



**CAYMAN ISLANDS**

**2018/2019 Session of the**

**LEGISLATIVE ASSEMBLY**

**REPORT**

**of the**

**STANDING**

**PUBLIC ACCOUNTS COMMITTEE**

**on the Report of the**  
**Government's Use of Consultants and Temporary Staff -**  
**February 2018**

*Laid on the Table of Legislative Assembly on this 22 day of Nov. 2018  
by the Leader of the Opposition, Chair of the  
Standing Public Accounts Committee*

# TABLE OF CONTENTS

|     |                                                           |     |
|-----|-----------------------------------------------------------|-----|
| 1.  | REFERENCE.....                                            | 3   |
| 2.  | DOCUMENT CONSIDERED .....                                 | 3   |
| 3.  | CHAIRMAN AND MEMBERS OF THE COMMITTEE .....               | 3   |
| 4.  | MEETINGS OF THE COMMITTEE .....                           | 3   |
| 5.  | ATTENDANCE OF MEMBERS .....                               | 4   |
| 6.  | PERSONS IN ATTENDANCE.....                                | 4   |
| 7.  | WITNESSES CALLED BEFORE THE COMMITTEE.....                | 4-5 |
| 8.  | PRACTICE AND PROCEDURE OF THE COMMITTEE (S.O 77 (6)) .... | 5   |
| 9.  | INTRODUCTION AND PAC COMMENTS.....                        | 5-6 |
| 10. | GOVERNMENT MINUTE.....                                    | 7   |
|     | ACKNOWLEDGEMENT.....                                      | 7   |
|     | REPORT OF THE COMMITTEE TO THE HOUSE.....                 | 8   |

**REPORT OF THE STANDING PUBLIC ACCOUNTS COMMITTEE  
ON THE REPORT OF THE OFFICE OF THE AUDITOR GENERAL  
ON GOVERNMENT'S USE OF CONSULTANTS AND TEMPORARY  
STAFF - FEBRUARY 2018**

**SUMMARY REPORT**

**1. REFERENCE**

The Standing Public Accounts Committee of the Cayman Islands Legislative Assembly, established under Standing Order 77(1), met to consider the following Report prepared and submitted by the Auditor General:

*Government's Use of Consultants and Temporary Staff - February 2018*

**2. DOCUMENT CONSIDERED**

In accordance with the provision of Standing Order 77(3), the Committee considered the following Auditor General Report which was referred in the House of the Legislative Assembly:

- Report of the Office of the Auditor General on *Government's Use of Consultants and Temporary Staff - February 2018*

**3. CHAIRMAN AND MEMBERS OF THE COMMITTEE**

The following Members of the Legislative Assembly are the present Members of the Standing Public Accounts Committee:

Hon. D. Ezzard Miller, MLA - Chairman  
Mr. Christopher S. Saunders, MLA - Member  
Hon. Bernie A. Bush, MLA - Member  
Ms. Barbara E. Conolly, MLA - Member  
Mr. Austin Osmond Harris, Jr., MLA - Member

**4. MEETINGS OF THE COMMITTEE**

The Committee held three (2) meetings to consider the Report:

- (i) Thursday, 3<sup>rd</sup> May 2018(*hearing*)
- (ii) Thursday, 10<sup>th</sup> May 2018(*hearing*)

## **5. ATTENDANCE OF MEMBERS**

The attendance of Members at the meetings is recorded in the Minutes of Proceedings which are attached to and form part of this Report.

## **6. PERSONS IN ATTENDANCE**

In accordance with Standing Order 77(8), the following persons were in attendance at the meeting held with witnesses on **Thursday, 3<sup>rd</sup> May 2018**:

- Mrs. Sue Winspear - Auditor General, Office of the Auditor General
- Ms. Angela Cullen - Director of Performance Audit, Office of the Auditor General
- Mr. Julius Aurelio - Audit Manager, Office of the Auditor General
- Mr. Gabriel Ncube - Audit Project Leader, Office of the Auditor General
- Mr. Michael Nixon - Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (MFED)
- Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development (MFED)

In accordance with Standing Order 77(8), the following persons were in attendance at the meeting held with witnesses on **Thursday, 10<sup>th</sup> May 2018**:

- Mrs. Sue Winspear - Auditor General, Office of the Auditor General
- Mr. Julius Aurelio - Audit Manager, Office of the Auditor General
- Mr. Gabriel Ncube - Audit Project Leader, Office of the Auditor General
- Mr. Michael Nixon - Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (MFED)
- Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development (MFED)

## **7. WITNESSES CALLED BEFORE THE COMMITTEE**

In accordance with the provisions of Standing Order 77(4), the Committee invited public officers and a former Minister of Government to give information and explanation to assist the Committee in the performance of its duties.

The following persons appeared before the Committee to give evidence on **Thursday, 3<sup>rd</sup> May 2018**:

- Ms. Reshma Sharma - Acting Solicitor General, Attorney General's Chambers
- Mr. David Hails - Chief Fire Officer, Cayman Islands Fire Service

The following persons appeared before the Committee to give evidence on **Thursday, 10<sup>th</sup> May 2018**:

- Mr. Stran Bodden - Chief Officer, Ministry of District Administration, Tourism & Transport
- Mr. Dax Basdeo - Chief Officer, Ministry of Financial Services and Home Affairs

- Mrs. Gloria McField Nixon - Chief Officer, Portfolio of the Civil Service
- Mr. Randy Merren - Managing Director, Hurley's Media Ltd

## **8. PRACTICE AND PROCEDURE OF THE COMMITTEE (S.O 77(6))**

The Committee agreed that in accordance with the provisions of Standing Order 77(6), all meetings at which witnesses were invited to provide information should be held in an open forum. This decision was taken to promote openness and accountability in Government.

## **9. INTRODUCTION AND PAC COMMENTS**

**9.01** The Audit and Report of the Auditor General was carried out in the Cayman Islands. The objective of the audit was to determine how well the Government had planned its use of consultants and temporary staff, how effectively Government had procured consultants to ensure value for money and how well the Government managed its consultants.

**9.02** The Committee agrees with and accepts the 16 recommendations made by the Auditor General, summarised in Appendix 3 of the OAG report. The Committee urges the Government to implement the recommendations as a matter of priority, given the extensive use of consultants and temporary staff in delivering Government services and projects.

**9.03** The Committee was disappointed that the Portfolio of Legal Affairs was unaware of its previous recommendation that all contracts should be subject to legal review and agreement prior to them being signed. PAC was also disappointed that the Portfolio of Legal Affairs had not been asked to input to the Government Minute in response to this recommendation, which was due by 1 June 2018. The Committee also believes that Portfolio of Legal Affairs should play a larger and more pro-active role in advising Government rather than waiting to be asked. The PAC was concerned about the amount of money being spent across government on legal advice. To address this, the Committee recommends that Government should:

1. Develop clear guidance that requires permission to be sought prior to procuring external legal advice if not using the Portfolio of Legal Affairs.
2. Consider carefully the legal advisors it is using, including whether they are potentially conflicted by being involved in any legal cases against the Government.
3. Ensure that its staff are educated on the new requirements of the Procurement Law and other developments, including standard terms and conditions of contract.

**9.04** The PAC is disappointed that despite the Procurement Law being passed in December 2016, guidance is only now being updated and training delivered after the commencement date of 1 May 2018. The Committee recommends that Government should ensure that:

1. In future all preparatory work is done in advance of new legislation being brought into force.
2. The Portfolio of Legal Affairs is involved in the development of procurement guidance and standard terms and conditions of contract.
3. Training on the new Procurement Law and Regulations should make it clear that the requirements also apply to the hiring of temporary staff.

**9.05** The PAC agrees with the Office of the Auditor General that business cases are needed to justify the need for using consultants. The Portfolio of Legal Affairs should prepare brief business cases to justify the need for the use all consultants and legal advisors (at the hearing PLA committed to doing this by September 2018).

**9.06** While the Committee acknowledges that the Government will always have the need to bring in consultants for some aspects of work and projects, it nonetheless recommends that Government should invest more in staff training and development to ensure that it has the skills and expertise it needs now and in the future with a view to reducing its overall spending on consultants.

**9.07** In relation to the use of temporary staff, the PAC was concerned that their use may have increased as a direct result of the recruitment moratorium and that it may be adversely impacting on employment prospects for Caymanians. The Committee recommends that Government should:

1. Develop a pool of Caymanian staff that it can draw on to provide temporary cover when needed, rather than hiring temporary staff through recruitment agencies.
2. Develop a better understanding of and collect information on temporary staff hired through recruitment agencies.
3. Ensure that it is complying with procurement legislation, policies and procedures when hiring staff through recruitment agencies.
4. Not use recruitment agencies that are known to not promote Caymanians first.

**10. GOVERNMENT MINUTE**

**10.01** The Public Accounts Committee wishes to draw Government's attention to Standing Order 77 sub-order 7 which reads;

*"The Government Minute shall be laid on the Table of the House within three months of the laying of the report of the Committee and of the report of the Auditor General to which it relates."*

The PAC expects the Government to honour the requirements of this Standing Order.

**ACKNOWLEDGEMENT**

The Committee is most appreciative of the efforts of the Auditor General and her staff in presenting very fair, comprehensive and informative Report and for the support, assistance and constructive advice given throughout its deliberations.

The Committee also thanks the staff of the Legislative Assembly for the assistance provided.

**REPORT OF THE COMMITTEE TO THE HOUSE**

The Committee agrees that this Report be the Report of the Standing Public Accounts Committee to the House on the following Report of the Office of the Auditor General:  
*Government's Use of Consultants and Temporary Staff - February 2018*

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Hon. D. Ezzard Miller, MLA – Chairman

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Hon. Bernie A. Bush, MLA – Member

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Mr. Christopher S. Saunders, MLA – Member

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Ms. Barbara E. Conolly, MLA – Member

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Mr. Austin O. Harris, Jr, MLA – Member



## Legislative Assembly of the Cayman Islands

### THE STANDING PUBLIC ACCOUNTS COMMITTEE

#### **MINUTES of Meeting with Witnesses**

Thursday, 3rd May 2018 at 10:00 am

#### GOVERNMENT'S USE OF CONSULTANTS AND TEMPORARY STAFF - FEBRUARY 2018

Minutes and verbatim transcript of the Meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building, Grand Cayman, on Thursday, 3rd May 2018 at 10:00 am.

#### **Present:**

Hon. D. Ezzard Miller, MLA - Chairman  
Mr. Christopher S. Saunders, MLA - Member  
Hon. Bernie A. Bush, MLA - Member  
Ms. Barbara E. Conolly, MLA - Member  
  
Ms. Manesa Webb, Committee Clerk

**Apologies:** Mr. Austin O. Harris, Jr., MLA - Member

#### **Attendees:**

Mrs. Sue Winspear - Auditor General, Office of the Auditor General  
Ms. Angela Cullen - Director of Performance Audit, Office of the Auditor General  
Mr. Julius Aurelio - Audit Manager, Office of the Auditor General  
Mr. Gabriel Ncube - Audit Project Leader, Office of the Auditor General  
Mr. Michael Nixon – Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (MFED)  
Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development (MFED)

**Witnesses:**

Ms. Reshma Sharma - Acting Solicitor General, Attorney General's Chambers

Mr. David Hails - Chief Fire Officer, Cayman Islands Fire Service

**1. Meeting to Order**

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the meeting to order at 10:20 am.

**2. Welcome**

The Chairman gave a brief welcome to the Members and thanked them for attending the Public Accounts Committee ("PAC") Hearing. He also welcomed and thanked the Auditor General and her staff members from the OAG along with Mr. Michael Nixon and Mr. Matthew Tibbetts from the Ministry of Finance and Economic Development.

The Chairman advised the Committee that they would be dealing with *Government's use of consultants and temporary staff - February 2018*. Ms. Sue Winspear, the Auditor General, offered opening remarks on the above mentioned report. The floor was then opened by the Chairman for Members of the Public Accounts Committee to ask questions.

**3. Review of Government's Use of Consultants and Temporary Staff - February 2018:**

▪ Government's Use of Consultants and Temporary Staff - February 2018

The meeting commenced at 10:15 a.m. and the Chairman invited the first witness and resource person to the Chamber. Administration of oaths was confirmed through the Bible being held in their hand, and they were thereafter told to state their names for the record when they first spoke.

The following person appeared in their named capacity as a witness before the Committee for this Report:

▪ Ms. Reshma Sharma: Acting Solicitor General - Attorney General's Chambers

The following person appeared in their named capacity as a resource person before the Committee for this Report:

- Ms. Tiffany Ebanks - Chief Financial Officer - Portfolio of Legal Affairs, Office of the Director of Public Prosecutions, Judicial Administration, and Office of the Ombudsman.

The Committee continued the meeting with the next witness at 1:46 pm who was administered the oath and the Chairman welcomed and thanked the witness for attending.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mr. David Hails: Chief Fire Officer - Cayman Islands Fire Service

The Chairman, again, thanked the witness for attending the Meeting of the Standing Public Accounts Committee.

**4. Any Other Business:**

There was no other business.

**5. Scheduling of Next Meeting**

The next meeting with witnesses was confirmed for:

- Wednesday, 9<sup>th</sup> May 2018 at 9:30 am

**6. Adjournment**

There being no further business, the Chairman adjourned the meeting at 3:00 pm.





## Legislative Assembly of the Cayman Islands

### THE STANDING PUBLIC ACCOUNTS COMMITTEE

#### **MINUTES of Meeting with Witnesses**

Thursday, 10<sup>th</sup> May 2018 at 10:00 am

#### **GOVERNMENT'S USE OF CONSULTANTS AND TEMPORARY STAFF - FEBRUARY 2018 & REVIEW OF ICTA'S 2015/16 FINANCIAL STATEMENTS**

Minutes and verbatim transcript of the Meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building, Grand Cayman on Thursday, 10th May 2018 at 10:00 am.

