

**In the matter of the Commission of Inquiry appointed pursuant to section 1A of the Commission of Inquiry Act 1935 dated 24 February 2016**

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**Witness Statement of Andrew Morille**

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1. I am Andrew Morille of 15 Tearoom Hill, Warwick, WK 08 and I am currently the Financial Controller for the Department of Airport Operations. I make this witness statement in response to the request of the Commission of Inquiry duly appointed by the Premier on 24 February 2016 to inquire into the findings of the Auditor General's Report on the Consolidated Fund for the Financial Years 2010, 2011 and 2012.
2. During the financial years 2010, 2011 and 2012, my assigned posts were:
  - August 2007 to July 2010 – Financial Controller for the Ministry of Public Works;
  - August 2010 to October 2011 – Consultant Accountant without any executive responsibility or authority to the Ministry of Public Works;
  - November 2011 to September 2012 - Management Accountant in the Ministry of Public Works;
  - October 2012 to present – Financial Controller for the Department of Airport Operations.
3. As Financial Controller within the Ministry of Public Works, I worked under the direction of the Chief Financial Officer to manage, control, supervise and enhance the operations of the Accounts Section of the Ministry. That included ensuring that accurate and timely financial information was available and that adequate controls were applied in accordance with Financial Instructions, developing strong lines of communication with the Accountant General's Department and ensuring adherence to accounting practices determined by the Accountant General. I had supervisory responsibilities for two (2) Management Accountants, one (1) Trainee Management Accountant, six (6) Accounts Clerks and one (1) Cashier/Receptionist. I was responsible for the overall accounting for the Ministry.
4. During my time as a Consultant Accountant and Management Accountant within the Ministry of Public Works, I was mainly responsible for the direct implementation and coordination of the new ERP system. This included participation in the presentation and selection process of the ERP software for Bermuda Government, organization of training needs for staff, writing and implementation of procedures, preparing a project plan to ensure smooth transition of system Go-Live, working with developers and ensuring the success of test script exercises, data mapping and conversion processes, assisting in preparation and compilation of monthly and year end asset and other balance sheet files.

### Processing of Payments

5. I have been asked to comment on my understanding of the payments process followed by those persons in my sections during the fiscal years 2010, 2011 and 2012. To the best of my memory, the process was as follows:
- Accounts Clerks received all original invoices and payment certificates from Ministry officers after those original invoices and payment certificates would have been signed for payment by the Authorized Officer against a Certification Stamp (sub-section 9.20.3 F.I. 2009) showing the budget cost center, purchase order number, signature and name.
  - Accounts Clerks then entered those original invoices and payment certificates against the respective purchase orders in the then Financial and Accounting System to create a payment voucher for payment.
  - The Authorized Officer would sign off against the Certification Stamp on the original invoices and payments certificates on the basis of an existing purchase order, agreement or contract.
  - The Management Accountant would review the documentation to ensure (before approval for payment by the Accountant General Department) that payment voucher entries in the Financial Accounting system for quantities; description of purchase; amounts, etc. were consistent with information in the original invoices and payment certificates; he/she would also check that the payment voucher entry was against the correct purchase order.

### Accountant General's Department

6. I have been asked to comment on my understanding of the payments process followed by those persons in the Accountant General's Department during the fiscal years 2010, 2011 and 2012. To the best of my knowledge original invoices and payment certificates batched as a payment voucher would be physically delivered to the Accountant General's Department in large oversized-envelopes for payment as at the time supporting documents (invoices, payment certificates or contracts) could not be scanned and electronically attached to the Financial and Accounting System. At times, the Accountant General's Department would make requests for copies of contracts in the instances of large construction works and services. I cannot provide any further information about ACG procedures and processes.

### Specific Contracts

#### 1) Renovations Department of Human Resources

- (i) Why does it appear that the Head of the Civil Service had authority rather than the Permanent Secretary of Works and Engineering (W&E)?

7. I absolutely did not know at the time of the progress of this project whether the then Head of the Civil Service had any authority with regard to this project. To my knowledge, Permanent Secretaries report to the Head of the Civil Service, who has executive jurisdiction or authority over a Permanent Secretary.

8. Having reviewed the documents provided to me in my witness bundle, I cannot provide any further information to address this question.

(ii) What was the justification for negotiating directly with the contractor and not following the tendering process?

