

INTERNAL AUDIT DEPARTMENT



PETTY CONTRACT ADMINISTRATION
2007-2010

April 2012

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1 EXECUTIVE SUMMARY

The main findings resulting from the review of Petty Contract Administration are as follows:

- 1.1 Overall, the review found significant control weaknesses in the administration of construction contracts. Control issues were identified within each phase of the project management cycle.
- 1.2 The review revealed that the project inception process is highly driven by the political establishment and not by an overall strategically formulated plan for district and territorial development. It was found that the majority of minor projects are conceived at the district level with little consideration to a territorial development mandate. Such a segmented approach to project inception, is believed to have significant adverse effects on the national development as district development may not coincide with national interest as projects may be conceived to promote political agendas.
- 1.3 Likewise, the review found the contractor selection process, across all Ministries, to be susceptible to abusive practices as it is greatly influenced by Members of the House of Assembly. **The criteria or basis utilised by Members to select contractors for the most part is unknown and for the other lacks transparency.** After further analysis it was observed that contractors, who were awarded contracts by the Government for the period under review, mostly resided in the District for which the works were to be carried out. This practice limits the Government from acquiring the most competent contractor(s) at the best price.
 - 1.3.1 Although the Public Finance Management Regulation requires contractors to be selected from a pre-qualified list, some Ministries are unaware of this requirement. Furthermore, the majority of the Ministries do not utilize the list of pre-qualified contractors.
- 1.4 The review also found noticeable deviations or unwarranted restructuring in the manner in which the Ministries operates or executes its mandate. Most Ministries have undertaken projects that we found to be bluntly outside the scope of the Ministerial mandate. This practise, we find to be counterproductive as the Ministry's focus is detracted from its core objectives and its resources possibly utilised contrary to the intended purposes as authorised by the House of Assembly.
- 1.5 A similar trend exists in the project execution and management processes whereby each Ministry executes and manages its own construction projects without the internal capacity and technical competencies to adequately carryout this function. As such, Ministries have resorted to acquiring and engaging third party consultants to carry out multiple facets of the project management cycle, while neglecting basic control mechanism that are necessary to protect Government's interest and to ensure value for money on projects.

1.5.1 A well established trend exist whereby Ministries issue advanced payments to contractors at the commencement of the contract without seeking approval from the Financial Secretary as required in Section 184 of the Public Finance Management Regulation 2005 as amended. This practise exposes Government to some level of risk as contractors may receive the advance payment and still not be financially capable of fulfilling the requirements of the contract while the Government did not receive any immediate value.

1.6 The Audit found no evidence that final evaluations were conducted before final payments were made and there was no documentation of Government's formal acceptance/handover of the projects. Additionally, evaluation of contractor's performance is not performed at the end of the contracts.

1.7 A practice has emerged whereby the tendering process, in most cases is either waived by Cabinet or the project is divided into multiple components valued less than the amount designated by law to require the project to be tendered, with a view of having these components awarded to multiple contractors.

1.7.1 Instead of seeking permission to waive the tendering process for projects valued over one hundred thousand dollars (\$100,000.00), the review found that some Ministries opted, with a view to circumvent the legal requirement, to break a project into components that would have normally have exceeded the limit (value set) and that would require tendering. This practice usurps Cabinet's authority to waive the tendering of the project and circumvents the legal requirements since there is the thinking that the contract are to be waived and not the project.

2 INTRODUCTION

2.1 Efficient and effective contract administration is critical to ensuring that all parties satisfy all their legal obligations and that the public receives value for money on projects undertaken by Government. Contract Administration, for the purposes of this review, refers to the managing of the contractual relationship between the Government and the contractor from the project conception phase to the project close-out phase of the contract. It entails ensuring that the contractor delivers the product or service in compliance with the provisions of the contract document and that government satisfies its payment obligations in a timely manner.