#### **Present:**

Hon. D. Ezzard Miller, MLA - Chairman  
Mr. Christopher S. Saunders, MLA - Member  
Hon. Bernie A. Bush, MLA - Member  
Ms. Barbara E. Conolly, MLA – Member  
Mr. Austin O. Harris, Jr., MLA - Member  
  
Ms. Manesa Webb, Committee Clerk

#### **Attendees:**

Mrs. Sue Winspear - Auditor General, Office of the Auditor General  
Mr. Julius Aurelio - Audit Manager, Office of the Auditor General  
Mr. Gabriel Ncube - Audit Project Leader, Office of the Auditor General  
Mr. Michael Nixon - Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (MFED)  
Mr. Matthew Tibbetts - Accountant General, Ministry of Finance and Economic Development (MFED)

**Witnesses:**

Mr. Stran Bodden - Chief Officer, Ministry of District Administration, Tourism and Transport

Mr. Dax Basdeo - Chief Officer, Ministry of Financial Services and Home Affairs

Mrs. Gloria McField-Nixon - Chief Officer, Portfolio of the Civil Service

Mr. Randy Merren - Managing Director, Hurley's Media Ltd

**1. Meeting to Order**

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the meeting to order at 10:15 am.

**2. Welcome**

The Chairman gave a brief welcome to the Members and thanked them for attending the Public Accounts Committee (“PAC”) Hearing. He also welcomed and thanked the Auditor General along with Mr. Michael Nixon and Mr. Matthew Tibbetts from the Ministry of Finance and Economic Development.

The Chairman advised the Committee that they would be dealing with *Government's use of consultants and temporary staff - February 2018 and ICTA's 2015/16 financial statements*. The floor was then opened by the Chairman for Members of the Public Accounts Committee to ask questions.

**3. Review of Government's Use of Consultants and Temporary Staff - February 2018:**

▪ **Government's Use of Consultants and Temporary Staff - February 2018**

The meeting commenced at 10:19 a.m. and the Chairman invited the first witness and resource person to the Chamber. Administration of oaths were confirmed with the Bible being held in their hand, and they were thereafter told to state their names for the record when they first spoke.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mr. Stran Bodden - Chief Officer, Ministry of District Administration, Tourism & Transport

The following person appeared in their named capacity as a resource person before the Committee for this Report:

- Mrs. Neyka Webster - Chief Financial Officer, Ministry of District Administration, Tourism & Transport

The Committee continued the meeting with the next witness and resource person at 11:47 am who were administered the oath, welcomed and thanked by the Chairman.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mr. Dax Basdeo - Chief Officer, Ministry of Financial Services and Home Affairs

The following person appeared in their named capacity as a resource person before the Committee for this Report:

- Ms. Wendy Manzanares - Chief Financial Officer, Ministry of Financial Services, Commerce and Environment

The Committee continued the meeting with the next witness at 2:21 pm who was administered the oath, welcomed and thanked by the Chairman.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mrs. Gloria McField Nixon - Chief Officer, Portfolio of The Civil Service

#### **4. Review of ICTA's 2015/16 Financial Statements:**

The Committee continued the meeting with the next witness who was recalled to answer questions from the *ICTA's 2015/16 Financial Statements* at 3:08 pm. The witness was welcomed and thanked by the Chairman.

The following person appeared in their named capacity as a witness before the Committee for this Report:

- Mr. Randy Merren - Managing Director, Hurley's Media Ltd

The Chairman, again, thanked the witness for attending the Meeting of the Standing Public Accounts Committee.

**5. Any Other Business:**

There was no other business.

**6. Scheduling of Next Meeting**

The next administrative meeting was confirmed for:

- Wednesday, 23<sup>rd</sup> May 2018 at 10:00 am

**7. Adjournment**

There being no further business, the Chairman adjourned the meeting at 3:52 pm.

**OFFICIAL VERBATIM REPORT  
STANDING PUBLIC ACCOUNTS COMMITTEE**

**THURSDAY  
10 MAY 2018  
10:10 AM**

*Meeting with Witnesses*

**“GOVERNMENT’S USE OF CONSULTANTS AND TEMPORARY STAFF—  
FEBRUARY 2018”**

Verbatim transcript of the Standing Public Accounts Committee meeting held 10<sup>th</sup> May 2018, at 10:10 am, in the Chamber of the Legislative Assembly Building, George Town, Grand Cayman.

**PAC Members Present:**

Hon. D. Ezzard Miller, MLA - Chairman  
Mr. Christopher S. Saunders, MLA - Member  
Hon. Bernie A. Bush, MLA - Member  
Ms. Barbara E. Conolly, MLA - Member  
Mr. Austin O. Harris, Jr., MLA - Member

Ms. Manesa Webb - Committee Clerk

**In attendance:**

Mr. Michael Nixon, Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development  
Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development

**Office of the Auditor General:**

Mrs. Sue Winspear - Auditor General, Office of the Auditor General  
Mr. Julius Aurelio - Audit Manager, Office of the Auditor General  
Mr. Gabriel Ncube - Audit Project Leader, Office of the Auditor General

**Witnesses:**

Mr. Stran Bodden - Chief Officer, Ministry of District Administration, Tourism & Transport  
Ms. Neyka Webster - Chief Financial Officer, Department of Tourism  
Mr. Dax Basdeo - Chief Officer, Ministry of Financial Services, Commerce & Environment  
Mrs. Kathryn Dinspell-Powell, Deputy Chief Officer, Ministry of Financial Services  
Mrs. Gloria Mcfield-Nixon - Chief Officer, Portfolio of the Civil Service  
Mr. Randy Merren, Managing Director, Hurley's Media Ltd.

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*[Hon. D. Ezzard Miller, Chairman presiding]*

**The Chairman:** Good morning, everyone. Let the record show that we have a quorum and before we move into that actual calling of the witnesses, I need to clear up and get the Committee's recommendation on one little administrative matter.

**MOTION**

**CHAIRMAN TO WRITE A LETTER  
TO THE SPEAKER AND CLERK OF  
THE LEGISLATIVE ASSEMBLY- FUTURE  
REQUESTS FOR HANSARD FROM  
MEMBERS OF PAC**

**The Chairman:** It seems that the rules of the Legislative Assembly, when Members of the Committee request copies of the Hansard in order to facilitate questioning of the witnesses, that there seems to be an inordinate process that we have to go through, that is, it has to be approved by the Speaker and then it also, apparently, has to be approved by the Chairman. I would like the Committee to consider and, if they agree with me, so recommend, that I write a letter to the Clerk and the Speaker and ask that in the future, whenever a Member of the Public Accounts Committee requests a copy of the Hansard, that it be given forthwith and not delayed seeking permission.

So, can I have a motion and then I will write the letter based on it?

**An Hon. Member:** I move the motion.

**The Chairman:** A seconder?

**Mr. Christopher S. Saunders:** I will second it.

**The Chairman:** All those in favour, please say Aye. Those against, No.

**AYES.**

*[Inaudible interjection]*

**Agreed:** Letter to be written to the Speaker and Clerk of the Legislative Assembly by the Chairman, requesting that a Member of the Public Accounts Committee be given a copy of the Hansard forthwith, when requested, and not be delayed when seeking permission.

**The Chairman:** This is what doesn't make a lot of sense to me—it is one of these antiquated rules that has existed way back, when the Public Accounts Committee and Parliament only met in secret, particularly when we have the Hansards of what is a public session. Restrictions on the Hansard should not apply, so, I will write the letter asking the Speaker to do that.

**Mr. Christopher S. Saunders:** Question, Mr. Chairman: Am I to understand that in the past no Member of the PAC has ever asked for this before?

**The Chairman:** No, they did, but they asked and had to wait. I have had to wait as Chairman to get it approved before I could get a copy of it.

**Mr. Christopher S. Saunders:** Has it been like this forever and a day?

**The Chairman:** Yeah, it is one of those, like I said, which I regard as antiquated rules that need to be—

*[Inaudible interjection]*

**The Chairman:** Yeah, when I needed the evidence against the Chief Officer from the Official Hansard, it took almost a week to ten days to get it, for the same purposes, because it had to be approved along the way. I just think that, particularly, if something is being held in camera, you can see that there would be some controls and some restrictions on who has access but even then, a Committee Member should not be denied access, you know, because this happens to be a rule that has been here from whenever.

So, on the Committee's advice, I will write to the Speaker and ask that, when it comes to the Public Accounts Committee, when Members, in particular, request copies of the Hansard in order to prepare for

the next witness, that it be given forthwith. Thank you all very much for that.

We can now bring in the witness please.

*[Pause]*

## **ADMINISTRATION OF OATHS OR AFFIRMATIONS**

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** I swear by the Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

**Ms. Neyka Webster, Chief Financial Officer, Department of District Administration, Tourism and Transport:** I do solemnly, sincerely and truly declare and affirm that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

## **MINISTRY OF DISTRICT ADMINISTRATION, TOURISM AND TRANSPORT**

**The Chairman:** Good morning, Mr. Stran. Thanks for coming. You know the rules, the first question you go to answer, either of you, just give your full name and your position so that it will appear in the records.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Yes, sir.

**The Chairman:** This morning we are dealing with the report by the Auditor General on the Government's use of Consultants and Temporary Staff. I think the Committee wants to ask you some questions on the consultant side of it.

**Mr. Christopher S. Saunders:** Thank you very much Mr. Chairman and through you to the witness or witnesses.

Firstly, I would like to thank the Chief Officer. From reading the report I understand that your Ministry was actually one of the better performing ones and while there are still areas for improvement, nonetheless, this is what we are here for. I think it is important that the public understands that there will always be a need for consultants whenever we do not have the requisite skills within the civil service. What we need is to just make sure that there is some level of comfort regarding the process to always make sure that:

1. It is open and transparent and,
2. It also represents value for money.

With that said, I think it is important for us to set the stage that people sometimes have a belief that when people come before the PAC, there is always something negative. In this case, it is more on the positive side and I believe that, maybe with some of

the questions that we will be asking today, it will at least give the Chief Officer and his team an opportunity to even enlighten some of his other colleagues in terms of, maybe, some of the practices that they are doing and how best we can improve it.

One of the things, in terms of the first question, is that we noticed from the Auditor General's Report that there were some contracts where a business case was not done. Now, within the manual, from what I understand, there was no requirement for a business case to be done but we understand in some cases, because most of it was on the marketing side and I think it will be self-explanatory; but at a minimum, I would just give the Chief Officer and his team an opportunity to explain or just to update the Committee and the public as to why they believe that in some cases a business case would not be justified for some of the contracts. Thank you.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Good morning, Stran Bodden, Chief Officer in the Ministry of District Administration, Tourism and Transport.

I would like to thank the Member for the question and he is absolutely right.

When the Ministry looks at its work, the first priority is good governance so, in all our priorities, that is number one, and that is how you craft this kind of response from the Auditor General. If you have good governance as the number one priority, you will get these kinds of feedbacks and results.

To your question, sir, on the consultants: the Department of Tourism is a marketing and advertising machine that I am very proud to be a part of and lead. To have that kind of specialised skills in the department, as civil servants, it just would not be practical, it would not be possible, but we place those individuals at agencies around the world—US, UK and Canada—our core markets, in order to have the best bang for our buck (to use that terminology).

So, that has been proven, it has been tested and has worked for a number of years, and we continue to rely on that kind of model to get the brand Cayman out there and keep that at a standard where we can continue to attract the visitors that we do year round.

**The Chairman:** Through you, Mr. Chairman.

**Mr. Christopher S. Saunders:** You are the Chairman.

*[Laughter]*

**The Chairman:** I am setting an example.

You are all awake, that is good! Okay.

*[Laughter]*

**The Chairman:** Mr. Nixon, you did not notice that I made an error there?

*[Inaudible interjection]*

**The Chairman:** Okay.

While we agree that in terms of developing a staffing core, can you confirm that when you are dealing with these kinds of specialised contracts, there is some continuity and some commonality in the person in the Ministry or the Department of Tourism that deals with these contracts, so that at least there is that level of expertise that is developed within the organisation and, therefore, it will be more difficult for one of these specialised companies to pull a coup so to speak? In other words, make a recommendation that might not achieve the results.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you for the question, Mr. Chairman.

Yes, absolutely. These contracts, whether they are public relations, marketing, media purchasing, are monitored heavily by the marketing promotion section of the Department of Tourism. So, we have a Deputy Director there, we actually employed an operations administrator that just deals with the management of contracts because there are (sorry to say) so many of them. We needed that special staff position to monitor those.

**The Chairman:** And they are obviously involved in the procurement process?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Absolutely, sir.

**The Chairman:** Right.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** I can also say that my Chief Financial Officer, Mrs. Neyka Webster, who is here with me, is also involved in that procurement process from the Ministry level as well.

**Mr. Christopher S. Saunders:** One of the things that I just want to put out there also, for the record, is that even though there were not business cases for some of the contracts, that the majority of them were all open, competitive process from that standpoint so, we just want to make sure that no one gets the wrong impression.

Out of curiosity, can you just walk us through in terms of when you guys have an idea of when you want to achieve a particular objective, what are the steps you would follow, or the decision making tree that you would use to arrive at going out to, I guess, engage a consultant, and then what the end product

would look like in terms of the awarding and everything else and then the follow through?

Just a kind of idea in terms of the process because, like I said, you guys are actually doing it right, so we want everyone to understand what it is you are doing, with hopes that others who are listening can follow what you guys are doing.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** I thank the Member for the question.

To the Member's point: Once an initiative is identified, the proper scoping of that initiative or that project is done first, obviously, then the procurement documents, tender documents are drafted in keeping with the level that it would be. Obviously, we all know \$50,000 is the limit for public tender. If it has to be advertised, it is advertised for a suitable period of time. The bids that come in, depending on whether it is \$50,000 or over \$250,000 it will go to Central Tender's Committee; They are evaluated for value for money and quality, so it is not just the cheapest bid that always wins the process; it has to be, again, best value for money, so quality for the bid and then, depending on the scale again, it goes back to either the Departmental Tenders Committee or Central Tender's Committee.

