



OFFICE OF THE CONTRACTOR-GENERAL OF JAMAICA

Special Enquiry Management Report of Investigation

The Award of Contracts to Unregistered Contractors for the Provision of Labour for Pole Line Construction

**Rural Electrification Programme Limited
Ministry of Science, Technology, Energy and Mining**

INTRODUCTION

The Office of the Contractor General (OCG), while conducting a review of the Quarterly Contract Awards (QCA) Report submissions which were made by the Rural Electrification Programme Limited (REP) for the 1st and 3rd Quarters of 2011, noted that contracts were awarded to two (2) 'Contractors' which were not registered with the National Contracts Commission (NCC) at the time of the award of contract. The two (2) unregistered 'Contractors' which are being referred to are (a) Mactech Enterprise Company Limited and (b) Int'Lecz Company Limited.

Consequent upon its observations, the OCG deemed it prudent to undertake a further review and scrutiny of particular contracts which were reportedly awarded, by the REP, to the two (2) named 'Contractors'.



In this regard, by way of a letter which was dated 2011 November 7, the OCG requested that the REP provide documentation pertaining to specific contracts which were awarded during the period 2010 December through to 2011 March, inclusive of the contracts which were awarded to the two (2) 'Contractors' which were identified as being unregistered with the NCC.

Accordingly, related particulars regarding the contracts which were reportedly awarded were requested from the REP.

Particulars of the OCG's Requisition Letter to the REP

The OCG, by way of a letter which was dated 2011 November 7, which was addressed to Mr. Keith Garvey, the then General Manager, REP, advised the REP of the projects which would be reviewed by the OCG.

The referenced letter from the OCG advised the REP that the following projects would be the subject of the OCG's scrutiny:

1. Pole Line Construction for Reserve St. D'Acre, Hand to Mouth Lane, Farmers Heights, Lime Hall, St. Ann;
2. Pole Line Construction for Mahogany Hill, Jane Lane Road, St. Elizabeth;
3. Pole Line Construction for Bryan's Piece, Leicesterfield, Sangie, Bullock, Bryan's Land, Lampard, Clarendon;
4. Pole Line Construction for Union, Mansfield Heights, New Banks, St. Ann;
5. Pole Line Construction Ramble Road, Dressikie, St. Mary;
6. Pole Line Construction Bloomwell, Cabbage Hall, Victoria, Pigeon Coop Road, Clarendon; and



7. Pole Line Construction Wesleyan Gully/Comfort Hall, Clarendon.

As such, the OCG, in the referenced Statutory Requisition, requested the following particulars from the REP:

- i. *“Copies of proposals submitted by the Bidders who tendered;*
- ii. *Copies of Tax Compliance Certificate which were submitted by Bidders;*
- iii. *Copies of National Contracts Commission (NCC) Registration Certificate which were submitted by Bidders;*
- iv. *A copy of the Evaluation Report for each procurement opportunity. If not stated therein, please indicate the names and positions of the personnel who conducted the evaluation;*
- v. *Evidence of the requisite approvals which were received regarding each recommendation for award of contract, inclusive of Procurement Committee and Head of Entity approvals... the names and positions of each member of the Procurement Committee;*
- vi. *A copy of the contract; and*
- vii. *A Status Report.”¹*

¹ OCG Requisition to Mr. Keith Garvey, then General Manager, REP, which was dated 2011 November 7.



Particulars of the REP's response to the OCG's Requisition Letter

By way of a letter which was dated 2011 November 23, under the signature of Mr. Aldrane E. Genius, then Acting General Manager, REP, the OCG was formally provided with the information which it had requested.

According to the response from the REP, the OCG was advised that the following persons were members of the Evaluation Committee which had reviewed the respective bids for the Pole Line Construction Projects:

1. *Keith Garvey – General Manager (at the time)*
2. *Samuel Marshall – Chief Engineer (at the time)*
3. *Audley Jerry – Design Engineer*
4. *Kayson Black – Cost Accountant*
5. *Aldrane Genius – Personnel Officer (at the time)*
6. *Opal Easy – Administrative Assistant*
7. *Marie Palmer – Materials Clerk*
8. *Elma Tatham – Senior Construction Clerk*²

The referenced letter further advised the OCG that *“During the period under review the REP did not have an in-house procurement committee. Procurement outside of the signing authority of the General Manager was handled by the Procurement Committee of the Ministry of Energy and Mining located at the PCJ Bldg.”*³

It is instructive to note that the following documents were also received from the REP, under

² Response from Mr. Aldrane Genius, then Acting General Manager, REP, which was dated 2011 November 23.