- 2.2 The petty contract system is a widely used system implemented by the Government of the Virgin Islands in an effort to expedite and facilitate the execution of minor works and to procure various professional services. A petty contract could be for civil works, like building a small piece of road, painting a building, etc. and for supplying goods like stationery, furniture and services such as architectural, and project management. According to the Public Finance Management Regulations 2005, the petty contract limit was increased from sixty thousand dollars (\$60,000.00) to seventy five thousand dollars (\$75,000.00). This limit was again increased through Statutory Instrument No. 28 of 2007 to one hundred thousand dollars (\$100,000.00). The Public Finance Management Regulations also gives Cabinet discretionary powers to waive the required tender process for the procurement of goods and services exceeding one hundred thousand dollars (\$100,000.00).
- 2.3 Over the years, the petty contract system has evolved as the favoured method of undertaking projects both minor and major. This was pointed out in the Draft Report on Financial, Procurement and Government System in the Government of the British Virgin Islands by the Foreign and Commonwealth Office Internal Audit Unit report of 2002 whereby it was identified that the dual carriageway was executed using some ninety (90) petty contracts. In addition, there is a noticeable trend whereby, it appears, the contracting process is becoming more and more decentralized, as Ministries are increasingly issuing petty contracts for works. This review seeks to explore the petty contract process within the various Ministries to verify if consistency exists in the overall petty contracting administration.

3 AUDIT TYPE

- 3.1 Performance- Economy and Efficiency

4 AUDIT SCOPE

- 4.1 The scope of this review covered contract administration for a sample of petty contract from project conception to project closeout. The scope was limited mainly to petty contracts issued for development works. Both active and expired contracts from the period 2007 to 2010 were within the scope. The review also only focused on those petty contracts that were administered and managed through the Ministries.

5 AUDIT OBJECTIVE

- 5.1 To give assurance that there is consistency in the execution of the petty contract process across Ministries
- 5.2 To determine whether Ministries maintain adequate systems of internal control over the petty contract process.

- 5.3 To assess contract requirements and schedule of works with regards to breach of contract.
- 5.4 To give assurance that Petty Contract funds are being awarded in accordance with the Public Finance Management Act 2004 and Regulations 2005.

6 AUDIT CRITERIA

- 6.1 Review of relevant legislation, policies and procedural manuals.
- 6.2 Interviews with Ministry Personnel across all Ministries.
- 6.3 Review of Petty Contract Document and project files (on a sample basis)

7 PRIOR AUDIT COVERAGE

- 7.1 Based on our knowledge, we are unaware of any audits conducted on Contract Administration within the last five (5) years.

8 LIMITATIONS

- 8.1 The review was severely limited due to the lack of project documentation, prior, during and after the execution of the projects. This lack of documentation required the review team to largely depend on interviews with personnel from the respective Ministries in determining project scope and objectives.

9 FACTS AND FINDINGS

- 9.1 The following findings represent general notable observations that were evident during the course of the review. All findings do not necessarily apply to all Ministries; however, they are mentioned in the report because of the prevalence of their occurrence within a significant number of Ministries. It is our hope that each Ministry will evaluate their petty contract administration process against the findings of this report and make the necessary changes required to improve any deficiencies.