During that time, what we also do is actually, say for instance, it is a public relation's contract, creative media buying contract, we interview each bidder in order to get that face to face contact because, obviously Tourism and branding is a very face to face issue that we are trying to establish, so we want to see the individuals that are actually going to market our brand Cayman. That has proven to be very useful and again, my Chief Financial Officer takes part in that.

The award is done after evaluation and all parties are notified. So, it is not a complicated process because, one thing I think that we have going for us, it is very much laid out in the Public Management and Finance Law (PMFL) and now, the Procurement Law as of May 1<sup>st</sup>. So, the policies underneath that now underpin it; we need to have those in place.

As you rightly said, sir, we did not have defined business cases for all initiatives, projects and events that we would do, we have now added that to our policy. We will be updating it further to encapsulate, obviously, the Procurement Law that is now in effect again, as of May 1<sup>st</sup> and so, all of that is ongoing. But it is about value for money, at the end of the day. It is about open, transparent and a competitive process, so those three things always have to be maintained.

Again, in my mind, anyway, it is a simple thing that you want to prove is fair, everybody had a level playing field to go through, and best value for money is what you look for and what you got out of the process.

**Mr. Christopher S. Saunders:** One of the things I was pleased to see in the Auditor's General Report is that (and you kind of missed it which was actually a feather in the cap) you guys actually do a post analysis once a contract is finished, to ensure that the objectives are met. That is actually an added plus. Just out of curiosity, even though you missed it, what does that process normally entail in terms of when you are doing that kind of analysis? What is it that you look for?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you for the question, member.

That process is largely done at a departmental level, which is why you saw me consult the CFO, but it is engagement with the parties; a lot of communications, a lot of meetings to ensure that we, again, got value for money and the process was open and transparent. So, that is a post-analysis, as you said, to ensure once again communication and value for money with the person that we contracted with. And the entire process is documented as well for the submission.

**Mr. Christopher S. Saunders:** No problem; thank you very much.

Just out of curiosity in the same trend. In terms of the port, I know there were several ongoing consultancies that were being used. Can you provide us with an update in terms of where we are with that business case?

I am assuming there is a business case for that one, because of the size.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you, member.

Yes, sir, that is correct. In keeping with the Framework for Fiscal Responsibility in the Public Management and Finance Law, it calls for independent, financial, accounting and technical advice.

So, that is where the business case lies under the financial advice, in terms of getting a project assessed in terms of it being commercially viable so the technical part is obviously, for instance, things like the environmental impact assessment, et cetera, required. That was also done.

In terms of where we are now, we actually have a consultant, KPMG that has actually been contracted to guide us through and advise us on the actual procurement. So, we have done the outlined business case and we have completed the environmental impact assessment and Cabinet has given us the go ahead to go through procurement and we are being guided through that as well, again, by KPMG, an independent adviser in terms of procurement, as per the Public Management and Finance Law.

**Mr. Christopher S. Saunders:** Out of curiosity, the process, looking back at the Public Authorities Law and even the PMFL, is this being driven by the Port, the Ministry or both groups together?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you for the question, member.

It is being driven by a Project Steering Committee that consists of the Ministry and the Port; yes, sir.

**The Chairman:** You mentioned that the EIA [Environmental Impact Assessment] has been completed; just lead me if I am going wrong.

My understanding is that the process being followed in the procurement to do the cruise piers is that you have invited people to design, finance, build and maintain. Does that mean that each person is doing their own design or does the Government have a design that each person has accepted?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you for the question, Mr. Chairman.

We have put together a conceptual design that actually, additional to that, our standards and specifications that that design has to meet. So, for instance, the length and width of the pier have been stated by the Government, by the Project Steering Committee, that they cannot be varied. So, we have set the specifications and the standards based on engineering and the users, the cruise lines, and that would inform, obviously, cost. It is more, I guess, on the upland section of it, how they would lay that out to best manage the passengers coming to shore, but the actual piers themselves in terms of length, width, number of pilings, we have actually specified that in terms of our engineering advice and our users to cruise lines.

**The Chairman:** It is also my understanding from information in the public, that this later design moves the piers into deeper water to reduce the impact on dredging. Has the EIA taken that into consideration and is there going to be an updated EIA done on the final design that is accepted by the Government?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Mr. Chairman, the first design the EIA [did] was done, again, on best value for money, so the environmental impact was not the top priority in that, it was best value for money.

What we have done now is say, if we can lengthen the piers to the extent that we are able to into deeper water, because obviously we have a drop off that we cannot go beyond, that that would then happen and that would reduce the dredge. So, we can imagine a pocket that would have to come out, that

has now been taken further out because obviously the closer you come in the more shallow you are, and you would need to dredge more. That has now been pushed out in terms of what has to be dredged so, that has been lessened.

To your point on the final design, the EIA will then need to be updated based on the final design, so that would have to be done by the chosen preferred bidder.

**The Chairman:** They will do an EIA or the person who did the original EIA will update their EIA?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** The individuals identified will have to update the EIA.

**Hon. Bernie A. Bush:** You have covered most of it Mr. Chairman, but through you.

Is it safe to have the people who are going to build this, do the EIA? Should it not be us? Because they are only interested in building the project, we have to protect Seven Mile Beach. We have already seen when the Royal Watler Pier was built, what happened on Boggy Sand Road. All that evidence is right there for everyone to see, the erosion, everything.

Is it safe, in your professional opinion, to have those that are going to build it, because they are not going to be interested in what happens, they just want to make the money off of building the pier.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** I thank the Member for the question.

The EIA will only be updated, it will not be changed. Any impact will demand it is to be lessened.

So again, by moving the piers out, you will only then redo the wave actions and so forth, that was in the original EIA. So, that will all be lessened because again, you are moving the dredging further offshore to a lesser degree.

**The Chairman:** There are some inherent risks in moving it offshore that you will have more impact on currents than the near shore; even though there may be less dredging, the wave action is going to be greater and the effect of coastal currents are going to be much more impactful on what dredging is done.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Mr. Chairman, I think that that would have to come out of the study, sir. I could not necessarily speak to that.

**The Chairman:** Following on the Auditor General, and you said it earlier I think, just to confirm, that you are now in the process of updating your procurement policies to fall in line with the Procurement Law?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Yes, Mr. Chairman.

The update that was based on the Auditor General's report was relatively a simple thing to do, which we have done, but to bring it in line now with the Procurement Law, it is going to take a little time, so we have not completed that as yet but we are working on it.

To say that we have to update the policy is one thing, but we absolutely have to be in compliance with the Law, so bringing the policy in . . . the Law would trump the policy anyway, so we want to have again, best practice, good governance that our policy is in line with the Law but obviously now with the enactment of May 1<sup>st</sup>, the Law would trump any policy that we have.

**The Chairman:** I am curious because the Procurement Law was passed into Law on the 2<sup>nd</sup> December 2016 and here we are May and it was specifically—they include this clause in the Bill: "The Law may be cited as a Procurement Law". Section 2: "The Law shall come into force on such date as may be appointed by the Cabinet and different dates may be appointed for different provisions of this Law and relation to different matters."

We parliamentarians are made to believe that the reason for section 2 is to allow the Government Agencies to fall in line with the expectations of the Law **before** it comes into effect, not for the Law to come into effect and the various agencies in government have not complied or are in a position to comply with the Law on the implementation. It seems that, as we see in other references in the media, that people are complaining that they have not received training under the Procurement Law as part of their reasons for not obeying the Law.

Can you explain to me, what was the delay? And why are you now working on making sure that your policies agree with this Law after it has come into effect?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you for the question, Mr. Chairman.

Mr. Chairman, maybe I did not explain it enough but the policy, bringing that in line is good governance; it is best practice with the law, but we would not necessarily look to our policy if that is not yet in line with the Law. Yes, I will put my hand up and say we did not get it done before the enactment date, we had a few audits going on and it took a little time but we will get it done. But the point to be taken away is that we will comply with the Procurement Law and any of its provisions that are now in full force.

**The Chairman:** Okay.

**Hon. Bernie A. Bush:** Mr. Chair, through you.

I am sure the public is interested in knowing. We have heard you used the words "*good governance*" quite a few times, since you have been speaking. How much involved is the Ministry with the Port? All that is in the headlines and what has been going on—how involved is the Ministry?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you for the question, member, but could you be a little bit more specific? Sorry.

**Hon. Bernie A. Bush:** Is the Ministry involved with anything to do with the Port? We have seen what has been happening in the newspaper, a 61 page report, and we hear good governance over and over. Was the Ministry involved in this? How did they know about it? Just, whatever!

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** I thank the Member for the question.

The matter that is now in the media in relation to the Port Authority was first brought up to me by the Office of the Auditor General.

I then, along with the Auditor General, spoke with the Board of the Port Authority; they were alerted and we started meeting on it. The Office of the Auditor General had not yet completed all of their investigation which, by the way, how it came about was through their 2016/2017 audit (I see the Auditor General nodding) and she brought that information to me as Chief Officer and a board member and it progressed from there, sir.

**Mr. Christopher S. Saunders:** Through you, Mr. Chairman. Firstly, I think, just for the record, I understand that the Board took some level of action where management was concerned. I think that was what the media reported and that is commendable in terms of the board actually doing something.

I wish we had more government boards that would actually do something with some of the managers; I can think of the HSA board to begin with. I think some of them should be fired or in this case removed.

One of the things that jumped out . . . and this is my question to the witness: We have a tendency in Cayman, and I am just trying to phrase it the right way, I don't want it to come out the wrong way. We always have a tendency to be looking for the boogiemanager, looking for the duppy.

People will say stuff sometimes and they are always looking and we hear all kinds of crazy theories sometimes, and one of the things old people would tell you is that even a broken clock is right twice a day.

One of the things that someone messaged me the other day, and it kind of gave me food for thought because I understand that this is something that has

been around for quite some time and they are like, *You know, Chris, why is this just coming out now?*

According to some, it is a situation where they want to remove the Port Director because they want to shift someone from Planning to [be] the Port Director because some projects for people (they said Dart's projects) are not being moved fast enough.

What I just wanted to make sure of and, I realise a lot of movements of a lot of different parts, but this is one of the things that are out there in the public domain; that there are a lot of movements going on to get people moving in different places. I just want assurances, or at least the public I think, would like some assurances especially when you factor in the Public Authorities Law, the PMFL Law and the role of the Chief Officer and everyone else with it, that there is no boogiemán out there in this situation trying to... the look on your face pretty much says, *What the hell is he talking about?* That is good and that is what I really wanted, to see the look on your face to say that nothing like that is coming.

No, because when someone says to me, *You know Chris, they want to get rid of the Port Director, they want to move the guy from Planning to Port and then they want to bring some lady back from Dart to Planning because Dart's projects are not moving*, it kind of jumps out to think, *Wait a minute, that is a lot of moving parts to get one thing done*. So, the look on your face pretty much confirms that you are probably just hearing this for the first time too. So, no question then, Mr. Chairman. The look on the Chief Officer's face pretty much just said, *Okay, that is news to me also*.

*[Inaudible interjection]*

**The Chairman:** I will add this old adage to it: "Where there is that much smoke, there has to be some fire."

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Mr. Chairman, to take away all ambiguity, I will answer the question. And to the Member's point, what he expressed this morning, I have just heard first hand from him. I have never heard anything like that prior.

**Mr. Christopher S. Saunders:** It is, as I said, the look on your face. Sometimes you hear it from one person and then you hear it from another person and then, you start hearing it. I mean, even Bernie admitted that he heard it, and I am like that is a lot of trouble to move one person to bring in another just to get stuff moving; so I just wanted to make sure. And like I said, the look on your face pretty much ended my curiosity after a while. I was not going to pass up an opportunity to ask you.

**The Chairman:** The things that the Office of the Auditor General is concerned about, but I noticed that you

said you are doing it, is that the Portfolio of Legal Affairs has sight and signed off on all of these consultant contracts and you said that you are doing it now. You also went on to say that your contracts are also reviewed by external lawyers who are subject matter experts hired by the Ministry and Department.

Are those lawyers vetted by the Legal Department or is that just an action taken by the Ministry and the Department on its own?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Mr. Chairman, thank you for the question.

That is taken by the Ministry and Departments on its own. Those law firms are actually offshore in the US, UK, Canada, depending on where we need the legal advice and we go through open, transparent, competitive tender process for those as well.

**Mr. Christopher S. Saunders:** I just want to go back on record again Mr. Chairman, and thank the Chief Officer for the work that they are doing, especially on the Tourism side.

I think the numbers speak for themselves, there is a solid team, the performance is there and, I just want to at least say on behalf of the people of Bodden Town West that I represent, thanks for the work that you are doing.

One of the things that I do hope that you guys consider, in terms of your business cases, is to look at what Antigua is doing. I like the fact that they have eight ports around the island and everyone has an opportunity to get a piece of the Tourism pie, as opposed to everything being concentrated in George Town.

So, that is one of the things that we really would like to see, because if you look at it right now, from what I understand in terms of the numbers that we will need at the port to break even, we are going to need more attractions for more people and with the limited time that people still have in port, it is best if we can offer more around the Island as opposed to within a concentrated area.

With Royal Palms, where a lot of tourists go, with a hotel being built there, that is a good part. That is a lost activity that cruise tourism will have, so the question is now: Where will those... well, not a question for the PAC but to consider—what will happen to those people? Because there is a good chunk that actually go to visit Royal Palms property that will not be available in the next few years. Where then will they go?