³ Response from Mr. Aldrane Genius, then Acting General Manager, REP, which was dated 2011 November 23.



cover of its letter which was dated 2011 November 23:

1. Three (3) Tender Evaluation Reports, as follows:

- a. Procurement of Labour for Pole Line Construction – GOJ 2009/2010 - St. Ann/St. Mary;
- b. Procurement of Labour for Pole Line Construction – GOJ 2009/2010 - Clarendon;
- c. Procurement of Labour for Pole Line Construction – GOJ 2009/2010 - St. Elizabeth.

2. Seven (7) contract documents, inclusive of two (2) which were not related to the Contractors in question. Listed below are the five (5) relevant contract documents pertaining to the award of contracts to Mactech Enterprise Company Limited and Int’Lecz Company Limited.

- a. Contract between the GOJ/REP and Mactech Enterprise Company Limited, made on the 30th day of December 2010, for the Procurement of Labour for Pole Line Construction - GOJ 2009/2010 - St. Ann/St. Mary - Reserve, St. D’Acre, Hand to Mouth Lane, Farmers Heights and Lime Hall;
- b. Contract between the GOJ/REP and Mactech Enterprise Company Limited, made on the 21st day of March 2011, for the Procurement of Labour for Pole Line Construction - GOJ 2009/2010 - St. Ann/St. Mary - Ramble Road/Dressikie/Union Hill;
- c. Contract between GOJ/REP and Mactech Enterprise Company Limited, made on the 21st day of March 2011, for the Procurement of Labour for Pole Line



Construction - GOJ 2009/2010 – Clarendon - Victoria, Pigeon Coop Road, Bloomwell/Cabbage Hall;

- d. Contract between the GOJ/REP and Int'Lecz Company Limited, made on the 15th day of March 2011, for the Procurement of Labour for Pole Line Construction - GOJ 2009/2010 - St. Elizabeth, Jane Land Road/Elderslie, Poor Piece Road/Newton;
- e. Contract between the GOJ/REP and Int'Lecz Company Limited, made on the 21st day of March 2011, for the Procurement of Labour for Pole Line Construction - GOJ 2009/2010 – Clarendon - Wesleyan Gully/Comfort Hall.



FINDINGS

Review of the Tender Evaluation Reports

Procurement of Labour for Pole Line Construction – GOJ 2009/2010 - St. Ann/St. Mary

Section 1.8 (A) of the Tender Document, which is entitled ‘Tender Submission’, states that *“Tenders submitted MUST be accompanied by a valid Tax Compliance Certificate (TCC) and verification of registration with the National Contracts Commission (NCC).”*

The Tender Evaluation Report, under the section which is entitled ‘Responsiveness of Tenders’, states that ***“These requirements were checked and recorded at the bid opening for each individual tender received. Arima Engineering Co. Ltd and NAC Technology Engineering Co. Ltd. were both disqualified due to an expired TCC in the former and no submission of either TCC or NCC documentations by the latter.”*** (OCG Emphasis)

The Tender Opening Form, which attested to the particulars of the Tender Opening Ceremony, which was officiated by Mr. Samuel Marshall, Tender Officer, on 2010 November 9, indicated in the ‘Remarks’ column, that an *“...application for NCC”* was seen at the time of the Tender Opening for the submission which was made by Mactech Enterprise Company Limited.

The bid, which was submitted by Mactech Enterprise Company Limited, included a National Contracts Commission (NCC) Acknowledgement Letter which served to formally acknowledge the NCC’s receipt of the application for registration which had been submitted by the named company.



The NCC Acknowledgement Letter, which was dated 2010 October 20, categorically stated, *inter alia*, that “**This acknowledgment is not evidence of registration or eligibility for registration.**”⁴

Despite the foregoing, the bid which was submitted by Mactech Enterprise Company Limited was deemed responsive and evaluated by the REP. It must be noted that the referenced company was subsequently awarded the contract by the REP.

In point of fact, the referenced Evaluation Report, which was dated 2010 November 25, articulated, *inter alia*, the following:

“Conclusion

The basis of the award is to the lowest evaluated bid, which was determined from responsive bids that met the specifications and standards of the tender.