Project Inception

- 9.2 The review revealed that there are three (3) main ways in which projects are conceived across Ministries. The first method of project conception stems directly from Government's agenda which is then appropriately budgeted and funded. The second is through requests made by Members of the House of Assembly, which token sums are provided for in the budget. Finally, projects are sometimes conceived through an identified need by the Ministry for which if funding is not available, these projects are funded through Supplementary Appropriations. Although these may be accepted conception methods, the review team, in most instances, found no documentation on project files indicating how projects were conceived or what the objectives of the projects were. Based on the lack of adequate documentation of objectives, it is difficult to determine whether value for money is achieved and whether the project yielded the desired outcomes.
- 9.3 Inception, which is the first of the four phases of the project lifecycles, relates to understanding the project scope and objectives and getting enough information to confirm that the project should proceed - or to convince management that it should not. The project management guideline offers guidance on specific documents that should be produced at various phases of the project cycle, such documents are Project Proposal/Brief, Project Feasibility Report and Project Business Case. All of these documents should be developed before any project is undertaken. During the course of this review, the review team found no evidence of any analysis undertaken by Ministries to prioritize projects based on competing needs for limited resources.
- 9.4 Although not adequately documented in project files, the review team was able to discern, through interviews, that the project inception process is highly driven by the political establishment and not by an overall strategically formulated plan for district and territorial development. It was found that the majority of minor projects are being conceived at the district level with little consideration to a territorial development mandate. Such a segmented approach to project inception, we believe, may have significant adverse effects on the national development as District development may not coincide with national interest as projects may be conceived to promote political agendas of District Representatives.
- 9.5 In addition, this segmented approach may be a direct consequence of the Territory's system of District based representation whereby nine (9) of the thirteen (13) representatives are elected on the district level. As such, the impetus for these representatives is to primarily satisfy the developmental needs and interests of their respective Districts rather than the needs of the Nation/Territory. This condition is further complicated when the District Representatives are appointed to a Ministerial Office. For example, during this exercise we have found that Ministries have taken on projects that are outside the scope of their Ministerial mandate with the only seeming connection being that the Minister responsible for that Ministry is also the Representative for the District in which the project is being undertaken. This practice was found to be counterproductive as the Ministry's resources are being detracted from achieving its core objectives.

Contractor Selection and Contract Award

- 9.6 The review found no set criterion across Ministries for contractor selection and subsequent awarding of contracts. In the absence of such criterion, the process of selecting contractors lacks equity and transparency.
- 9.6.1 Through interviews, it was determined that, in most cases, contractor selection is greatly influenced by the Members of the House of Assembly and in particular the Representative for the District for which the works are to be executed. The review again found no criteria for the basis of Member's selection of the contractor other than, in most cases, the contractor resides in the Member's constituency/district. The lack of a criteria based selection process was found to be of great concern as the risk is significant that unsuitable contractors may be selected to execute works that exceed their competency levels, resulting in inefficient and unacceptable project outcomes.
- 9.6.2 The Public Finance Management Regulations 181 mandates that the Financial Secretary "shall maintain a list to be approved by the Minister, of pre-qualified contractors for the procurement of services, including construction works." The review has revealed that such a list has not been produced, neither by the Ministry of Finance nor the other Ministries. As a result, there is no record of any assessment done to determine the suitability of a contractor to carryout the contracted works.
- 9.7 Before the issuance of a contract, the contractor is required to submit valid Certificates of Good Standing from the Inland Revenue Department and the Social Security Board. The review team found numerous instances whereby certificates were granted by the Inland Revenue Department with outstanding sums owing. The review team also found these certificates to be inadequate in providing information on which a decision in awarding contracts can be based, as the details of amounts owing and duration is not communicated to the Ministries. This requirement was put in place as a control to ensure that contractors were in fact fulfilling their tax obligations and those who were not, would not benefit from Government contracts during the period of non-compliance. However, this control has been rendered ineffective as contractors are issued Good Standing Certificates and awarded contracts while taxes (which may be substantial) are owed for extended periods of time.
- 9.8 Each clause in a contract is aimed at defining the rights, privileges and commitment that each party has determined represents the terms that will govern their contractual relationship. These clauses also must be guided by law, as such; Section 185 (Details of Contract) of the Public Finance Management Regulations, at a minimum, provides some basic clauses that should be included in each contract issued by the Government of the Virgin Islands. The review found all Ministries to be mostly compliant; however, there were some deviations worth mentioning.