9. In my capacity as Financial Controller within the Ministry of Public Works, I would not have been involved in the tendering and procurement process, nor would I have been aware of who may have been members of the tendering committee. I was therefore unaware of any direct negotiations with the contractor; I cannot speak to any justification or whether the tendering process was followed.

(iii) Were the requirements of PFA 2002 met? If yes, please explain your views.

10. I repeat my comments at paragraph 9 above regarding any involvement in the tendering or procurement process. The documents in my witness bundle do not assist me in further answering this question.

(iv) Why was Cabinet Approval not obtained?

11. In my capacity as Financial Controller I would not have been involved in the preparation of documents and the processes leading to Cabinet approval and as such I am unable to address this question.

(v) Please comment generally on why payments were made on this contract if PFA 2002/Financial Instructions had not been followed.

12. I refer to my earlier statements in paragraphs 5 and 6 that in fact, payments were made by officers in the Accountant General's Department. Payments could have been made on this contract where the authorized signatory was consistent with the specimen signature on file, where the contractor's invoice was available, and the payment certificate was duly signed by the relevant Technical Officer/the Project Manager and the Permanent Secretary or his or her designate in accordance with section 9.5.2 of Financial Instructions 2008. With a legally binding contract and where works had been certified as completed, payments should be honoured.

## 2. Purchase of Sand and Rock

13. I was not involved in the tendering process. I had no knowledge regarding the Harmony Holdings Ltd.'s corporate structure or that it was owned by a trust and only incorporated on 8 May 2009. I have only become aware of these matters having reviewed the documents I was provided. I cannot address why this company had been sent an invitation to tender on 20 April 2009. What I now recall in the preparation of this witness statement was that the volume of available aggregate in the Government stores had been significantly depleted due to 12.5 km of public highway having been resurfaced in the prior period April 2008 to March 2009 compared to the planned resurfacing works of 8 km; this amounted to approximately 50% more and that there was some urgency in regards to restocking aggregate and reordering within the mining season in Canada before the mining fields and sea routes became frozen in and would not allow extraction.

- (i) The reasons why East End Asphalt's lower bid was rejected and who made that decision.
14. I repeat my earlier statements at paragraph 9 above that I would not have been involved in the tender or procurement processes. I therefore cannot say why East End Asphalt's bid was rejected and who made that decision.
15. I refer to the documents provided to me in my witness bundle [pages 3-6 to 3-14]. These exchanges of emails were between the Office of the Auditor General and my then Ministry posing questions to our Ministry in preparation for their annual report for the financial year ending 31 March 2010. My responses were in my capacity as Consultant Accountant to this Ministry and were compiled from information I received from colleagues well after the procurement and payments for the sand and rock, and were not from direct knowledge or involvement with this purchase. Therefore, it was in hindsight that I made my comments at page 3-8 of my witness bundle. The information I provided was based on my analysis of the purchase of the sands and rock files and in consideration sub-section 8.2.3(7) of Financial Instructions 2009 which states "...the lowest price must be accepted or reasons for not accepting the lowest price must be documented".
- (ii) Whether the Ministry queried East End Asphalt about its bid before rejecting its bid as unrealistically low?
16. I repeat my earlier statements that I would not have been involved in the bidding or tendering process and cannot therefore answer this question.
- (iii) Why the Ministry outsourced the importation of aggregate when  
(a) It could be sourced directly at (presumably) lower cost;  
(b) It (apparently) agreed to pay Harmony Holdings upfront for the importation.
17. I cannot address this question directly as I did not make the decision to outsource the aggregate. However, having worked in the Public Works Ministry, I do recall that customarily, aggregate was sourced from overseas, particularly from Canada. In my experience, it would be unprecedented that an overseas or local supplier of good or provider service and works put out cash outlay in the hundreds of thousands or millions without a deposit or advance.
- (iv) Whether 7.4.4.1 (f) of PFA 2002 was followed. In this regard, please identify the requisitioning Section Head and specify whether a report was submitted to the Permanent Secretary.
18. I note that there is no 7.4.1.1 (f) in PFA 2002 but that this paragraph is contained in PFA 2000. Having said that, this paragraph is regarding the tendering process and I repeat my earlier statements about my direct involvement.
19. At this time, I cannot recall if there was a post within the Ministry titled requisitioning Section Head or who might have fulfilled this responsibility at the time for this purchase.
- (v) How the Ministry knew to send Harmony Holdings Ltd. an invitation to tender on 20<sup>th</sup> April 2009 when the company did not exist at that point in time?