Recommendations for Award

Mactech Enterprise Company Limited is being recommended to execute the following projects:

- i. Reserve St. D’Acre in St. Ann*
- ii. Hand To Mouth Lane in St. Ann*
- iii. Farmers Heights in St. Ann*
- iv. Lime Hall in St. Ann*

⁴ NCC Acknowledgement Letter, which was dated 2010 October 20.



v. *Ramble Road/Jessikie in St. Mary*

*This is based on the evaluation for the sum of **Three Million Eight Hundred and Twelve Thousand One Hundred and Fifty Three Dollars (\$3,812,153.00)**.*

*This is 76.02% of the estimated cost of **\$5,015,000.00** which represents a savings of **One Million Two Hundred and Two Thousand Eight Hundred and Forty Seven Dollars (\$1,202,847.00)** for the company.”⁵*

Procurement of Labour for Pole Line Construction - GOJ 2009/2010 - Clarendon

Section 1.8 (A) of the Tender Document, which was entitled ‘**Tender Submission**’, stated that “*Tenders submitted MUST be accompanied by a valid Tax Compliance Certificate (TCC) and verification of registration with the National Contracts Commission (NCC).*”

The Tender Evaluation Report, under the section which is entitled ‘Responsiveness of Tenders’ stated that “*Bidders were asked to submit the following documentations with their quotations*

- *Copy of valid Tax Compliance Certificate (TCC)*
- *Verification of registration with the National Contracts Commission (NCC)*

These requirements were checked and recorded at the bid opening for each individual tender received... (OCG Emphasis)

⁵ Evaluation Report, which was dated 2010 November 25.



The Tender Opening Form, which attested to the particulars of the Tender Opening Ceremony, which was officiated by Mr. Audley Jerry, Tender Officer, on 2011 March 16, indicated in the 'Remarks' section of the said form, *inter alia*, that a "Reg lett NCC", "TCC", was received from Mactech Enterprise Company Limited in its bid.

Further, and in regard to Int'Lecz Company Limited, the 'Remarks' column of the Tender Opening Form indicated that a "... NCC letter" and "... Reg letter NCC" were submitted by the company with its bid.

It is instructive to note that the Contract Documents pertaining to Mactech Enterprise Company Limited included a NCC Acknowledgement Letter which served to formally acknowledge the NCC's receipt of the referenced company's application. The referenced letter, which was dated 2010 October 20, also categorically stated, *inter alia*, that "**This acknowledgment is not evidence of registration or eligibility for registration.**"

The bid, which was submitted by Int'Lecz Company Limited, included a NCC Acknowledgement Letter which formally acknowledged the NCC's receipt of the company's application. The referenced letter, which was dated 2010 October 20, categorically stated, *inter alia*, that "**This acknowledgment is not evidence of registration or eligibility for registration.**"

Based upon the foregoing letters, which were submitted by the two (2) companies, the OCG has found that at the time of tendering, both companies **were not duly registered with the NCC** and, as a consequence, would not have been eligible to participate in the referenced procurement opportunities and should have been deemed non-responsive.



It is instructive to note that the referenced Evaluation Report, which was dated 2011 March 18, articulated, *inter alia*, the following:

“Conclusion

The basis of the award was not based solely on the lowest evaluated bid, which was determined from responsive bids that met the specifications and standards of the tender. Other factors such as contractor work load and the ability to complete the projects in a timely manner were considered which resulted in some awards being made to tenders that were not the lowest bid submitted but was still below our engineering estimate.

Recommendations for Award

Mactech Enterprise Company Limited is being recommended to execute the following projects:

- 1. Victoria/ Pigeon Coop Road*
- 2. Bloomwell/Cabbage Hall*

*This is based on the evaluation for the sum of **Six Hundred and Thirteen Thousand Seven Hundred and Seventy Dollars (\$613,770.00)**.*

*This is 69.75% of the estimated cost of **\$880,000.00** which represents a savings of **Two Hundred and Sixty Six Thousand Two Hundred and Thirty Dollars (\$266,230.00)** for the company.*



...Int'lec. Company Ltd. is being recommended to execute the following project:

1. Wesleyan Gully/Comfort Hall

*This is based on the evaluation for the sum of **Four Hundred and Fifty Three Thousand Nine Hundred Dollars (\$453,900.00)**.*