- 9.8.1 Most Ministries utilise a standard contract template that, according to interviews, was provided by the Attorney General's Chambers. However, some Ministries have engaged in the practice of removing and amending clauses provided in this template without consultation from the Attorney General. This practice may have unforeseen negative effects in protecting Government in the event that the contract becomes a matter of legal proceedings as the amended or removed clauses may no longer provide the intended protection.
- 9.8.2 One of the more common clauses that are amended in the contract document is that of the standard rate for liquidated damages. The standard rate used, based on the majority of contracts issued, is five hundred dollars (\$500) per week. However, it was observed that in the recent past, some Ministries have reduced the rate of liquidated damages in some contracts in favour of the contractor, to as low as seventy five dollars (\$75) per week, without justifications and without considering the implication for doing so.

Project Execution and Management

- 9.9 Over the years, a discernable trend has emerged whereby the project execution and management function has become somewhat decentralized with each Ministry executing and managing its own projects. This situation has arisen, due to the lack of capacity within the Public Works Department to adequately perform such function for the Ministries in a timely manner. As a consequence of this apparent decentralization of this function, the Finance and Planning Officers within the Ministries have been tasked with performing these functions. However, in most instances they too lack the necessary capacity and technical competencies to adequately carryout these functions as their areas of training and expertise do not encompass project management. As a result, proper project management practices are sometimes inadvertently neglected or overlooked in an effort to execute projects.
- 9.10 Although project management is an integral component of the Finance and Planning Officer's job function, the review found that these individuals admittedly do not possess the requisite background or training in project management to adequately and sufficiently provide the level of competency required to perform the function. Instead, it is observed that the Finance and Planning Officers focus primarily on the financing aspects of the projects undertaken rather than the management of the works and efficient execution of the project. This situation may be a direct consequence of the upgrading of the Finance Officer post to that of the Finance and Planning Officer without any consideration given to skill set and competencies of the position holders. Given the practice of the Finance and Planning Officers being named as Supervising Officers in contracts, it is of utmost importance that these individuals possess the necessary skills in order to fulfil their responsibilities.

- 9.11 In addition, the review found that because of this apparent decentralization of the functions and the lack of necessary competencies within some Ministries, Ministries have resorted to acquiring the technical capacity by engaging third party consultants to perform these functions. However, this in itself raises significant control issues, as some Ministries have engaged in the practice of hiring one consultant to carryout multiple facets of the project management cycle, neglecting basic control mechanisms that are necessary to protect Government's interest and to ensure value for money on projects. For example, in multiple Ministries, third party consultants were given the project design, project pricing and project management functions. Such a practice virtually eliminates the primary control of separation of duties.
- 9.12 The Project Execution Plan is considered to be the roadmap which the Project Team uses to deliver the agreed upon project outputs. This document establishes the methodology, tasks and milestones necessary to execute, monitor and accomplish the project objectives within the specified timeframe and at cost. However, the review found the development and use of these plans to be nonexistent across all Ministries. We believe that the absence of such plans greatly affects the outcomes of the projects as a systematic approach to the execution not taken.
- 9.13 During the file review, instances were discovered whereby some Ministries issued payment, however, we could not find any evidence on file such as progress reports outlining the percentage of works completed to support the Payment Approval Form indicating or showing how these payments were derived.
- 9.13.1 For the most part, payments that were made to contractors are in accordance with the terms of the contract. However, a well established trend existed whereby Ministries issued advanced payments to contractors at the commencement of the contract without seeking approval from the Financial Secretary as required in Section 184 of the Public Finance Management Regulation 2005 as amended. During interviews, it was ascertained that advance payments (mobilization) are usually issued because contractors do not possess the financial resources to commence the works and also to provide an allowance to those contractors who may have to procure materials from overseas. However, these explanations were found to be unreasonable since contractors should be financially capable of completing the deliverable of the contract and Government should only pay for earned value in a project. This practice also exposes Government to some level of risk as contractors may receive the advance payment and still not be financially able of fulfilling the requirements of the contract. Furthermore, this practice, based on the number of petty contracts that are awarded by Government, requires Government expend significant amounts of money without receiving any immediate value.