The last thing, where some people are concerned, is that it would be pushing more people to the public beach and again, that is limited space for most locals so, if we can find a way in which to spread more activities around the Island and get more people to the eastern districts, it would be something to consider. But outside of that, the numbers speak for them-

selves. I know that we got a good uplift from the unfortunate events in the Eastern Caribbean while they were still recovering, so that is pretty good. It shows that there is confidence in Cayman as a destination for many people, but ultimately just keep up the good work. I just want to pass it on to your team.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** I thank the Member for the comment. I have the privilege of leading an incredible team at the Department of Tourism. The hardest job I think I have is trying to keep up with them because they are always working and coming up with new and innovative ideas which is what keeps Grand Cayman on the cutting edge and brings 418,000 stay-over arrivals in 2017 and are paced to do incredible numbers again in 2018. So, thank you for the comment, I will definitely pass that on to them.

**Hon. Bernie A. Bush:** Mr. Chairman, through you: Since the Alexandria [Hotel] in the Brac closed its doors; do we have any more rooms in the Brac?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** I thank the member for the question.

What is happening now in Cayman Brac is that Airbnb is opening up an entirely new niche market in Cayman Brac, so villas, condos have seen an uptake in Cayman Brac and we are looking forward to increasing that.

We encourage any developers, investors, local persons that are looking to build rooms in Cayman Brac, it is desperately needed, so we are always in consultation with those.

Anybody that wants to come and obviously having the District Administration in Cayman Brac as well, we entertain anyone that wants to come and invest, especially hotel rooms in Cayman Brac.

**Hon. Bernie A. Bush:** Okay. Mr. Chairman, through you: In other words, you did not answer me but there are no more rooms. So, all they are doing in the Brac is just trading condos into Airbnb or whatever you call them, but there are no more new rooms in the Brac?

It is the same buildings being retrofitted to being something else, but there are no more rooms. There have been no new establishments built in the last two years or so.

[Are there] any new hotels, any new condos?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** I thank the member for the comment and question again.

Not that I am aware of, sir. We are aware that there is interest; that people are looking at purchasing

property and developing rooms, but no new bricks in the ground, no, sir.

**Hon. Bernie A. Bush:** Okay.

Mr. Chairman, through you: How close does the Department of Tourism and Cayman Airways work together?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you for the question, member.

Cayman Airways and the Department of Tourism work very closely together. The Director actually has an ex-officio seat on Cayman Airways Board just like me, as Chief Officer.

**Hon. Bernie A. Bush:** The flights have been cut drastically. Are you aware of this for Cayman Airways?

For example, one flight goes up in the morning, one comes down in the evening most days. There are no midday flights anymore. Are you aware of this as the Chief Officer for this Ministry?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** As far as I am aware, sir, that is not every day.

**Hon. Bernie A. Bush:** No, no, no, almost every day. Of course, you are not going to do it on Friday, Saturday and Sunday, but Monday through Thursday, there is no midday flight anymore. There is a flight in the morning and it comes back in the evening. What is being done about this?

As for the flight loads, just recently, two flights to the Brac, there were 13 people going [to the Brac] and 9 people coming [from the Brac]. Two days after, there were 16 people going to the Brac and 10 people coming from the Brac. Now, I know it can be spun. I have heard people sit here and try to spin all kinds of things on those types of loads.

What is being done about growing the routes for Cayman Airways? Yes, it is good to do all of this stuff, but when are we not going to have to be doing things for our airline to benefit and can stop subsidising the airline? What is being done about the marketing of our airline and the prices and so forth?

It is obvious that the Board is making decisions which are hurting us because the airline is hurting and I do not know how people cannot see it. But if you talk to the staff that are not scared, if you pay attention, stand and look at who is coming off of those planes (go and stand and look), something is wrong.

Does Cayman Airways Marketing need help from the Department of Tourism marketing which I agree is pretty good? I have worked with them. But does the marketing of Cayman Airways need help? Can you prop them up to [get] help [from] the Department of Tourism? Is that possible?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you for the question.

As I said, the Department of Tourism and Cayman Airways do work very closely together.

As Members are aware, we now have the SAAB340B, two aircrafts going into Cayman Brac, so we have put the airlift in there. In terms of a capacity perspective, we have actually hired a Director of North American Sales for Cayman Airways. That individual was actually the aviation specialist, a young Caymanian with the Department of Tourism that resides in the US. So, that individual now works for Cayman Airways and works very well obviously with her former Department, the Department of Tourism.

So, I would think sir, that yes, they do work very well together with the aim of supporting our national airline.

**Hon. Bernie A. Bush:** Mr. Chairman through you, how long have the SAABs been here now?

*(Inaudible interjection)*

**Hon. Bernie A. Bush:** Mr. Chairman, through you, just to let you know: We still have four or five contracted captains on the SAAB [aircrafts]. Those SAABs are costing us; between the two of them, the staff and all kinds of stuff, over half a million dollars per month.

The time will come when it will have to be justified, the time will come because that was my very first question of, if there are more hotel rooms in the Brac, because there is not, but yet we have increased all this money flying planes into the Brac. All this money being spent monthly and people are talking about Cayman Airways is losing money and the main place it is losing is the Brac.

But these decisions are not yours; these are made by the Board and the CEO has to carry out what the board tells him to carry out, I am pretty sure; he and the Deputy CEO.

But in your opinion, are we getting our monies worth?

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you for the question.

The cry that we heard from the Minister responsible for Cayman Brac and Little Cayman and Tourism, was that it was lacking airlift into Cayman Brac, so we adjusted and put in the 34-seater SAAB to meet that demand. Now, when we speak to investors and developers that are thinking of putting rooms, especially in Cayman Brac, we can say, *Listen, now we have the SAAB servicing the Island.*

**Hon. Bernie A. Bush:** Mr. Chairman, thank you.

**Mr. Christopher S. Saunders:** Mr. Chairman, I know we were looking at something different but I just want to put something out there also.

Like with anything, there has got to be an agreed approach. I know that the Ministry, based on the visits that they made to the districts, are pretty much, at this point, working to update the National Tourism Plan in terms of where the country is going, in what direction, and I would encourage members of the public to at least give some input into the development of the plan and look out for whenever they are coming back into their district to add their two cents.

I think it is also important to recognise, and I am just going to put it out there. It is always going to be a challenge for Cayman Airways to some extent. I know this has been one of the political footballs from first time it started but, at the end of the day, I think the question that the public needs to answer first of all is: What is Cayman Airways purpose?

I think it was about last month, that the Minister was quoted in one local newspaper saying that "Cayman Airways objective is not to make a profit but rather, to provide a service." One of the things that I would like, personally, is to see the Brac developed to the point where it is not constantly being "subsidised" by people in Grand Cayman. I think people in Grand Cayman at some point need to also understand, if you look at the business people that have contributed well to Grand Cayman, they are actually from the Brac.

So, I do not want it to be left as if the Brac is being treated as though it is a separate country. It is just another district that just happens not to be attached to Grand Cayman to some extent and it is no different from East End, North Side or anywhere else, for that standpoint. We are still all Caymanians to some extent; it is just that the Brac has a different geographical challenge to it.

We, naturally, like with anything, would expect transportation to be provided. If the Brac was attached to Grand Cayman, we would have buses running to it. It is not attached so, we would have to go there by boat or air, but either way, it is still a service that has to be done. It will never be profitable enough from an airline standpoint, if you look at it in terms of where it is at, but nonetheless, I think what is important is that 1) the Ministry finalises the National Tourism Plan and; 2) once that plan is completed we will have an idea in terms of what we would expect from Cayman Airways fully; also, what we would expect from the Port, and pretty much what we would expect from just about every stakeholders from hoteliers, condos, owners and everything else. So I think, at the end of the day, we always have to look at tourism from a big-picture view as opposed to a small view.

Our financial services are already under attack and if you look at the growth in tourism over the last five to seven years, in the next five to seven years it is actually on par to surpass the financial services if it continues on the path that it is in terms of contribu-

tions to GDP. So, it is one of the areas where we have to recognise that it is still a future opportunity for growth. It is still right now the largest employer of most Caymanian businesses when we look at the public transport system and the amount of people it actually employs.

I think, in all of that, to say to the Chief Officer that 1) I know the Ministry is driving the National Tourism Plan which needs to be updated as quickly as possible; and, 2) more importantly, the public gets involved in terms of what the vision is or where we are going for tourism, because Cayman Airways will be a subset of whatever that plan is, but it will not be the driver of that plan. I think it is the lack of having that cohesive plan why there are so many different questions. I think once we put the big picture and the big vision together, then, I think people can see where everything else fits. But, as it stands right now without that plan, we will continue to have the challenges with Cayman Airways or people will have the challenge with the cruise port and I think that is really what is driving this; the lack of clear vision or clear plan. Once we get that done, it should hopefully, alleviate a lot of the challenging questions that the public has.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** I thank the Member for the comments.

The member is exactly right. The plan is now being updated with the feedback we got from each district. We went to, as you have said, sir, every district in all three Islands and got that feedback. It is now being updated and then it will go out again for the public to view.

Now, that is envisioned to be by electronics means, but we would envision that we would have hard copies, of course, and publicise quite well to show the revised plan with the public feedback.

**The Chairman:** Any other questions? If not, I thank you very much, Mr. Bodden for coming and I guess we will see you in a couple of months when we are doing your audited accounts.

**Mr. Stran Bodden, Chief Officer, Ministry of District Administration, Tourism and Transport:** Thank you Mr. Chairman.

I would also like to thank the Office of the Auditor General for working so well with us. It is a breath of fresh air to know the performance audits that are coming up and not be told half-way through that you are being audited in this subject area, and we have already written half the report and it is bad, and we are going to table it in the next couple of months. I really applaud the approach taken by the Auditor General and her good office and I look forward to that continuing, sir.

**The Chairman:** We will take a break and Mr. Basdeo is due at 11:30.

**Proceedings suspended at 11:00 am**

**Proceedings resumed at 11:40 am**

**The Chairman:** Hello, I would like to call the Public Accounts Committee back to order and will ask them to bring in Dr. Dax Basdeo, who is the next witness.

## **ADMINISTRATION OF OATHS OR AFFIRMATIONS**

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** I do solemnly, sincerely and truly declare and affirm that the evidence I shall give this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

**Mrs. Kathryn Dinspel-Powell, Deputy Chief Officer, Ministry of Financial Services and Home Affairs:** I do solemnly, sincerely and truly declare and affirm that the evidence I shall give this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

## **MINISTRY OF FINANCIAL SERVICES AND HOME AFFAIRS**

**The Chairman:** Good morning, Dr. Basdeo. The Committee would like to express its appreciation for you finding the time to come here because we know you have a few irons in the fire as a result of certain machinations in the United Kingdom House of Commons, so we appreciate you finding the time to come.

You know that the rules require that when you answer the first question you identify yourself by name and title for the records.

We want to ask you some questions this afternoon on the Auditor General's report on Government's use of Consultants and Temporary Staff and we also have a few questions that have been deferred or spilled over from the interview with the Chief Fire Officer because he kept saying "You have to ask the Ministry, you have to ask the Ministry, you have to ask the Ministry", so he put you in the hot spot but we will manage it.

Chris, do you want to start please?

**Mr. Christopher S. Saunders:** Sure.

Dr. Dax, first of all thanks for coming this morning. As the Chairman said, we know you do have a lot of irons in the fire but I want to start out by saying that we are grateful for the work that you and your team have been doing. As we said to the last witness, people sometimes believe that the role of the PAC is just to see if something is wrong. In many cases some

things are going right and based on the report from the Auditor General, there are many things that are actually going right since you have taken over as Chief Officer. Our goal is to keep the public informed as to those things that you guys are doing right, and what it is that we can do to improve processes. This is just a part of the whole oversight process, so in this situation, I can assure you that you are more here on the good side of things as opposed to the bad side of things, so I just want to set the stage for that.

One of the things that came out of the Auditor General's Report was the use of single use suppliers. Now, this is not something that is new, it is not unique, it is not something that has not been done before and one of the things that we want to understand is the process surrounding why you would use a single source supplier and, in some cases, why it's not competitive. And to kind of understand the rationale behind the decision-making process, in terms of not having some contracts to open bid to competition. Thank you.

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Good morning, Dax Basdeo, Chief Officer in the Ministry of Financial Services and Home Affairs. I thank the Member for the question.

The Ministry has not traditionally used consultants very heavily. I think more so now that the subject has changed and we are much more involved in procurement for consultants. Historically, we have utilised primarily consultants for legal and public relation support in key markets—the US in particular. And by and large now, we are doing an open competitive process. I do know that in the report there was one consultant for legal and public relations services that was done based on a direct award, but that one was a long standing historical relationship, so it is a bit of an anomaly in that sense, but the others were all done through an open competitive process.

**Mr. Christopher S. Saunders:** Thank you. I noticed you said earlier in the answer that you mostly focused on the US market. Is that for lobbying in terms of the US? Or, in public relations, is it more, like lobbying, congress type?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** In a way, yes. Rather than using the word "lobbying", what we have sought to have done and continue to do now and in the past, is try to make sure that the relevant politicians and officials in the US are aware of fact; aware of Cayman's actions and our adherence to international standards. So certainly, where there are misperceptions or misunderstanding of what this jurisdiction does in terms of international standards, we have used certain contacts that we hired through consultancy arrangements to provide introductions to key

persons, but also utilising our own contacts as on an unofficial level, we also have interactions with certain agencies as well.

So, lobbying to the extent that we are getting introductions to the right persons in Congress, for example, to try and give them factual information but primarily, that was part of the role that the firms are doing on our behalf. The other key thing would also be to look at US legislation and understanding that from our standpoint and how it impacts us, will be the second key part of that relationship.

**Mr. Christopher S. Saunders:** Well, seeing what has happened in the last two weeks with the UK and us, you would actually think that we need to have spent more lobbying in the UK, because clearly that was where the double cross came from or all the swords were drawn. So, the question is now, in light of that, what are you guys looking at now in terms of getting that done on the UK side to make sure, because we are busy covering for the Americans and someone forgot to tell us that the British are coming.