*This is 73.76% of the estimated cost of **\$615,400.00** which represents a savings of **One Hundred and Sixty One Thousand and Five Hundred Dollars (\$161,500.00)** for the company.”*



Procurement of Labour for Pole Line Construction - GOJ 2009/2010 - St. Elizabeth

Section 1.1 (D) of the Tender Document, under the caption 'Notice and Instructions to Tenderers' stated that *"All Tenderers must be registered with the National Contracts Commission (NCC) and submit with their Tenders a valid Tax Compliance Certificate."*

Section 1.8 (A) of the Tender Document, under the caption 'Tender Submission', states that *"Tenders submitted MUST be accompanied by a valid Tax Compliance Certificate (TCC) and verification of registration with the National Contracts Commission (NCC)."*

The Tender Evaluation Report, which was dated 2011 March 15, under the section which is entitled 'Responsiveness of Tenders' stated that *"Bidders were asked to submit the following documentations with their quotations*

- *Copy of a valid Tax Compliance Certificate (TCC)*
- *Verification of registration with the National Contracts Commission (NCC)*

*These requirements were checked and recorded at the bid opening for each individual tender received. Mactech Enterprise Co. Ltd., E.P. Quality Construction Co. Ltd., Marceline Blackford Enterprise Co. Ltd. and Voltz Electrical Contractors and Consultants Ltd. were all disqualified due to non submission of the relevant TCC and NCC documentations."*⁶

The Tender Opening Form, which attested to the particulars of the Tender Opening Ceremony, which was officiated by *"Audley Jerry/ Keith Garvey"* on 2011 March 3, indicated in the

⁶ Tender Evaluation Report for the Procurement of Labour for Pole Line Construction – GOJ2009/2010 – St. Elizabeth, dated 2011 March 15



‘Remarks’ section that the bid which was submitted by Int’Lecz Company Limited, was “*Absent TCC NCC letter*”.

However, based upon the documentary evidence which was provided to the OCG, by the REP, the OCG found that the referenced bid, which was submitted by Int’Lecz Company Limited, included a NCC Acknowledgement Letter which formally acknowledged the NCC’s receipt of the company’s application. The letter, which was dated 2010 October 20, categorically stated that “**This acknowledgment is not evidence of registration or eligibility for registration.**”

It is instructive to note that the referenced Evaluation Report, under the heading which is entitled ‘*Recommendations for Award*’, advised, *inter alia*, as follows:

“*Int’lecz Company Ltd. is being recommended to execute the following project [sic]:*

1. *Jane Land Road/Elderslie*
2. *Poor Piece Road/Newton*

*This is based on the evaluation for the sum of **Nine Hundred Seventy Nine Thousand Three Hundred and Seventy Four Dollars (\$979,374.00).***

*This is 85.21% of the estimated cost of **\$1,149,350.00** which represents a savings of **One Hundred and Sixty Nine Thousand Nine Hundred and Seventy Six Dollars (\$169,976.00)** for the company.”⁷*

⁷ Tender Evaluation Report for the Procurement of Labour for Pole Line Construction – GOJ2009/2010 – St. Elizabeth, dated 2011 March 15



Particulars of the Contracts which were reportedly awarded to Mactech Enterprise Company Limited and Int'Lecz Company Limited via the QCA Reports which were submitted to the OCG by the REP

Contracts which were reportedly awarded to Mactech Enterprise Company Limited

<u>Record #</u>	<u>Public Body</u>	<u>Year</u>	<u>Quarter</u>	<u>Contract Award Date</u>	<u>Contract Description</u>	<u>Contractor</u>	<u>Contractor ID</u>	<u>Contract Type</u>	<u>Contract Value</u>	<u>Principal Site</u>	<u>Procurement Method</u>	<u>Number of Tenders Requested</u>	<u>Number of Tenders Received</u>	<u>Procurement Committee Approval?</u>
1	Rural Electrification Programme	2009	2	2009-04-16	Build Electrical Distribution Power Lines	Mactech Enterprise Company Limited	J701/12-06/1-8	W	\$1,146,407	GOJ 2006/07 Phase 11, Manchester & Clarendon	LT	5	5	Y
2	Rural Electrification Programme	2009	2	2009-04-16	Build Electrical Distribution Power Lines	Mactech Enterprise Company Limited	J701/12-06/1-8	W	\$2,804,000	Portmore Villa Ph 2, Sub-div. St. Catherine	LT	3	3	Y
3	Rural Electrification Programme	2010	2	2010-04-16	Pole Line Construction	Mactech Enterprise Company Ltd.	J701/12-06/1-8	W	\$1,799,835	Manchester: Green Pond/ Back-a-wall; Duff House/ Elliott Lane; Rose Hill/ Grants Green; New Forrest/ Plumwood	LT	6	3	Y