- 9.14 Although the contract documents make provisions for remedies for contractor's breach of contract, these provisions are not enforced. Enforcement of contractual obligations may have lax within some Ministries as a result of the inequitable practice whereby the District Representatives along with the Subject Ministers select the contractors to perform the works for most contracts. Due to the fact contractors are not selected on any transparent or meritorious basis but rather are hand selected, Ministry personnel are somewhat hesitant to enforce these clauses because of the apparent political nature of the contractor selection process.

Finalise and Project Closeout

- 9.15 Project close-out is the administrative procedure associated with the end of the business agreement with the contractor and the Government and the archiving of documents in the project file. Project close-out should occur either after the contractor has successfully completed contract performance and has been compensated accordingly or when the contract is terminated for default or convenience. Upon completion of project close-out procedures, the Project Owner (PO) must officially signify that all required sign-offs have been completed and include all related documentation in the project file.
- 9.15.1 The review found that a formal closeout process has not been implemented across Ministries. The project files reviewed did not yield evidence of a formal closeout process as required by the Project Management Guidelines, which form a part of the Public Finance Management laws. Instead, what the review found is that once the final payment is made the project is deemed to be closed.
- 9.15.2 In addition, although the Project Management Guideline provides handover procedures and a Project Handover Form (PM022), which should be attached to the project closeout report, the review has found that such procedures are not implemented within the Ministries. In the absence of such a formal handover process there is the potential for projects to remain without adequate Project Ownership.
- 9.15.3 Of the projects reviewed, there was no evidence that final evaluations were conducted before final payments were made and there was no documentation of Government's formal acceptance/handover of the projects. In addition, evaluation of contractor's performance is not done at the end of the contracts.

10 AUDIT CONCERNS

- 10.1 As part of the contracting process, contractors are required to present a valid Trade License before a contract can be issued; in all the contracts reviewed compliance was met with this condition. However, a trend exist whereby licenses are being issued or renewed days before the contract is issued. In some instances, based on our examination of trade licenses, it is evident that some trade licenses were submitted after the contracts were executed (signed). Additionally, although not specifically related to the stated objectives, there is some concern with regards to the process and criteria for the issuance of construction trade licenses. As in some cases, the competencies of some contractors toward executing the deliverable of the contract are questionable by personnel within the Ministry issuing the contract.
- 10.2 Although the Public Finance Management Regulation requires contractors to be selected from a pre-qualified list, some Ministries are unaware of this requirement. Furthermore, the majority of the Ministries do not maintain a list of qualified contractors.
- 10.3 As mentioned previously in this report, some Ministries have engaged the services of consultants to assist in the execution of project services. From a general stance, the review team does not have a problem with Ministries taking this course of action. However, there are concerns with regards to the creation of inequitable conditions, particularly in the pricing of projects, through such arrangement. Based on research, the Government of the Virgin Islands through the Ministry of Communications and Works has approved a listing of agreed prices by which the Department of Public Works must use in preparing Bills of Quantities; however, it was not found that consultants are required to use this price listing when preparing Bills of Quantities.
- 10.4 Tendering is a critical activity in capital works projects and is normally the accepted means of obtaining a fair price and best value for undertaking construction works. Additionally, tendering can be used to filter out the most suitable contractor by assessing each tender's financial and technical capabilities in order to determine their ability to fulfil the requirement of the project. Recognising these benefits, the Government has accepted this process into its Public Finance Management procedures. Likewise, it is known that the tendering of projects may not always be the most suitable option. As such, a provision was made to allow the tendering process to be waived.

10.5 Although the review focused on contract administration it would be remiss not to highlight the issue of Contract/Project Splitting. Any contract entered into for an amount not exceeding one hundred thousand dollars (\$100,000.00) is deemed a petty contract. However, any project being undertaken by Government that exceeds the petty contract limit is deemed to be a major project and must be put out for tender. However, we have noticed the well established practice of projects being split into multiple parts valued at less than the major contract requirement. This practice we believe presents considerable risks as Ministries can circumvent the tendering process completely. Furthermore, this practice is erroneously applied as, it is our assertions that the Financial Regulations specifically provides for the waiving of the procurement of goods and services that would collectively exceed \$100,000.00 and does not provide for the goods and services to be split in order to circumvent this requirement.

