perception of conflict(s) of interest, irregularity and/or impropriety, favoritism and breaches of applicable legislations, regulations and/or policies in the award of government contracts.
- 6.1.1 It is recommended that where a project permits the receipt of recommendations from a Member of Parliament for the engagement of contractors, the Implementing Agency or Procuring Public Body should assume the responsibility of independently evaluating the suitability of the recommended contractors.
- 6.1.2 It is recommended that all Public Officials, Implementing Agencies and Procuring Public Bodies ensure that its officers are made aware of the requirements imposed by the GoJ Handbook of Public Procurement Procedures (GPPPH, 2014) in relation to the identification and disclosure of actual or potential conflicts of interest and ensure that reasonable steps are taken to enforce these requirements.
- 6.1.3 It is recommended that Members of Parliament refrain from recommending individuals and/or entities with which they share personal and/or professional relationships and/or associations for the award of government contracts. This recommendation is based on Section 4.2.1 of the GPPPH, 2014 which requires that a Public Officer shall



take no part in either the decision-making process or the implementation of any contract where a relationship exists between the Public Officer and a contractor.

- 6.1.4 It is recommended that guidelines be implemented by the Office of the Chief Public Procurement Officer to regulate the vetting and evaluation of contractors in the award of contracts beneath the value threshold of JMD\$1,000,000.00, by way of the direct contract procurement methodology.

#### **Recommendations to the Director of Corruption Prosecution**

- 6.1.5 The DI recommends that the findings of this investigation be referred to the Director of Corruption Prosecution (DCP) for consideration, pursuant to section 54(3) (b) of the Integrity Commission Act.
- 6.1.6 The DI's referral is made in light of the NWA's failure to submit the requisite QCA report in relation to the award of the referenced contract to Mrs. Peggy Aiken in the amount of \$999,530.00 as well as the provisions of Section 29(a) and (b) (ii) of the then applicable Contractor-General Act.

6.1.6.1 Section 29(a) and (b)(ii) of the then applicable **Contractor-General Act** provides that,



*"...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 –*

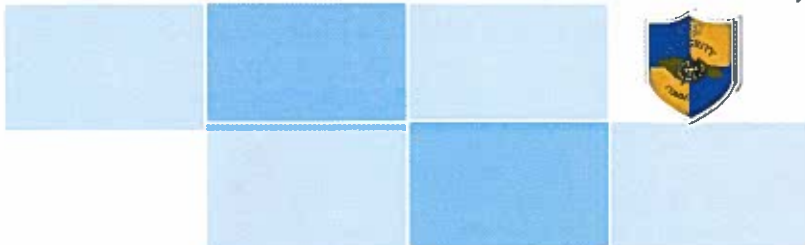
*ii. fails to comply with any lawful requirement of a Contractor-General or any other person under this Act..."*

### **Recommendation to the National Works Agency**

6.1.7 It is recommended that the National Works Agency establish a formal policy regarding the independent evaluation of all recommended contractors and implement measures to ensure the scrupulous enforcement of same.

### **Recommendation to the Ministry of Economic Growth and Job Creation**

6.1.8 It is recommended that the Ministry of Economic Growth and Job Creation provide a policy directive in relation to Members of Parliament and other individuals and/or entities from whom recommendations are



accepted, to make written declarations to the NWA or any other implementing Public Body, of the existence of any relationship or association, which may give rise to an actual or potential conflict of interest, at the time of submission of the recommendation.

Kevon A. Stephenson, J.P  
Director of Investigation  
**for and on behalf of the Integrity Commission**

March 23, 2021  
Date