*[Laughter]*

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Thank you for the question. The efforts in the UK have been sustained over the past few years and I would say that we have made good progress, in particular with the assistance of the London Office, in getting in front of parliamentarians both in favour and those not in favour of the Cayman Islands, to try and make sure they understand just what we do from a standards perspective, how transparent we are, to show them all the international assessments that we have done that prove the fact that we are transparent.

We would recognise that not always do the facts matter in certain context, and sometimes the representation that we provide have been dismissed. The particular instance over the last week is an interesting circumstance where a variety of other political factors had an impact on the numbers voting on the [UK] Government's side. So yes, I do think that we can do a lot more to educate and inform in the UK, both, from a parliamentary perspective but also from a public perspective and certainly that is where the Ministry is working very closely with the industry, to discuss how do we get in front of the right stakeholder groups, not just parliament or public but also other industry associations in the UK; those who have opinions that may sort of speak to the quality of our jurisdiction and make sure that we are getting the right message in the UK.

So, that is a process that we are going through right now and we will continue to do and intensify, given the current circumstances.

**Mr. Christopher S. Saunders:** So, in essence then, we did not get what we were expecting out of the UK? Because I think the London Office falls under a different Ministry, correct? So, in essence now, you guys abdicated some of your responsibilities to a different Ministry and you ended up with something different than you expected?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** I would not say "abdicated"; we have worked in partnership with the London Office. Certainly, we have coordinated on messaging and when similar amendments have occurred in the past, proposed amendments occurred in the past and they were defeated, in both, the Lords and the Commons, it was a joint initiative between the Ministry of Financial Services and the London Office. But, of course, since the London Office is on-the-ground, they are the ones that are executing on behalf of the Government. So, it has been a partnership and it has worked in the past. Again, this last week has shown a different set of circumstances.

**Mr. Christopher S. Saunders:** Well, to be honest, I know I used a strong and that was to see your reaction. What I am looking for ultimately is ownership. I mean partnership is fine but somebody needs to own it and at the end of the day, the London Office still is not part of your Ministry and now you realise that regardless of who is underground, this is still now something for the Ministry of Financial Services to deal with. I look at the skillset based on the report, of who you hired in the US to basically get the work that you wanted done, versus the skillsets in the UK in terms of via the London Office, and there is a mismatch in terms of the skillsets being used in the US versus the skillsets being used in London.

I am going to tell you right now, based on the people that I spoke to in the UK; this decision did not come as a surprise. The thing about it is that the Labour Party has been running, to some extent, a very successful campaign against the tax havens. When we look at where the UK Government is, in terms of the very slim majority that they have, it is a weak government and it is very hard to negotiate with very weak people; this was actually on the horizon so this did not really come as a surprise.

So, the question is now: What kind of big guns or arsenal do we need to make sure we have in the UK, because we were busy looking at the Americans and got caught? Well, should not have been unaware, but we basically got caught in the UK and the damage has already started to some extent. So, the question is now, looking forward: What, in terms of consultants or expertise would you guys be looking now to beef up the UK with to make sure that, yes, there is partnership, but the ownership has to be here for something because this itself was a big booboo.

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** In looking at what has happened, and certainly I cannot suggest that there was a surprise, because we knew that there would be a prolonged attack against us in terms of pushing us towards public registers.

The indication, as I was saying, given the previous experiences, was that we were doing our best to make sure that the votes were in our favour; in the sense that the facts of the situation were put in the hands of either the Members of Parliament in either the Commons or Lords to make sure that they could speak from fact, and I do recognise and looking and listening to all those debates that they spoke to the information that we provided. So, I do recognise that we were successful in the first few instances.

Again, what happened last week was a bit of a unique situation given the variety of other factors happening and we are certainly looking to change the approach and improve how we are engaging in the UK. I do know, and certainly the Premier has announced, that there are other experts now involved in this process.

**Mr. Christopher S. Saunders:** Thanks very much.

One of the things from the public's standpoint now, is that the Government has a very large vested interest in this for the simple fact that it is well over a third of the Government's annual budget in terms of revenues and everything else. But what the Government makes from financial services, and even though it is the driver of the GDP, it pales in comparison to what the private sector makes.

Now, one of the things when you talk about partnership, what we hear about is that people need more money from the Government to do this, this, this, this. The question is now, from a partnership standpoint: What is the private sector doing to defend their portion of what we need to do in terms of protecting the financial services industry? It cannot be a situation where everything is borne by the Government and the private sector does not play a part when they are making far more money from what the Government is making in terms of revenues from this.

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Certainly, from the Government's standpoint, a very significant increase in the budget allocated for sporting industry activity was put in place in this current budget. At the same time, we are trying to work a lot more closely with all parts of industry, drawing upon their expertise when it comes to either getting intelligence on circumstances in the UK or the EU to understand what actions they are pursuing in terms of educating and informing on our behalf. And certainly, as we continue to work on all the various international initiatives, we are heavily consulting, making sure that we are getting a wide cross-section of industries involved in the process.

Certainly I am very thankful that industry members and various associations have come together to provide support to the Ministry in these exercises.

Currently, for example, we have got a number of groups working on the issue with the EU, looking at their so-called Blacklist and trying to understand from their perspective how these things will impact us, and providing that advice to the Ministry in terms of our overall position and how we can engage on an European front. So, the industry, certainly from a time spent perspective, has quite a number of volunteers and groups who are working actively with the Government to try to support all of the activities that we are engaged in and certainly, the mandate that I do have is to work very closely with them to get their input and ensure that we are on the right track.

**Mr. Christopher S. Saunders:** Thanks Dr. Basdeo.

The reason I raised that question, just to put it into context, is that many of these law firms and different firms have presence in multi-jurisdictions and if you look at even how the business is distributed now, especially in the Hong Kong market where they are doing quite well in different places, it is just a matter then of business being shifted from Cayman to elsewhere. So, a lot of them in terms of the same, and not to downplay the importance to them, but I would like to think that ultimately to the Caymanian people where we depend on that in terms of tax revenues versus for these guys, it is just a matter of saying to the client, *Let us move from Cayman to Hong Kong*. One thing that we have seen with the Financial Services Industry, and with the history of it, it actually moved from some place to come here and it is just a matter of time before it moves from here to go someplace else. So, in terms of defending it and fighting for it, this still has to be something that is central.

It is one thing for them to say, *Oh yeah, we will donate services*, but this is a point now where we need money to fight money and the question is not that the money just is not coming from the taxpayers, it is also coming from them. Yes, they have lawyers, but at the same time, those lawyers need their billing fees and all that kind of stuff, so unless they are working for free or they are bringing in some of their QC friends for free, the question is: Who else is really fighting with us, putting resources up, man power, money and everything else that is needed to get past this?

One of the things I am fearful of is that the financial services have not done as well a job of informing the public of the importance it is to the Cayman economy and, looking at some of the comments that are coming from a lot of people in our Facebook and other social media, it is clear that there is a disconnect. We have people that are basically saying, *Let it fall, let it go* and not understanding the full impact. Clearly there is a PR issue that needs to be done and yes, we have spent millions overseas in terms of pub-

lic relations, but the one place where we have not spent on public relations is actually right here at home, where we need to get everybody on board.

With all of that being said, what we are looking for now is that partnership. Is it the Maples, the Walkers? I mean which of the firms are saying, *Guys, let us do this together*. And it is not a situation of their lawyers sitting in the office and saying, *You know what, Cayman is on its way down, let us move the business elsewhere*. That is what we are looking for. Thanks.

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Thank you for the question.

This year has been busy so far. I think because we are so focused on fighting these external fights, we have not done as much as we could have to educate the local audiences about what are extensive, very complex issues, sort of a series of knock on effects between jurisdictions. What I mean by that is that things that are going on in Europe, impact what is going on in the UK and the US, so it is not a sort of simple picture that we can paint in all respects. We have been extremely focused on fighting those fights and the industry has been right there along with us, helping us to do so.

We are coordinating the efforts from the Ministry's perspective. Again, we have had a number of meetings and engagements with local industry to discuss approach, discuss strategy, discuss actions and we continue to do so. So, there is coordination there, and I do expect that there will be some cost spent by industry as part of this process, in terms of their own engagement as well. So, from the international perspective, it is difficult, yet we are working together to try and achieve the right outcome.

We do recognise, and certainly my Minister recognises that we need to do more locally to educate the public, and that is something that we have, at this point, discussed, and we are trying to do, and there will be perhaps a bit more being done over the next few weeks as we try and understand how to respond to some of these threats. But it is a point that we are aware of and although we are, as I said, more focused internationally right now, we will need to get to that point at some time, hopefully this year.

**Mr. Christopher S. Saunders:** Thank you.

One of the things that I guess has been more of a concern every time these issues pop up . . . because I am old enough. One minute it was ample tax competition, the next minute it was this. We have had over the last 20-odd years all of these battles, so this is just one more that we have to fight. I know without a doubt that we do have the talent here both in the public and private sector to weather these storms.

One of the things I have noticed over the last few years is that we have moved to having more gen-

erals; all industry leaders, but ultimately what has made the difference in the past is that we also had a lot of soldiers and what I am trying to find in this process is, where are the soldiers?

It is clear that the campaign has changed in the sense of looking at what the Labour Government has been doing. I have people calling me saying, *Oh Chris, I did not know that the Cayman Islands is causing us so much trouble*. So, they have changed their tactics in terms of their campaign, whereas we have generals still fighting the same battle or the same approach.

The question is now, we are looking for that difference of approach in terms of they have carried it underground so now we need to take it underground. Where are those soldiers coming from in terms of battling this one because, clearly, now the landscape has changed?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** One of the things I think we have done very well, over the past five or six years, is that we have been much more engaged in international fora on a variety of issues, to build the sorts of relationships that allow us to understand what is going on from a governmental perspective and an international body perspective, and that has certainly helped us to try and plan more in advance and to be a bit more proactive rather than reactive.

In doing so, it has helped us to work better with the industry to develop strategies to address those issues. I think, over the past five years in particular, there has been a threat nearly every single year in the past five years; whether people realise that or not. We have effectively addressed those issues and perhaps dodged a few bullets, but that has come from a change in how we work and understand the landscape.

Obviously, and I think you have rightly pointed out, the NGOs [Non-governmental Organisations] have themselves increased and become more sophisticated in their own campaigns and part of our shift in approach over the last two years has been more engagement with NGOs themselves, again, trying to adapt to how they are changing their approach. Obviously, there is much more that can be done. These are extremely well funded bodies. The Transparency International, the International Consortium of Investigative Journalists, they have got a lot at their disposal to really provide attacks on all fronts.

We do need to adjust further and, again, that is part of what we are discussing with the industry, and hopefully we can make a difference in the new approaches that we are going to adopt.

**The Chairman:** It seems like we have used the old (to go back a couple years old) McNamara strategy of the then with the nuclear weapons. Can we move more to the Cheney thing of pre-emptive strikes? And is it

possible to get the "industry" more involved? For instance, in this case, I have not seen any articles in the international media, by any of the industry players in Cayman, supporting Cayman's position, which I believe would go a long way to educating the public that these people represent. I think part of our new strategy should be, to engage the people that these politicians represent and somehow reaching to them, and I think a part of that would be to encourage local industry, because I think the industry has to realise that this is now beyond the Government carrying this battle on its own.

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Again, thank you sir; that is a very good point. In the past few years there has been an increase in the number of articles produced by the industry in various publications internationally and, while I would not suggest what we are going to do right now, I think part of our consideration is to be strategic in how we use articles to further an overall objective and overall strategy. So yes, it is being considered; yes, we have discussed a number of different approaches. Until we are settled on the current strategy, given the events of last week, we are not going to fully implement all the options available to us until we are sure we are clear on the overarching approach that we are going to utilise.

**The Chairman:** I accept that you do not want to give out, but I am talking more on a consistent basis because we seem to sit back and let mainstream media . . . because yes, I will agree that there are articles that can be found in industry and professional related articles. The average person on the street does not read them. But the London Times, New York Times, these are the magazines that are killing us, because that is how the people who are against us are influencing the people that influence their politicians and I think we have to start fighting them on their own front, and not wait until it lands on our own shores. So I would hope that the industry itself would be willing, when they see something being said in the New York Times, to write an op-ed and put it out there.

If it is always coming from the Government, that in itself carries a certain amount of scepticism because we are defending our own position, but if the London branch of Maples and Calder's Senior Partner did an op-ed in the London Times supporting the position that the Government has taken on beneficial ownership, I think that would go somewhat to influencing the people who Dame [Margaret] Hodge is representing, in terms of her own political career.

How do you monitor the performance of your PR contracts? For instance, if there is an article that is critical of the Cayman Islands, do you expect some of your PR agencies that are on the contract to respond to those articles? How do you monitor the performance of people you have hired for PR?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Thanks for the question, it is a very good one and that is an ongoing process. Once we have established a relationship with, whether it is a more mainstream type communications company or a law firm, there is ongoing communication, discussion on issues as they arise. So, from a performance standpoint, it is not where they are left to do something and then we find out about it afterwards but it is an ongoing discussion anytime, anything happens where, in some instances, they are bringing stuff to our attention, some instances we are bringing stuff to their attention saying, *How do we address these issues?*

From a performance standpoint then, it almost becomes a daily/weekly type issue where we are trying to make sure that we are on the same page with them and they are doing what we have asked them to do and trying to measure results. The hardest part is actually measuring results, because, in many instances it is trying to determine that we have changed opinion and therefore it is harder to measure that. What I can say is that once we have defined the projects that they worked on for us, there are some indications of success for instance, how many relevant, appropriate, high-level officials can they get us in front of, to have the discussions and other more simpler metrics perhaps.