<u>Record #</u>	<u>Public Body</u>	<u>Year</u>	<u>Quarter</u>	<u>Contract Award Date</u>	<u>Contract Description</u>	<u>Contractor</u>	<u>Contractor ID</u>	<u>Contract Type</u>	<u>Contract Value</u>	<u>Principal Site</u>	<u>Procurement Method</u>	<u>Number of Tenders Requested</u>	<u>Number of Tenders Received</u>	<u>Procurement Committee Approval?</u>
4	Rural Electrification Programme	2010	3	2010-07-05	Install lighting at Football Field	Mactech Enterprise Company Ltd.	J701/12-06/1-8	W	\$4,557,000	Effortsville Football Field, Clarendon	LT	5	5	Y
5	Rural Electrification Programme	2010	4	2010-10-15	Pole Line Construction	Mactech Enterprise Company Ltd.	J701/12-06/1-8	W	\$4,142,816	Kellits & New Road, Clarendon; Boscobel, St. Mary	LT	10	5	Y
6	Rural Electrification Programme	2011	1	2010-12-30	Pole Line Construction	Mactech Enterprise Company Ltd.	J701/12-06/1-8	W	\$2,863,717	Reserve St. D'Acre, Hand to Mouth Lane, Farmers Heights, Lime Hall, St. Ann	LT	8	5	Y
7	Rural Electrification Programme	2011	1	2011-03-21	Pole Line Construction	Mactech Enterprise Company Ltd.	J701/12-06/1-8	W	\$948,436	Ramble Road/Dressike, St. Mary	LT	8	5	Y
8	Rural Electrification Programme	2011	1	2011-03-21	Pole Line Construction	Mactech Enterprise Company Ltd.	J701/12-06/1-8	W	\$613,770	Bloomwell/C abbage Hall, Victoria/Pige on Coop Rd, Clarendon	LT	11	5	Y
9	Rural Electrification Programme	2011	3	2011-08-05	Pole Line Construction	Mactech Enterprise Company Ltd.	J701/12-06/1-8	W	\$1,721,000	West Albion Subdivision, St. Thomas	LT	8	3	Y



<u>Record #</u>	<u>Public Body</u>	<u>Year</u>	<u>Quarter</u>	<u>Contract Award Date</u>	<u>Contract Description</u>	<u>Contractor</u>	<u>Contractor ID</u>	<u>Contract Type</u>	<u>Contract Value</u>	<u>Principal Site</u>	<u>Procurement Method</u>	<u>Number of Tenders Requested</u>	<u>Number of Tenders Received</u>	<u>Procurement Committee Approval?</u>
10	Rural Electrification Programme	2011	3	2011-08-29	Electrical Pole Line Material	Mactech Enterprise Company Ltd.	J701/12-06/1-8	G	\$4,900,000	Twickenham Park Police Academy	LCB	0	4	Y