20. I repeat my statements made earlier at paragraph 9 above.

(vi) Why was Cabinet approval not obtained?

21. In my capacity as Financial Controller I would not have been involved in the Cabinet approval process and as such I am unable to address this question.

(vii) Please comment generally on why payments were made on this contract if PFA 2002/Financial Instructions had not been followed.

22. I refer to page 3-19 of my witness bundle which is a copy of an agreement/purchase order for the purchase of sand and rock. This was generated by an Inventory system that was outside of the then Accounting and Financial system. There were built-in financial dollar limits or approvals, however, Purchasing Officers within the Ministry could generate purchase orders for the purchase of goods or services and attribute such purchase order to the individual with the corresponding approval limit.

23. I repeat my earlier comments regarding payments being made by officers within the Accountant General's Department. Payments could have been made on this purchase order where the authorized signatory was consistent with the specimen signature on file, if Harmony Holding Ltd.'s invoice was produced [page 3-22 of my witness bundle], and the purchase order was duly signed by the Authorized Officer in accordance with section 9.4 of Financial Instructions 2008.

(viii) Are you aware of the existence of a physical contract drawn up for this job? If not, are you aware of why a contract was not drawn up and documented, as required by the PFA 2002?

24. PFA 2002 was not applicable to this purchase. The acquisition of this sand and rock was in accordance with PFA 2000, specifically, paragraph 7.3 which mandated that the means of acquisition was by way of a computerized purchase order.

(ix) How did the department confirm that physical receipt of the sand and rock was actually received?

25. I had no direct responsibility for the confirmation of receipt of the sand and rock. It was the responsibility of the Purchasing Section within the Ministry to ensure the exact quantity and quality of goods received in the Government Stores at the Quarry. I refer to page 3-5 of my witness bundle which is a copy of the Manual Goods Received Note (with details of the trucking cost and tonnages received) prepared for entry into an Inventory System by an Officer in the Purchasing Section who were located at the Government Quarry at this time, confirming the quantity of sand and rock received and the average unit price.

(x) Do you know the identity of the principals/beneficiaries behind Harmony Holdings?

26. I do not have knowledge of the principals/beneficiaries behind Harmony Holding save for what is revealed in the documents provided to me in my witness bundle [pages 3-32 to 3-43].

3. Central Laboratory Building

(i) Why was the contract not tendered and /or signed without Cabinet approval?

27. In my capacity as Financial Controller, I would neither be involved in the Tender and Procurement Process nor a member of the Tender Committee for this project and as such I am unable to address the question of why the contract was not tendered. Similarly, I would not have been involved in the preparation of Contract Award Recommendation documents and the process leading to Cabinet approval and as such I am unable to address this question.

(ii) How were payments authorized when the requirements in the Financial Instructions (evidence of Cabinet approval) could not have been provided?

28. I have not had sight of payment processing documents for this project and have no recollection on when they may have been submitted therefore it is difficult to comment on whether evidence of Cabinet approval (section 9.5.2 Financial Instructions 2009) was required.

29. Payments could have been authorized on a purchase order/agreement or a contract, if the contractor's invoice was produced [page 3-22 of my witness bundle], and the payment certificate was duly signed by the relevant Technical Officer/the Project Manager and the Permanent Secretary or his or her designate in accordance with section 9.5 of Financial Instructions.

4. Laboratory Contract for Southside

(i) Who authorized payments to Concord in relation to this project?

30. Without sight of the payment documents, I cannot recall who may have authorized payments to Concord. I can say that customarily, payment requests for construction work were done through the submission of a payment certificate confirming work completed to date, along with the contractor's invoice certified with the signature of the Technical Officer/Project Manager and Permanent Secretary or his or her designate for the project.

(ii) How were payments to Concord made when the contract had not received Cabinet approval?

31. I repeat my comments regarding my involvement in the Cabinet approval process. I do note that two Contract Award Recommendations (pages 5-2 to 5-8, dated 5 April 2010 and 12 April 2010 respectively) were prepared and I unable to provide further information as to why, or whether they were advanced to the Cabinet for approval.

32. I believe that the facts stated in this witness statement are true to the best of my knowledge and belief.



Andrew Morille

22/09/2016

Date