Whether we sort of shift the opinion at that point in time, again, that is something we think we have done based on what we have heard these officials say on our behalf or about Cayman after the meetings and so forth, but that is harder to quantify. But, in general, because of the relationship that we have with these firms, there is ongoing discussion. If we are not seeing something being performed the way we want it performed, it is a feedback mechanism on a regular basis. So, it may not be following in the form of an evaluation, but it is an ongoing discussion to make sure that we are adapting as things happen.

**Mr. Christopher S. Saunders:** I am going to move from Financial Services . . . well, external issues, but I am going to leave you with this Sun Tzu quote for you to – it is from Chapter 6 it said: **“Whoever is first in the field and awaits the coming of the enemy, will be fresh for the fight; whoever is second in the field and has to hasten to battle will arrive exhausted. Therefore the clever combatant imposes his will on the enemy, but does not allow the enemy's will to be imposed on him.”** We have been a little bit too reactionary and we need to understand that this is war for the survival of our people from that standpoint.

Now, we are going back to the consultant issue. I noticed that you guys hired a consultant for the Fire Station which is good, but one of the more pressing domestic issues is what the banks are doing in terms of mortgages and all of these frivolous charges

that they are imposing on the people from paying them to make a deposit, charging them to cash cheques and everything else. The question is: Have you guys engaged any consultant to deal with those people? And I say ‘those’ being a former banker myself, just to put that out there; I do not want to make it look as if I do not understand the nature of the beast. The question is: What steps or what is it that you guys will be looking at? Are you guys looking to hire anyone to deal with the bankers, because we have these international people who are trying to take our business, and then we have these domestic people who are trying to take our money too? So, do you guys have any consultants in the pipeline to deal with those greedy bankers?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Thank you for the question. I am not as familiar with this area of work, not on a day to day basis involving a lot of the discussions from a positive perspective. I do know that Minister Rivers has taken a very keen and leading role in this process and there have been several meetings with the Bankers' Association, with CIMA, to try and make sure that we understand what the situation is and how to address it. There was work done previously on the same issue, and those preliminary findings were given to the Ministry. Currently, there is a process started to bring someone on to assist in looking at the issue more fully and developing solutions. Again, I do not know all the details, as I have not been directly involved in the process, but it has been an active part of what the Ministry has been taking care of and there has been some engagement. There is some research that has been done and there are some action steps that are being implemented as we speak.

**Mr. Christopher S. Saunders:** Thanks very much.

The reason I raised that is that, just as how we hire technical people overseas to deal with technical issues overseas . . . (give me another word, I don't want to use the term ‘domestic terrorism’). Either way, the flip side is, and the reason I am saying what I am saying, is that when you are engaging these people, regardless of wherever they are located, we still have to send the right person who speaks their language to basically ‘jug um’ as they would say, to deal with them.

From that standpoint, what I want to say to the Ministry on this point is to go and find that person to go deal with the banks, because what they are doing . . . and if there is ever a time that you need an external consultant to go deal with an issue, this is one. Send somebody inside there to mash up those bankers’ ‘dolly-house’, because we need it for that.

I know we cannot tell the Government how to spend money, but this is one time that it is actually needed. The reason I am raising it is that when we

look across the road . . . tomorrow people are going to pick up cheques for child support and when the cheque is sometimes \$60/\$70 and someone is taking \$10 from that, and that is per week, you are losing \$40/\$50 a month on these things. It adds up for families who depend on that, so I would encourage you guys to go find somebody to go deal with these people who have their hands in the pocket.

Just switching to the Fire Station, I know it is something that you inherited and one of the things the Committee would like to get an idea of, and I know the consultant cost has not been included in this, but since it is something that is topically relevant, I figured that this would be the right place for it in terms of: What exactly is it that the Ministry is doing to deal with the issues we are having at the Fire Service arising from the PWC [PricewaterhouseCoopers report]?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Certainly, I think we are making great progress right now, and I am hoping that the fire officers themselves see just how much progress is being made. We have committed to them a very aggressive timeline for delivering on a variety of issues and we are doing our best to keep doing it and so far we are on track.

The key thing with the PWC report, from my perspective, was the research that was done to look at the operational standards and some other issues to understand what is going on in the Fire Service. But coming from that report, and based on my own observations, I think one of the key things, that have to be addressed, first and foremost, is stability in the leadership team in the Fire Service. To make sure we have the right individuals involved to not only stabilise the organisation, but to make sure that they are making progress and addressing the range of issues that I have heard are affecting the fire officers. Again, there are a lot of small issues I have heard about, but I do think that once we have stable leadership we can quickly take action to address all those concerns.

So, in terms of the process we have engaged with PWC, they have given us the starting point for a lot of the work that is going to be done on the Ministry side and we have worked in conjunction with the fire service to implement a few things more recently.

The primary of which is the move towards hiring full-time, permanent post in the senior leadership for the organisation to remove all the acting appointments that have historically been there for a good number of years at this point. We have engaged a small local firm to assist in an exercise to do coaching for the upper ranks of the Fire Service, to make sure that those who are perhaps in the best position to advance into the higher posts, to make sure that they understand their career path, to understand, from our standpoint what training they have undergone so far to make sure that they are prepared as best as possible to apply or be promoted into these higher roles.

At the same time, we have taken a bit of time to redo all the job descriptions which were vastly out of date, and at this point we have completed the post for the upper ranks and they are now with the fire officers themselves for comment, to make sure that we have gotten everything captured correctly, and incorporate the new standards. So, between the job descriptions being done, the coaching that is underway right now, and other interactions we are having with fire officers, we are hoping to be in a position to start the Promotion Board process for the deputy post by June of this year. Following that, the other upper ranks by July and August, and I am hopeful that by August we will have a strong team in place that can then continue the leadership of the organisation and ensure that all the other issues are being addressed.

**Mr. Christopher S. Saunders:** There is this saying that people have to get along before they can go along. One of the things I am curious about is what, exactly, you, as the Chief Officer is doing. I will tell you where I am coming from. When we look at the Public Service Management Law there are a lot of responsibilities that are vested within the Chief Officer. Now, as I said earlier, I know you inherited a big challenge to some extent, but one of the things, from speaking to the fire officers, that remains is the issue with the Ministry. So, you guys need to rebuild that trust first, and where that has been damaged to a point that you guys may not realise, is when they were trying to offer the fireman 50 cents on the dollar for their overtime and everything that they have worked. These are the guys who spend time away from their families to make this money, and they consider that an insult in terms of . . . yeah, that was actually done.

Before the Ministry can get anything, that trust and credibility needs to be rebuilt. From the Ministry's standpoint . . . because the fire officers who are probably listening just want to know exactly what it is that the Ministry is going to do to at least fix that. I can tell you, for some of those guys it was personal, it was a matter of their dignity and everything else, when they were spending time away from their family, sacrificing, and for someone to say, *I cannot pay you, so I am going to give you 50 cents to the dollar* as opposed to saying, *Guys, the budget is tight, can I give you half now and half later?* But to have this kind of take it or leave it attitude, it is one of the things that you have inherited and, if no one said it to you before, I just want to put it out there, because this is one of the feed-back that I have gotten. So, from that standpoint: What exactly is the Ministry doing at least to undo the damage that was done in the past to kind of get along before you can start going along, kind of thing?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** A very good question and I think trust is fundamental to any relationship

and, certainly in this case, it is a key component to make sure that things are going to improve.

I have personally invested a lot more time than most other departments in the Fire Service, trying to make sure that we have a clear plan in place to address all these issues. I have done my best to meet with them on a number of occasions; in fact, I am back there this Friday again, more so than most other departments at this point in time. So, they are getting more of my personal attention because I understand that that trust has been eroded. I do not expect trust to be built over night, which is why when I spoke with them I have gone to give definitive timelines and dates that they can hold me accountable to deliver on. They have those commitments, they have seen those timelines and Friday when I go back again, it is to show the same timeline and progress been made and we are still on track.

So, I am hopeful that if we can demonstrate as a Ministry that we are taking the right action, making progress and delivering on our promises, that at some point that trust can be built again but I know it is not an overnight process. We are going to continue to invest to ensure that our time, energy and efforts to address their issues but it is not going to be as fast as some of them would like. In hearing their feedback, I know that they have been waiting five, six years or more. There are those who are beyond frustrated, there are those who are not willing to wait any longer. We are going as fast as we can with the right amount of pace, bearing in mind the complexities on some of the issues they have had to deal with and make sure that we do things the right way. Again, wanting to ensure that we are fair and competitive in our recruitment processes, to make sure that we have the right individuals, because if we get that part wrong that is not going to serve the Service well going through the next few years. We've got to get that part right.

**Mr. Christopher S. Saunders:** I thank you very much for that [answer]. One of the things I want to put out there is that one of the feedback that has been given by the people who have engaged with you, is that they found you to be a decent and straight forward person and I just want to at least record that that is one of the positive feedbacks I have gotten, where you are concerned. And, like I said, I think that you are moving in the right direction in terms of getting that done and, I am really sorry that you have that to deal with, but I just want to at least thank you on behalf of the people I represent, for the approach that you have taken and for being fair and straight forward with many of those guys.

**Hon. Bernie A. Bush:** Mr. Chair, through you.

I have here a copy of the Hansards of the questioning with the Fire Chief. I will be giving you a copy of this and I am humbly requesting a meeting with you, at your convenience, as soon as possible, to

go through these answers to show you where it is obvious in many ways, and once again, to repeat what the Member for Bodden just said, you inherited this. There is no doubt in anyone's mind, what or who is fair and have common sense; that there have been people who have been hired and are not qualified. I would like to use a simple analogy: when you go for your driver's license, the first thing is that you have to be 17 and three weeks.

If a post is advertised and it says you need this and you hire someone, as in the case of the Chief Officer who did not meet the requirements—the Fire Chief, sorry, my apologies. The Chief Officer is qualified to be Governor actually; this one. And in another Ministry a HR that only has a certificate when it is required for a degree, something is obviously wrong.

In the contract, three things he was supposed to have done: a succession plan (not in place yet); job description (PWC did that). There were three things that were in his contract that the Ministry has since had to hire PWC and spent \$80,000 of our money when we have people out there that are hungry and need help, people losing their homes.

I am asking you, and what the Member for Bodden Town has said, I too have gotten from the firemen and their families. They feel that you will be their only hope, because people that were there before you, people below you and people above you have all been tainted in their ways or been touched and they are worried about the information that you will be given to make your decisions. Please see them all, listen to them all and make your own decisions. That is the one request that the people are asking. They have some faith in you, in others, they have been burnt too many times.

Every time they are supposed to get a pay raise for the last five years I have sat in this House and all we hear is, "it's being looked into, it's being looked into, it's being looked into". That is all the firemen [hear]; whereas, along the way, everybody else have gotten a pay raise. How can you be working 30 years, operating a \$300,000 piece of equipment, putting your life at risk and not even making \$3,000 per month? That is something to think about. So, how much will you, personally, be involved in the assessment of these top officers? And you did say, I do believe, that from station officers or substation officers, will all be given a fair chance for an interview and a shake to apply.

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Yes, that is right.

**Hon. Bernie A. Bush:** And will things like if an individual has taken it upon himself—and I am going to quote what the Deputy Governor said in the *Cayman Compass* and it was presented on the Floor of this Parliament, "**Civil Servants who better themselves academically will be given the chance for ad-**

**vancement.”** Will these people who have gotten more qualifications, besides the training that the Fire Service gave them, and specific to fire service, be given a fair shake? In other words, they did not get a degree in turtle farm; they went and got a next degree in fire-fighting issues. Will those credentials be looked at and taken into consideration and not being made to be belittled by the present Chief Fire Officer who seems to think it is only good if it comes from Serco. Will all of these other people be given a chance to be given a shake and be listened to?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Certainly, my approach is to make sure that we have the best candidates and select the best candidates for the positions we have, factoring all variables, whether it is experience or education, whatever the case may be. That is part of what is mandated and part of what we have to do to ensure that we have the right persons selected for the future. There is no question in my mind that that has to be done.

**Hon. Bernie A. Bush:** Mr. Chairman, through you. On behalf of a lot of people in this country, do not ever fool yourself, people respect the fire services after Ivan. Do not feel that people do not love them for what they did after Ivan, when a lot of the police disappeared. I thank you very much Chief Officer.  
Thank you Mr. Chairman.

**Mr. Christopher S. Saunders:** I just have one request, really. When I look at the hierarchy of the Fire Department ranks, it starts with recruit, then fireman, leading fireman, sub-officer, station officer, division officer, senior division officer, deputy chief and then chief. That is the hierarchy from my research.

It is difficult, if you hire somebody who has only been at the rank of a sub-officer, and you expect them to train a station officer, you expect them to train a division officer, you expect them to train a senior division officer, you expect them to train a deputy chief and you expect them to train a chief when they have never held any of those positions. So, this is the kind of crap that you inherited, that you just basically have to clean up. And, I am really sorry that you did not have a better place to start but I can say, like I said, the guys that you have dealt with have found you decent and all the interactions that I have had with you, you have always been decent, polite; always been professional and if there is anyone that can actually get this mess cleaned up, I believe it will be you.

It is a bit unfortunate, and what I am about to say some people may not like, but I am going to say it anyway. We have a certain individual that have gone, a kind of mayhem follows behind him and it is just more stuff to clean up so, you can read between those lines. But I just want to say, for me, thanks very much

for what it is that you are doing, the approach that you are taking and I really appreciate it.

**The Chairman:** Yesterday we heard evidence from the ICTA and the whole OfReg group, and one of the concerning things that they gave evidence on, was Hazard Management. Most people hear 911, but Hazard Management is currently undergoing substantial re-equipment, \$6.-something million, I believe, it is, in new radios and all that sort of stuff, and ICTA said they basically had not been consulted and, in fact, they launched a fund under ICTA for replacement of Hazard Management radios and stuff, because they realised that the whole framework was somewhat outdated, but unfortunately that money got swallowed up when we created OfReg and there was not a proper funding in the budget for it.