Contracts which were reportedly awarded to Int'lecz Company Limited

<u>Record #</u>	<u>Public Body</u>	<u>Year</u>	<u>Quarter</u>	<u>Contract Award Date</u>	<u>Contract Description</u>	<u>Contractor</u>	<u>Contractor ID</u>	<u>Contract Type</u>	<u>Contract Value</u>	<u>Principal Site</u>	<u>Procurement Method</u>	<u>Number of Tenders Requested</u>	<u>Number of Tenders Received</u>	<u>Procurement Committee Approval?</u>
1	Rural Electrification Programme	2009	1	2009-03-06	Build Electrical Distribution Power Lines	Int'lecz Company Ltd.	J631/10-05/2-4	W	\$1,877,634	GOJ 2006/07 Phase 11, Clarendon B	LT	7	7	Y
2	Rural Electrification Programme	2009	2	2009-04-16	Build Electrical Distribution Power Lines	Int'lecz Company Ltd.	J631/10-05/2-4	W	\$664,585	GOJ 2006/07 Phase 11, St. Elizabeth	LT	5	5	Y
3	Rural Electrification Programme	2009	4	2009-11-30	Build Electrical Distribution Power Lines	Int'lecz Company Ltd.	J631/10-05/2-4	W	\$2,352,075	Drax Hall, St. Ann & Buff Bay, Portland	LT	3	2	Y
4	Rural Electrification Programme	2010	3	2010-07-05	Install lighting at Football Field	Int'lecz Company Limited	J631/10-05/2-4	W	\$2,847,000	Constant Spring Football Field, St. Andrew	LT	5	5	Y
5	Rural Electrification Programme	2011	1	2011-03-15	Pole Line Construction	Int'lecz Company Ltd.	J631/10-05/2-4	W	\$979,374	Mahogany Hill, Jane Land Road, St. Elizabeth	LT	7	5	Y
6	Rural Electrification Programme	2011	1	2011-03-21	Pole Line Construction	Int'lecz Company Ltd.	J631/10-05/2-4	W	\$453,900	Wesleyan Gully/Comfort Hall, Clarendon	LT	11	5	Y
7	Rural Electrification Programme	2011	3	2011-08-02	Pole Line Construction	Int'lecz Company Ltd.	J631/10-05/2-4	W	\$716,110	Charlemont Subdivision St. Catherine	LT	8	3	Y



Status of Contracts

The REP, in its response to the OCG's Requisition, which was dated 2011 November 23, provided the OCG with a Status Report of the Pole Line Construction. Reproduced, hereunder, is a copy of the referenced Status Report as at 2011 November:

RURAL ELECTRIFICATION PROGRAMME LIMITED		
STATUS REPORT		
2009/2010 Pole line Extension		
<u>Parish</u>	<u>Extensions</u>	<u>Status</u>
St. Mary	Ramble Road – Dressikie	Under Construction – 50% Poles Planted
St. Ann	Hand to Mouth Lane	Certified by G.E.I
	Farmers Heights	Awaiting G.E.I Inspection.
	Lime Hall	Certified by G.E.I
	Mansfield Heights	Under construction 40% - Compressor Holes
	New Banks	Awaiting G.E.I Inspection.
	Union	Awaiting G.E.I Inspection.
	Reserve, St. D' Acre	Awaiting G.E.I Inspection.
Clarendon	Spaulding – Sangie	Under Construction – 75% Poles Planted
	Bloomwell – Cabbage Hall	Awaiting G.E.I Inspection
	Frankfield – Lampard – Murdock	Under Construction - 50% Poles Planted
	Leicesterfield Bow Lane	Awaiting G.E.I Inspection
	Bryan's Land	Awaiting Material.
	Bryans Piece/Coffee Piece	Under Construction - 90% Poles planted
	Spaulding - Bullock	Under Construction - 50% Poles Planted
	Victoria Pigeon Coop Road	Awaiting G.E.I Inspection.
	Wesleyan Gully/Comfort Hall	Awaiting Material.
St. Elizabeth	Jane Land Road/Elderslie	Awaiting Material.
	Mahogany Hill/Ginger Hill	Awaiting G.E.I Inspection.



Registration Status of Mactech Enterprise Company Limited and Int'Lecz Company Limited with the National Contracts Commission (NCC)

Having regard to the fact that the OCG's Enquiry into the award of contracts to Mactech Enterprise Company Limited and Int'Lecz Company Limited were triggered by the determination that contracts were being awarded to the named companies despite their non-registration with the National Contracts Commission (NCC), a detailed review of the registration status of both companies was undertaken, during the course of the Enquiry.

As such, a review of the information which is available to the OCG, regarding applications which have been submitted for registration with the NCC, has revealed that Mactech Enterprise Company Limited and Int'Lecz Company Limited initially sought registration with the NCC on 2010 October 20.

A more comprehensive review of the applications revealed that both applications did not meet the NCC registration requirement in regard to, *inter alia*, the submission of a professionally prepared Financial Statement and, consequently, the referenced applications were returned, by the OCG, to the respective applicants on 2010 October 29.

It must be noted that Int'Lecz Company Limited subsequently re-submitted an application for registration with the NCC on 2011 June 30. The application was again returned to the prospective Contractor, unprocessed, on 2012 January 19, due to the fact that the applicant failed to, *inter alia*, meet several requests for the submission of a professionally prepared Financial Statement.