11 RECOMMENDATION

- 11.1 **In order to develop a more efficient and practical approach to project development and management, it is recommended that the Government review its current project development and management practices to determine whether they are comparable to international best practices.**
- 11.2 **In the interim, it is recommended that Ministries utilize the Project Management Guidelines issued by the Ministry of Finance.**
- 11.3 It is recommended that a systematic approach to project conception be adopted. It is further recommended that this approach be guided by a national development plan or mandate and not a district mandate.
- 11.4 It is recommended that a transparent criteria and process be developed to guide contractor selection.
- 11.5 It is recommended that a review be undertaken to pre-qualify contractors in order to fulfil the requirements of the Public Finance Management Regulations 181.
- 11.6 It is recommended that systems be put in place to ensure that contractors meet their tax obligations before being awarded Government contracts. Such a system may form part of the pre-qualification process.
- 11.7 It is recommended that any changes made to the petty contract template be vetted and approved by the Attorney General's Chambers in order to ensure that Government is adequately protected from unforeseen liabilities.
- 11.8 Due to the potential risk created as a result of the political influence on the process the following recommendations are provided as mitigating controls:
- 11.8.1 Additionally, it is recommended that a **"right to audit"** clause be developed and inserted in all construction contracts, with specific characteristics such as record retention time standards, accessibility to staff and suppliers, timeliness of response to audit engagement announcements, availability of space for auditors on site.
- 11.8.2 Similarly, it is recommended that an **"anti-kickback"** or **"non-bribery"** clause be developed and inserted in all construction contracts. The clause may be similarly worded, "No monetary payments were made or other services were rendered to influence the evaluation or contract award process."
- 11.8.3 It is further recommended that **"conflict of interest disclosure(s)"** be required that would obligate the contractor to disclose any potential conflict that they might have in the execution of the contracts.

- 11.9 It is recommended that a policy decision be made as to whether the petty contracting and management process be decentralized. If it is decided that the process be decentralized, it is further recommended that appropriate systems be put in place to ensure that each Ministry is equipped to adequately and consistently execute this function. Alternately, if infrastructural development is reverted to the Ministry of Communication and Works, it is recommended that the technical capabilities be developed at Public Works Department to provide the necessary support to the Ministry.
- 11.10 It is recommended that the emerging practice of giving mobilization payments on petty contracts be discontinued. Such payments should only be made in extreme circumstances.
- 11.11 It is recommended that project closeout and contractor evaluation processes be utilized.
- 11.12 It is recommended that the Government seek a legal opinion as to the legality of splitting projects into smaller components and awarding petty contracts without first seeking and receiving Cabinet's approval.

12 CONCLUSION

- 12.1 The petty contract process has emerged as a significant tool in the way in which government undertake development works. The petty contract process has provided significant opportunities for the Government to stimulate economic activities within the territory as well as to allow for a greater number of persons to directly participate in the development of the territory. Petty Contracts also represents a significant expenditure for the Government. As such, there needs to be adequate processes, policies, procedures and controls in place to ensure that transparency and equity exists in the process. As it is currently being administered, the petty contract process lacks the necessary transparency and administration that would promote good governance. Many projects with the Virgin Islands have been undertaken using petty contracts, however, because of the lack of properly defined objectives that would have been required had the project be put to tender, there is some doubt as to whether these projects have fulfilled their intended objective.
- 12.2 The Project Management Guidelines which form a part of the Public Finance Management Act and Regulations provides a sound foundation on which projects should be planned and managed. The detailed processed outline in this document, we believe, provides adequate controls to provide reasonable assurance that the objectives of each project are achieved.