Is there any particular reason why the expertise in ICTA in terms of communications was not consulted?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Mr. Chairman, I am not familiar enough with what happened over the past few years.

The contract to replace the radio network was signed, I think it was late last year, but had been outstanding for a good number of years. Maybe it was an issue of, again, this is my opinion, I do not know what has happened, but the fact that it has been outstanding for so long, that they were not recently consulted on it.

I do know, since inheriting both HMCI and the Department of Public Safety Communications, that there have been some discussions and communications with ICTA on a number of joint projects. I do not know specifics but I do know that they are talking to each other.

**The Chairman:** One of the other things that concerns us that they raised, is the fact that the whole Hazard Management communications require a certain number of licenses from the ICTA under the ICTA Law and it did not appear that that section of the ICTA Law was being complied with by government, so you may want to look into that aspect of it as well. This was one of the contracts that were single source provider, was it?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Not to my knowledge. If I can recall correctly, I did see some of the early paper work from previous . . . there was an extensive process that was undertaken through CTC a few years ago, which identified a number of providers. There was then a change in approach, and based on the submissions, only one candidate emerged but it had been based on an open competitive process to my knowledge.

**The Chairman:** Okay. But even when the single candidate emerged, for some reason, the local agent provider was completely ignored and eliminated from the process. Do you know whether that was a financial thing, otherwise, they did not want to pay their costing?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** Mr. Chairman, I do not know the answers. Again, I was not involved in the process at that point in time.

**The Chairman:** There is consideration of some kind of upgrade to the CCTV cameras for crime. Is that being handled as a single source provider of an upgrade on the current system which seems, by reports that we get from the police, as to have been hopelessly inadequate and never went even close to delivering the kind of clarity and photography that was expected?

**Dr. Dax Basdeo, Chief Officer, Ministry of Financial Services and Home Affairs:** To my knowledge, we have a sufficient budget this year to address the CCTV network. I do know that there were some concerns with poor quality of cameras in the past, and the ones that they are procuring now, I think, are a lot better and that is no longer an issue. Again, not being as intimately involved in that process, I do know that all of my departments have been engaged with the Central Procurement Office to make sure that they are following the right procedures when it comes to the new Law, in particular. I can investigate further, but I have confidence that they are doing things the right way.

**The Chairman:** There is nothing wrong with single-source procurement, as long as it is handled correctly within the procurement process. I guess the Public Accounts Committee's concern is that this was the company that won the bid the last time, and many of the competitors claimed at the time, that they did not bid on the same quality of cameras, and that government was going to find themselves exactly in the position that it is in.

One would hope that having worked with a company for a number of years and the service is such that, I guess, to put it deplorable is not too strong a word. For instance, the accident that happened in my constituency a couple weekends ago is less than 200 feet from one of these cameras but yet the police are out appealing for eyewitnesses. The only assumption that we can make is that the cameras were not working because if the cameras were working it would be looking at a red car, you should be able to see a red car on the camera.

I guess our concern is we are making sure that we do not get in the same position that this whole thing was orchestrated in the very beginning by un-

derbidding other people to produce a lesser than required product, because it would be able to negotiate the upgrades under some other scenario. I am just giving you that warning because we will be looking very closely at it when it comes here.

**Mr. Christopher S. Saunders:** Sorry, forgive me. If memory serves me right, we spent \$5 million on those cameras, and again, they are basically—

**Hon. Bernie A. Bush:** Of no use.

**Mr. Christopher S. Saunders:** I will tell you what, Dr. Basdeo—you can save me the trouble of filing a parliamentary question from now, to get an update on what happened to that \$5 million worth of cameras because, like I said, major mayhem; wherever some people go, certain things follow.

Anyway, I just want to say on behalf of my people, thanks for what it is you're doing; like I said, decent, polite, and professional. I appreciate the fact that if you did not know, you said that you did not know as opposed to some people who prefer to come down here and just outright lie, so I am very appreciative of that. It is well because if you don't know, you don't know and we can live with that. We do not expect everyone to know all the moving parts in their Ministry.

**The Chairman:** "I do not know if it is the truth" is a legitimate answer.

**Mr. Christopher S. Saunders:** Well, silence can be misrepresented but never misquoted.

Dr. Basdeo, thank you very much for taking the time and keep up the good work and if there is anything that any of us inside here can ever do to help, just know that we are on the same team. Thank you.

**The Chairman:** Thank you, sir and your get out of jail free card has been issued.

We will adjourn for lunch and we will come back at 2:00 pm, so you can please get a message to Ms. Gloria to come.

**Proceedings suspended at 12:40 pm**

**Proceedings resumed at 2:20 pm**

**The Chairman:** Good afternoon, let the record show that we have a quorum present for the Committee and I would like to call the Committee to order and ask the person to bring in the next witness, Mrs. Gloria Mcfield-Nixon.

## **ADMINISTRATION OF OATH OR AFFIRMATION**

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** I swear by the Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

### PORTFOLIO OF THE CIVIL SERVICE

**The Chairman:** Good afternoon Miss . . . you don't mind if we call you Miss Gloria? Or do you want the full title of Gloria Mcfield-Nixon?

*[No audible reply]*

**The Chairman:** Thanks for coming. We understand that you are busy but today we are dealing with the Government's use of consultants and temporary staff as reported by the Office of the Auditor General. Mainly, what we want to talk to you about is the use of temporary staff. We have some questions about the amount and maybe we could start off by you telling the Committee under what authority do the various entities in government hire temporary staff. Are there established processes that they need to go through, or, is it left up to them and do they involve your entity, the Portfolio of the Civil Service, for guidance or assistance in recruiting the temporary staff?

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** Thank you, Mr. Chairman.

Gloria Mcfield-Nixon, Chief Officer for the Portfolio of the Civil Service. Thank you for the question.

Mr. Chairman, I would like to say that the temporary staff referred to in this report refer to staff that have been procured or hired from private sector companies. That is distinct and apart from what our Public Service Management Law allows in terms of persons' ability to make temporary emergency hires as it were, without open competition; the ability for us to be able to hire returning graduates without open competition and the ability to make longer term emergency hires without open competition.

The Public Service Management Law, which is our employment legislation for the civil service contemplates and allows persons to be able to be appointed without going through the normal recruitment processes, and the cheques and balances that are in place there is that those hires require the approval of the Deputy Governor.

The Deputy Governor realises that that is a significant discretion and so he retains that authority with the exception of our summer interns program. In that case, to encourage the take up of young persons, particularly during the holiday periods of summer and Christmas, the Deputy Governor will delegate his authority to appointing officers to be able to directly hire student interns over the period, but for all other processes he retains that authority himself.

We do facilitate a number of persons being hired, typically on a temporary basis of three or fewer months, where cases arise for vacancies that may come about and need to be urgently filled. The numbers that I have here is that in 2012/2013 the Deputy Governor facilitated 29 such approvals; in 2013/2014 41; in 2014/2015 49; in 2015/2016, 62 such approvals were given. So this demonstrates that within our processes there is the ability to hire someone if an urgent need arises and we need to be able to fill a position quickly and temporarily.

**The Chairman:** These temporary hires we are talking about here, are, like you said, people they hire from temp agencies for government. Well, some of us on the Committee are of the view that maybe it would be more effective if government had a pool of people employed permanently, who provided this temporary relief to these agencies, as opposed to going out and paying the high rates that some of these temporary agencies charge, when they are paying the Caymanians that they have employed, in some instances, less than 25 or 30 per cent of what government is paying them for the person per hour.

Has any consideration been given to that kind of arrangement, where you would have people that were employed fulltime, for instance, maybe in your portfolio, who other entities in government could call on when they speak of demand, like for instance, secretarial staff? One of the agencies we understand that does a lot of this is the DPP. They hire secretaries to help type up court cases and that sort of stuff. But even there, we have reports that some of their temporary staff is there for much longer than three months and they usually have . . . well, the last time I checked on it they had like three or four of these temps, some of which had been there a year or six months et cetera. And Caymanians who were sent there by the temp agencies tried to get, in particular the DPP, to hire them full time in one of the temp slots but they were unsuccessful, although the DPP was quite happy with the performance of the Caymanian as a temp from one of the agencies.

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** Mr. Chairman, there are a number of ways in which that type of arrangement could work. It could work, as you suggested, where we keep on our payroll, persons who are essentially floaters and would be going to other departments when needed.

As you are aware, that has not been our practice but it does not mean that we do not share resources where there is the ability to do so. For example, for HR, if there is a particular need in a department and someone has gone off on study leave or is on maternity leave or sick leave, it is our practice to either provide cover from our offices within the Portfolio of the Civil Service or to loan a person out on a

form of secondment to cover that. So, where we have those existing resources within, it is possible and it is routinely done, that we would share those services to cover on behalf of someone else or where a department goes through particular peaks and valleys. The Department of Education has particular peaks with its recruitment; not every year, but in some years they would ask us to assist and we would do that.

In some of the Departments that you have mentioned, for example, the DPP or the Portfolio of Legal Affairs, they will sometimes have need for Crown Counsel and they will be aware of persons who have done work with them previously who are available for short term and that is another way that they are able to have appointments without open competition. But in all those circumstances, it requires that you either, have internally, you have identified persons who have those skillsets and who can assist or you know of someone externally that can be quickly appointed. Other examples of that might be in Planning, where they would sometimes need an inspector and they would call upon persons, many times who are retired, to come back in and assist them.

We think that our retirees are a good pool of persons that we might be able to call upon and we have had informal discussions with our pensions board and our Civil Service Association about ways that we might be able to use persons who are known to us, and more importantly, who are familiar with our government services. You can appreciate when you bring someone in who is unfamiliar there is a learning curve and if it is a short term hire, that learning curve could last the entire stint of their contract, so we believe that there are certain benefits there. But that is all premised on whether we have those same skillsets available.

Sometimes the skills that are needed are not in abundance or present within our Civil Service and going outside is necessary. Now, whether departments choose to source those skills from a temp agency or whether they were to call, for example, on the NWDA [National Workforce Development Agency] to see who might be available there, becomes a management decision. But there are many avenues for being able to fill a position through emergency appointments, and that can be done through the Public Service Management Law, in which case persons appear to us on our payroll, or the route that you have covered in this audit, which is when they are contracted from these recruitment agencies, in which case, they are not really visible to us because they are not civil servants during that timeframe.

**The Chairman:** Do you think that this is a way that certain agencies could avoid the recruitment freeze, where they could not get post-certified by the Portfolio of the Civil Service or the Deputy Governor, but they could get in temporary staff; they could get the same thing and it just would be more expensive?

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** That is a very good point and what I would say is that, the moratorium has been gradually being eased until we pretty much reversed many of the austerity measures that were in place as of April 2017. But even prior to that, the way that the moratorium operated for many years was not a freeze on recruitment. What we did was to vet your request to make sure that you had the funding in place, but if you had already gone through all of the procedures of putting forward a budget and having that approved by Cabinet and this Legislative Assembly, then, those were in the main automatically approved.

So, in going through the moratorium process it was not preventing you from filling positions that you had managed to have approved in your budget process, but there were sometimes where departments may not have had positions approved, but they had savings or professional fees, and so in those cases they may have sought to bring in additional people to work through those means. We have tried to be more flexible and there are a number of examples of people who have now come in to government who are not against an approved position per se, but where we are comfortable that they will stay within their appropriations.

So, there have been works happening. Environmental Health is a Department that comes to mind, where they got project funding, but that funding was not itemised down to "this many head count", but it is still within the overall project funds or, in some cases, where we are able to bring people in and the funding for that arrangement is through service level agreements with SAGCs [Statutory Authorities and Government-owned Companies] but they fall under our management structure. That is the example of some of our project managers for Major Projects Office. So, we are trying to better understand the business realities that face our departments and, as HR, facilitate those, so that they are able to, wherever they need to hire persons, they are doing so in a way that is cost-effective and also is giving them access to the expertise that they need.

**The Chairman:** Do you believe that any of these might have been attempts by the agencies who are using these temporary hires to fill vacancies for established posts but, because they did not want to abide by the process of competitive hiring, they could actually pick the person that they wanted, send them through a temporary agency and get them in the office in an established position, oftentimes the possibility exists, that they would also be reducing employment opportunities for Caymanians?

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** Mr. Chairman, that is a very specific scenario you have painted. Again, because these individuals are not visible to us and they are not

coming through our payroll systems, we would not have the same wherewithal to identify the type of mischief that you are suggesting. They are not a part of our HR framework because they are procuring them the way they would other services. So, I could not say.

**The Chairman:** Okay. Can I encourage you to look at some of these entities where you know vacancies have occurred and that they may be making that attempt to get the person of their choice by bringing them into a temporary agency, as opposed to going through the recruiting services which give Caymanians the opportunity to compete?

Are there any other questions?

**Mr. Austin O. Harris, Jr.:** Yes, Mr. Chairman.

Through you Mr. Chairman, and again, I am grateful to Miss Gloria for answering the question in terms of giving an idea of the circumstances why temporary staff and consultants are from time to time required in the Public Service. I think you are well justified in stating that, whether it be the size of the Public Service or the population base, we simply do not have access to the kind of expertise, opinion or guidance that may sometimes be required in government. We look over the last five years, 2012-2017, we sought advice on health care systems, whether it was good or bad; we sought advice on waste management systems; we sought advice on bringing financial statements up-to-date and more current.