Similarly, and in the case of Mactech Enterprise Company Limited, the company subsequently re-submitted an application for registration with the NCC on 2011 April 13.

The referenced application was returned to the prospective Contractor, unprocessed, on 2012 January 4, as the company failed to respond to the OCG's request for the submission of additional information, inclusive of a professionally prepared Financial Statement, contact information for two (2) staff members represented on the Application Form and a completed Director's Declaration Form.

Therefore, the OCG has found that, at all material times, neither of the Contractors, that is, Mactech Enterprise Company Limited nor Int'Lecz Company Limited, were registered with the NCC as Works (Grades 1- 4) Contractors.

Despite the foregoing, the two (2) companies were awarded numerous contracts by the REP, during the period of 2009 through to 2011, and were both represented by the REP, on several of its QCA Reports, as having been registered with the NCC. In point of fact, the REP, on successive QCA Reports, consistently indicated a NCC Contractor Identification Number for both Mactech Enterprise Company Limited and Int'Lecz Company Limited.



Key Findings

The OCG has conducted a review of the documentation which was submitted by the REP, under the cover of a letter which was dated 2011 November 23, and the respective QCA submissions which were submitted to the OCG by the REP. Accordingly, the OCG now posits the following:

1. During the period of 2009 through to 2011, the aggregate value of the contracts which were awarded to both companies amounted to J\$35,387,659.00.

Of this amount, Int'lecz Company Limited was reportedly awarded seven (7) contracts with an aggregated value of J\$9,890,678.00, whilst Mactech Enterprise Company Limited was reportedly awarded ten (10) contracts with an aggregated value of J\$25,496,981.00.

2. Based upon the formal NCC Registration documentation, the OCG has found that neither Int'lecz Company Limited nor Mactech Enterprise Company Limited were registered with the NCC, nor have they ever been registered with the NCC.
3. The OCG has also found that false Contractor Identification Numbers were reported to the OCG on the QCA Reports which were submitted to the OCG. The referenced QCA Reports were certified and duly signed by Mr. Keith Garvey, the then General Manager, on all occasions, save and except for the 3rd quarter QCA Report for 2011, which was certified and signed by Mr. Aldrane Genius, the then Acting General Manager.
4. It is important to note that Public Bodies submit QCA Reports in accordance with the provisions of the Contractor General Act, inclusive of Section 29, which, *inter alia*,



makes it a criminal offence for any person to willfully make a false statement to mislead or mislead or attempt to mislead a Contractor General or any other person in the execution of his functions under the Act.

5. Based upon a review of the documentation which was received from the REP, inclusive of copies of the Evaluation Report for the award of the requested contracts, the OCG has found that on more than one occasion, the Tender Opening Form had indicated that the Acknowledgement Letter for Registration with the NCC had been received for the two (2) aforementioned companies.

Quite curiously, the OCG has found, in at least one instance, that on the same Tender Opening Form, particulars regarding actual NCC certificates of registration were recorded for other bids which had been received.

6. It must be noted that the NCC Acknowledgement Letter of Application specifically states **“This acknowledgement is not evidence of registration or eligibility for registration.”**



CONCLUSIONS

Based upon the documentary evidence, inclusive of the sworn QCA Reports which have been submitted to the OCG, by the REP, the OCG has arrived at the following considered conclusions:

1. Given the materially false information which was presented to the OCG, by the REP, on its Quarterly Contract Award Reports, the OCG has been led to conclude that there is *prima facie* evidence that the then Accountable Officers of the REP, namely, Mr. Keith Garvey, the then General Manager and Mr. Aldrane Genius, the then Acting General Manager, who signed and certified the respective QCA Reports which reported the award of contracts to Mactech Enterprise Company Limited and Int'Lecz Company Limited, misrepresented and, as a consequence, misled a Contractor General, in contravention of Section 29 of the Contractor General Act.
2. The OCG has found and concluded that neither Mactech Enterprise Company Limited nor Int'Lecz Company Limited were, at any material time, duly registered and/or approved as NCC (Grades 1 - 4) Works Contractors. In point of fact, although both entities sought to be registered with the NCC, the information which was made available to the OCG reveals that such registration was never granted.
3. The OCG has also concluded that the award of contracts to unregistered Contractors is a breach of the GOJ Procurement Guidelines, and an offence in accordance with Section 40 of the Contractor General Act, Public Sector Procurement Regulations (2008). Further, it is an offence, in accordance with Section 29 of the Contractor General Act to willfully mislead a Contractor General.