MANAGEMENT RESPONSE



MEMORANDUM

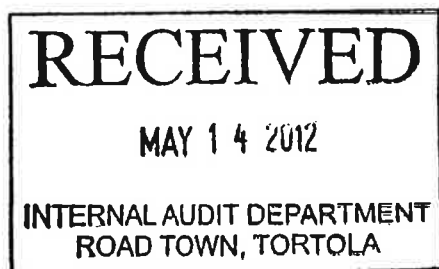
OUR REF: FIN/G1/30
TO: Ag. Director of Internal Audit
FROM: Financial Secretary
DATE: 11th May, 2012

Audit Recommendations

Reference is made to the caption above.

We acknowledge receipt of your memorandum dated 1st May, 2012, and enclosed is the completed Audit Recommendations for your review and information.

If there are any questions, please do not hesitate to let us know.



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Audit Recommendations

- 11.1 In order to develop a more efficient and practical approach to project development and management, it is recommended that the Government review its current project development and management practices to determine whether they are comparable to international best practices.

Agree/Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

- 11.2 In the interim, it is recommended that Ministries utilize the Project Management Guidelines issued by the Ministry of Finance.

Agree/Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

- 11.3 It is recommended that a systematic approach to project conception be adopted. It is further recommended that this approach be guided by a national development plan or mandate and not a district mandate.

Agree/Disagree	PEFR attempt to establish this
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.4 It is recommended that a transparent criteria and process be developed to guide contractor selection.

<input checked="" type="radio"/> Agree/ <input type="radio"/> Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.5 It is recommended that a review be undertaken to pre-qualify contractors in order to fulfil the requirements of the Public Finance Management Regulations 181.

<input checked="" type="radio"/> Agree/ <input type="radio"/> Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.6 It is recommended that systems be put in place to ensure that contractors meet their tax obligations before being awarded Government contracts. Such a system may form part of the pre-qualification process.

<input checked="" type="radio"/> Agree/ <input type="radio"/> Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.7 It is recommended that any changes made to the petty contract template be vetted and approved by the Attorney General's Chambers in order to ensure that Government is adequately protected from unforeseen liabilities.

Agree/Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.8 Due to the potential risk created as a result of the political influence on the process the following recommendations are provided as mitigating controls:

11.8.1 Additionally, it is recommended that a “**right to audit**” clause be developed and inserted in all construction contracts, with specific characteristics such as record retention time standards, accessibility to staff and suppliers, timeliness of response to audit engagement announcements, availability of space for auditors on site.

Agree/Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.8.2 Similarly, it is recommended that an “**anti-kickback**” or “**non-bribery**” clause be developed and inserted in all construction contracts. The clause may be similarly worded, “No monetary payments were made or other services were rendered to influence the evaluation or contract award process.”

Agree/Disagree	<i>Inclusion of this audit has a problem.</i>
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.8.3 It is further recommended that “**conflict of interest disclosure(s)**” be required that would obligate the contractor to disclose any potential conflict that they might have in the execution of the contracts.

<input checked="" type="radio"/> Agree/ <input type="radio"/> Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.9 It is recommended that a policy decision be made as to whether the petty contracting and management process be decentralized. If it is decided that the process be decentralized, it is further recommended that appropriate systems be put in place to ensure that each Ministry is equipped to adequately and consistently execute this function. Alternately, if infrastructural development is reverted to the Ministry of Communication and Works, it is recommended that the technical capabilities be developed at Public Works Department to provide the necessary support to the Ministry.

<input type="radio"/> Agree/ <input type="radio"/> Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.10 It is recommended that the emerging practice of giving mobilization payments on petty contracts be discontinued. Such payments should only be made in extreme circumstances.

<input checked="" type="radio"/> Agree/ <input type="radio"/> Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.11 It is recommended that project closeout and contractor evaluation processes be utilized.

Agree/Disagree	
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	

11.12 It is recommended that the Government seek a legal opinion as to the legality of splitting projects into smaller components and awarding petty contracts without first seeking and receiving Cabinet's approval.

Agree/Disagree	<i>This is already established.</i>
Corrective action planned	
Anticipated completion date	
Name(s) of contact person(s) responsible for corrective action	