

10th October 2016

Commission of Inquiry

Witness Statement

1. I Dennis P. Lister, JP, MP served as the Minister of Works and Engineering from the fall of 2006 to the fall of 2007. I submit this witness statement in response to the request by the Commission of Inquiry that was commissioned in early 2016 by the OBA Government to inquire into the findings of the Auditor General's report on the Consolidated Fund for the Financial Years 2010, 2011, 2012.
2. The information and details contained in this submission are true to the best of my recollection and knowledge, as this relates to matters that took place ten years ago and in fact I have not served in Cabinet since the fall 2007.
3. The Commission of Inquiry has asked for my assistance in the following:
 - a. Explain the circumstances in which the Ministry decided not to follow the technical specialists' recommendation and recommended the selection of Landmark Lisgar Construction Ltd.
 - b. The Commission of Inquiry has further indicated that it is also considering whether Ministers and/or senior civil servants potentially breached financial instructions in the award of Government contracts.

Witness Bundle

1. The Commission of Inquiry provided me a "Witness Bundle" which includes 41 pages of evidence numbering from 10-1 to 10-41. All contained under a single tab listed as "Tab 1".
2. It is important to point out the number of tabs, because of a correspondence from the Commission of Inquiry dated 21st September 2016, extends the scope of the investigation as it relates to my involvement to now include items listed in the "Witness Bundle" under "Tab 2". For the sack of good order I want to confirm that the binder of information forwarded to me only contains information under a single tab, listed as "Tab 1". Therefore I cannot speak to any matters that may relate to information listed to be contained under "Tab 2".
3. As for the 41 pages of evidence the reality is that most of those pages are technical information that would have formed part of the technical officers' analysis, but not information that would have been shared with the Minister in such detail. Therefore I can only speak to items that I would have been knowledgeable of prior to receiving the Witness Bundle, namely Cabinet Conclusions 18(07)8; Conclusion 21(07)9; Conclusion 40(07)9.(this is 6 of 41 pages)

Explanation for recommending Landmark Lisgar Construction Ltd.

1. To be able to explain the rationale for awarding the Dame Lois Brown-Evans Building contract to this particular contractor it is first important to understand the impact that the philosophy of a Government and the policies that result from that philosophy have on the decision making process of a Minister of that Government. The Progressive Labour Party came to Government with many objectives. One of those key objectives was to give opportunities were opportunities had been denied. This was for both individuals and businesses. Therefore, it was part of the mandate of Ministers in the Progressive Labour Party Government to exercise a policy within their Ministry that encouraged such opportunities when and wherever possible. To participate in such an opportunity an individual/business would have to demonstrate that they had taken steps to ready themselves for the opportunity. An example of readiness would be securing access to the equipment necessary to fulfil such opportunity; or partnering with those that have the expertise the opportunity required. With this understanding let me apply that process to this particular contract. To the best of my recollection the technical analysis proceed as normal from the request of interest to the list of finalists that were presented to the Minister. I received the finalist list which contained two bidders having been reduced down from a list of ten that had responded to request of interest. I was informed that one of the finalists was a company that had done large work for Government in the past and that the other company was a smaller local company that had partnered with an overseas company to do this project. With this in mind, I then reviewed the list to see if the Government policy of extending "New Opportunity" could be applied. At this point I would have discussed this with the PS. Then I would have weighted up the PS's concerns against measures I would consider as to whether or not giving an opportunity that would not otherwise be given could apply here. In a nutshell those measures would probably center around four or five points.
 - a. Capability to do the project
 - b. Any legal objections; such as conflicts of interest
 - c. Cost
 - i. Was bid in line with Government estimate for the project
 - ii. The dollar difference between the two bids

In this case the answers were reassuring: (a) the overseas partner had developed projects of a far greater scale; (b) there were no apparent legal issues; (c) their bid was within the project estimate; difference between the two bids was an acceptable range and this was the lower of the two bids. Based on this information I as Minister made my recommendation.

Cabinet Paper

1. It is important to address the amendments to the Cabinet paper informing the Cabinet of the Minister recommendation, which is included in the Witness Bundle. There was concern within the Ministry that the technical officer's recommendation should be known to Cabinet for whatever reason which caused challenges between the Minister and PS in the drafting of that particular paper. Thus the reason the two drafts included in the binder.

Summary

In summarizing this submission let me say that to the best of my recollection at each stage of the process of awarding this contract everyone within the Ministry fulfilled their respective duties. The technical officers done as they were required; the PS presented the options; the Minister made a recommendation as was his prerogative. For the record let me restate that I was never presented with a legal reason why Government could not proceed with the Minister recommendation. And to address the Commission's concerns as to whether the Minister and/or any senior civil servant breached Financial Instruction regarding the awarding of this contract I can without a doubt state that no Financial Instruction were breached during the time that I served as Minister responsible for this project. Not a single one and the evidence support this.

The Hon. Dennis P. Lister, JP, MP

Date