REFERRALS

The OCG, in the conduct of its Investigation, is required to be guided by Section 21 of the Contractor General Act.

Section 21 of the Contractor General Act provides as follows:

“If a Contractor-General finds, during the course of his Investigations or on the conclusion thereof that there is evidence of a breach of duty or misconduct or criminal offence on the part of an officer or member of a public body, he shall refer the matter to the person or persons competent to take such disciplinary or other proceeding as may be appropriate against that officer or member and in all such cases shall lay a special report before Parliament.”⁸ (OCG Emphasis)

1. The OCG is hereby referring its Report of Investigation to the Director of Public Prosecutions and the Commissioner of Police on the basis that it has found, herein, *prima facie* evidence that the then Accountable Officers of the REP, namely, Mr. Keith Garvey, the then General Manager and Mr. Aldrane Genius, the then Acting General Manager, who signed and submitted the QCA Reports which reported the contracts which were awarded to Mactech Enterprise Company Limited and Int’Lecz Company Limited, and, in particular, which reported patently false and misleading NCC Contractor Identification Numbers, have committed a breach of Section 29 (a) and 29 (b) (ii) of the Contractor General Act, and by doing so, have committed a criminal offence.

⁸ Contractor General Act. 1983



2. The OCG is hereby referring a copy of its Report of Investigation to the Director of Public Prosecutions and the Commissioner of Police on the basis that it has found, herein, evidence that the then Accountable Officers of the REP awarded contracts to two (2) unregistered Contractors in contravention of the Government of Jamaica Procurement Guidelines and in direct contravention of Section 40 of the Public Sector Procurement Regulations, which were promulgated in 2008 December.

Section 40 of the Public Sector Procurement Regulations provides that:

“A person who-

(a) contravenes these Regulations; or

(b) aids, abets or otherwise knowingly facilitates or is an accessory to the contravention of these Regulations, commit an offence and is liable, on summary conviction in a Resident Magistrate's Court, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and Offences and penalties.”

3. Given the compendium of facts, and the evidence which is available to the OCG, inclusive of (a) the noticeable and highly questionable discrepancies in the Tender Evaluation Reports, (b) the basis upon which certain prospective contractors were disqualified whilst others were accepted and evaluated for the referenced procurement opportunities and (c) the fact that both MacTech Enterprise Company Limited and Int’Lecz Company Limited were accorded false NCC Contractor Registration Numbers on the numerous QCA Reports which were submitted to the OCG, the OCG is hereby referring a copy of its Special Report of Investigation to the Commissioner of Police for such further criminal investigations, as he may deem necessary, with a view of



determining whether there was any criminal conspiracy, conduct and/or collusion, of any sort, between any Public Officer and/or Official and the referenced contractors, with a view to procure the illicit award of contracts to the said contractors, and/or to mislead the OCG in so far as the particulars of the award of the referenced contracts, which are disclosed herein, are concerned.



RECOMMENDATIONS

Section 20 (1) of the Contractor-General Act mandates that “*after conducting an Investigation under this Act, a Contractor-General shall, in writing, inform the principal officer of the public body concerned and the Minister having responsibility therefor of the result of that Investigation **and make such Recommendations as he considers necessary in respect of the matter which was investigated.**” (OCG’s Emphasis)*

In light of the foregoing, and having regard to the Findings and Conclusions that are detailed herein, the OCG now makes the following Recommendations:

1. It is recommended that an immediate review of the accounting, procurement and public administration practices at the REP be undertaken by the Auditor General and the Ministry of Finance and Planning. The review should be conducted to ensure that adequate procedures, systems, checks and balances are not only implemented, but are aggressively enforced to secure a radically improved level of compliance on the part of Public Bodies and Public Officials with relevant Government approved procedures, regulations and laws.
2. The REP must implement effective measures to ensure that it scrupulously adheres to the requirements of the Government of Jamaica Procurement Guidelines and the Contractor General Act, at all times, when procuring goods, works and services.
3. The OCG must recommend and encourage Accounting and Accountable Officers to exercise the greatest level of care and diligence in their approval of the award of GOJ



contracts and in the certification of representations which are made to the OCG and to other Statutory Authorities.