I think the question that the Chairman asked at the very beginning, is the pertinent one that still requires an answer, as it relates to what is the process involved in deciding on bringing in, whether it be temporary staff or consultants, because in the absence of that process, I think it opens the door for the 23 consultants that the Auditor General's Office reviewed being opened to speculation or mischief, because there has been a lack of process. If I could expand on what I mean, according to the Auditor General's Report, of the 23 consulting contracts maintained between 2012 and 2017, just 6 of those were found to have a business case or a justification for why they were needed; 17 did not, accounting for some \$12.2 million. Eight of those 23 contracts were considered sole source bids, presumably suggesting that there were no other companies deemed capable of providing this guidance, and a further, I think, it was 7 of the 23, were only subjected to lawyer scrutiny; that is, of course, looking at the business cases that were provided.

I think the absence of these key aspects of governance and process to ensure both accountability and value for money were missing, and I think that was what jumped out at me most predominantly in the Auditor General's Report. I wonder if you could explain whether or not these were things that are required, and/or if they are, why were they not applied in

the overall 23 contracts that the Auditor General's Office reviewed between 2012 and 2017.

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** Through you, Mr. Chairman, and I thank the Member for that question.

I want to be really clear about the types of contracts that I am speaking to, because those are the contracts for temporary hires which the Auditor General's Office, in their report, have broken out as a sub-category of other types of procurement contracts. Generally for procurement, and I am sure a number of persons have spoken to this, the Government has made significant strides to improve its procurement practices, including the very first threshold to be met, which is the justification of whether or not this particular work needs to be done through external sources, and you have alluded to some of the reasons why. But when you are getting down to the temporary staff, that is a different sum, as I have understood from the report. What I understood that the Auditor General's Office has said about the use of temporary staff is that, over the five year period, government spent around \$3.6 million on hiring temporary staff, mostly from local recruitment services; just citing Page 33 of the report, and if I have misunderstood that, I welcome that clarification.

So, in terms of the mischief of the recruitment firms that may be being accessed or other places of procuring persons through consultancy contracts, rather than going through normal hiring practices, we are talking about a much smaller subset, and when you put that within the context of government's total expenditure, what we are seeing is that this truly is the exception and not the general rule. We have had a practice out of necessity, of compliance. And so, whenever we have seen the anomalies arise, our tendency, centrally, has been that we would adopt a policy and apply that across every agency equally, and in this case, what we are seeing is that most persons avail themselves of normal ways contemplated in our Public Service Management Law, for filling temporary positions.

There is a relatively very small number that we are talking about here and fairly concentrated of where agencies have gone outside of our normal recruitment processes to get temporary staff and they have said that those are primarily focused on three recruitment agencies that have been used. So, that gives us a way to be able, to the Chairman's earlier point about investigating this, to see if there are some steps that might have been missed or some scrutiny that may need to be paid to why it is that these agencies are choosing to go that route to fill their temporary positions. But it is a very small percentage of the expenditure that was being reviewed in this report, and I think that is in large part because our Law does allow for temporary hires and it has the highest level

of scrutiny, being that of the Deputy Governor, in terms of the approval that is needed.

**Mr. Austin O. Harris, Jr.:** Yes.

I think also, when we consider the timeline, 2012-2017, how quickly we forget the several years of austerity that this Government went under when we were in deficit spending, there is some room to speculate that perhaps agencies saw this as a means of sidestepping the hiring freeze. But certainly, I think the end product is what is important that we view, that obviously, the Government got back on track, balanced the books and, for lack of a better word, most of the agencies are back on track and that was justified at the start of this year's Public Accounts Committee hearings, with awards going out to various departments, so clearly it worked.

What I am curious about, likewise to the Chairman's point, is \$3.6 million in temporary staff from 2012 to 2017; whilst it was a period of austerity, it was also recognised the highest period of local unemployment. We made use of three particular recruitment agencies in hiring these temporary staff, so I guess the question that, again pops into mind is, what were the services perhaps that government was buying, that were not readily available in the local work force?

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** Mr. Chairman, through you. I could not speak definitively to what these contracts were for. I can tell you that, in the positions that are visible to me, I know, for example, we had at our front desk for a period of time, somebody who had been sourced through (and when I say our front desk, Government Administration Offices) a local recruitment firm. What I can tell you is that that individual was also Caymanian and what I can also say is that person had been regularised through our normal recruitment processes to come on board as a civil servant. So, not all of these contracts would necessarily have been awarded to persons who were not Caymanian. So, it may very well be that even through these means, we may have been addressing unemployment amongst Caymanians within our community.

As they are not showing up in payroll, I do not have visibility of the details that go behind the numbers that have been reported by the Auditor General, I would certainly welcome having that information in order to look at, whether there is something here that I think is more suspect, but it is clear that this is not widespread. And, I know there have been some concerns about why it might be increasing, and I think, in looking at our own headcount numbers, this would have mirrored the demand for labour within the civil service generally, so our own headcount would have gone up in 2015/2016 and again in 2016/2017.

Is this something that we need to look at? Absolutely! But I think we have already paid a significant

amount of time and attention. Legislation has been put into improving procurement generally, and we are making a conscious effort within HR, to be business facilitators and not to create another policy simply for the sake of "there may be a handful of persons who are not making sound business decisions." It may be that the better outcome for the civil service is to come alongside those individuals than to penalise the vast majority who seem to be able to fulfil their business needs using a Public Service Management Law. And even where we have individuals who have gone outside of that, as the example I illustrated shows, they then may, like in the case of our own facilities management, avail themselves of regularising that, so that it truly is a temporary situation.

I would like us to be able to do what the Chairman suggested, which is to answer the question, because I think this is what happens why persons may not always avail themselves of the ability to make a temporary hire without open competition. I think it is because they may not know who has that skillset. So, if we can work with various groups, including our retirees, to have a better catalogue of the types of skills that exist, so that, similar to what happens with a supply teacher, if you have a vacancy that cropped up on short notice, you have a group of people that you know have the skillsets and you can call upon them. I think that we can have greater impact by working with others such as our Public Service Pensions Board and our Civil Service Association to close that loop.

There are others who have common purposes or missions in terms of the things that they do within our community, so we believe that collaboration would help us to fill that gap and allow persons to have access to a list of people who have various skillset so that they can come through the normal recruitment processes. That should decrease demand for having to go to a temp agency to provide you with that similar type of database.

**Mr. Austin O. Harris, Jr.:** Just one final question, Miss Gloria, and I thank you very much for the stated point that much progress has been made at addressing the processes that may have been identified by the Auditor General's Office as being missing.

Specific to the \$3.6 million that was spent on temporary staff, the Auditor General noted, I think, three things also:

1. That the Government does not hold sufficient information on how long temporary staff are engaged.
2. The Government lacks the appropriate guidance to ensure that temporary staff are appointed appropriately.
3. The Government has no formal mechanism for managing temporary staff.

Are these areas that you agree or disagree with? And if you agree, have these areas been reme-

died in one of the many improvements that have happened in the last five years?

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** The Auditor General's comments about temporary staff, again, are relating to the ones that are hired through these types of recruitment agencies. To be perfectly clear, we retain detailed records about persons that are appointed by the Deputy Governor on a temporary basis, who employs them, how long they stay, and if they go into a permanent or longer term contract, the means by which they do so.

Where a department, through accounts payable, enters into a contract with a firm to bring someone in, they are going to get caught up in the overall regime for procurement. The way that any expenditure is made is going to have full transparency in terms of our reporting. What I can say is that there are already a number of solutions, because this falls within a category of procurement and procurement has been improved.

As it relates specifically to what HR is doing about that, we will no doubt be gathering again very soon to talk about workforce planning, and I think it is through that means that we will come alongside departments to better contemplate the demand they have for labour generally, and how they are going to source that, and where we have identified the commonality of need because we are not going to have every skillset that is going to be available within the civil service for sharing, or potentially even, amongst those persons who have already retired from us. We may have to go outside of our civil service family to identify those skills and we then need to see what we are doing to attract those types of skills to the civil service, so that we have access to it.

Now, where this is truly temporary, sometimes the type of mischief that we have experienced in the past was staffing up permanently for what were temporary spikes, and so, I would be very cautious about telling people that there is only one avenue to the way that a vacancy is filled. When we have had particular capital projects on, and we needed to bring in certain skills, we may have recruited in such a way as to contemplate that that type of intensive capital work was always going to be ongoing and then government no longer had the same demand for what, in some cases, could be very specialised skills. So, we just want to make sure that what we are doing makes business sense to your point about what is the justification for doing it the way that we have.

In the Auditor General's report, it does mention that if some of the entities by going to outside firms, the cost to the entity may actually have been less than if they had to pay overtime to an existing staff member. So, I think that, again, getting to the nature of the mischief, there is, on the face of it, some justification for how these services have been pro-

cured. But the fact that we do not have more information, to the Auditor General's point, suggests that there is also the opportunity that rules may have been evaded and that value for money may not have been achieved, and I think that is the role of leaders, to be scrutinising the way that budgets are being accessed. If this is going to be a longer term need, and I have heard reference to the fact that some contracts may look and feel like these are tenured staff, then those are the situations we would really expect workforce planning to address and persons should be able to be recruited to fill that through normal means, so we are going to want to look very closely at that.

The improvements that have been made in our procurement, of which, this is a form albeit a very small percentage of government's total procurement, those rules will automatically apply to this as well in terms of the justification that has to be made before we incur that type of expenditure. And working from the other side, in terms of the HR response, we want to get better at coming alongside departments to help them articulate and contemplate what their labour demands are going to be in order to fulfil their strategic plans and business plans and helping them to think more long-term about how they are going to fill it, and making sure that our rules, procedures, and laws provide sufficient flexibility to do that, so that people do not feel forced to do ridiculous things.

**The Chairman:** I noticed that you keep referring to the Procurement Law. Are you confident that the Civil Service understands that there are aspects of the Procurement Law that actually apply to HR hiring? Because that is not the impression that we get in talking to them; they think that it is more for services and capital stuff and hard goods and not necessarily apply at all to personnel.

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** Well, again, I know that training has been intense and ongoing over the last several weeks, but where they are signing contracts for these persons and they are not employment contracts, then, that hopefully provides some distinction to them. They are more than likely accessing this through their professional fees; that should be another indication to them that it is a form of consultancy that they are undertaking. So, the training is ongoing. I think it may have been focused initially on high-level senior staff in terms of persons with financial responsibilities, but it will continue to make sure that the ranking file understands the Law and the obligations under the Law.

I think that that already contemplates significant improvements, and I just want to make sure that we give that an opportunity to work and be assessed before we potentially add more bureaucracy to the process. Training is a big part of this, but there are some reporting requirements that are part and parcel

of our Procurement Law that, if they do not know it applies, they will know shortly.

**The Chairman:** The other thing we ran into, this morning actually, is that, I was a little bit taken aback that the Procurement Law was passed in December 2016 and the Civil Service only seems to be gearing up to do training after the Law has become effective on the first of May. I think it is fair to assume, that the normal period between when the Legislature passes a [Bill] and the Governor signs the Vellum copy, until Cabinet issues a notice that the Law is into effect, that that period of time is used specifically to prepare for the implementation of the Law.

The evidence that we are getting now is that nobody has really done a lot in terms of preparation for the Procurement Law, until after the Gazette notice says it became effective the 1<sup>st</sup> of May this year.

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** Mr. Chairman, what I would say is that the overarching Law had been passed, to your point, some time ago, but the regulations were finalised more recently. So, persons would have been made aware, even as part of the development of the Law, they would have been consulted and there would have been sessions to explain how the Law was intended to work, but those would be broad strokes. The regulations is the day to day that really puts out the specific procedural requirements and how you are meant to fulfil the obligations that the Law creates and, because that was more recently passed and, my apologies, I do not have those dates with me, it has meant that there has been a second round of training.

Every day we have new staff that joins the civil service and we do not expect that on something as significant as procurement, our training will ever stop; it is meant to be ongoing, so that persons coming into the civil service continue to be apprised of what their obligations are, so that they have the knowledge they need to fulfil it.

**Mr. Christopher S. Saunders:** When I look at \$3.6 million over five years, it is \$720,000 per year, \$60,000 per month, \$15,000 per week and \$3,000 per day. And when I look at it, that is \$120,000 per year at the average cost of roughly \$40,000 per employee, depending, and that is about 18 full time employees. In the grand scheme of government total expenditures, Mr. Chairman, \$720,000 out of, between \$200 million and \$300 million a year in staff costs, is not even one per cent, it is not even half of a per cent, but when I look at it in terms of people, that is 18 positions or thereabouts, depending on the average cost, and \$3,000 per day.

Going back to my colleague from Prospect, the only thing I would just like to understand, if we are going to spend \$3,000 a day is that that is spent on Caymanians because my issue is, and I am going to

tell you straight up, I have a fundamental problem with some of those temp agencies and that is something that I got from my time sitting on the Business Staffing Plan Board.

A lot of those agencies . . . I would not say a lot but some of them are known to not push Caymanians in the right place, so I just need to make sure from a comfort level standpoint. Ultimately, I do recognise that under the Public Service Management Law, the chief officers for the different areas have a lot of responsibilities for those areas. And it would be kind of unfair for us to ask Mrs. Nixon the activities in other Ministries when those chief officers, just like her, have pretty much the same amount of authority and responsibility to do what they want in their Ministry.

What I would like is at least a commitment, or an endeavour of the Government, to make sure that at the end of the day that: 1) the agencies that they are using are not the ones that Immigration know have been abusing the system; and 2) at a minimum, that they are Caymanians.

We saw, from last week, when the Portfolio of Legal Affairs came here, that we are doing business with people who are basically suing the Government, and the last thing that we want now is to be going around giving work to temp agencies that are not doing right by Caymanians who are actually looking work too. I believe that they are also part of the problem why we have some of the employment issues that we have, because of the way in which it is set up.

So, in all of that Mr. Chairman, through you to the witness: The commitment to ensure that the people who are hired, granted that it is a small amount, and it may look insignificant in the grand scheme of things, but \$3,000 per day or 18 full time staff a year, that is a lot for a person right now who is actually listening and may be looking for a job. At a minimum, it is at least a Caymanian. I have never been a fan of big policies to create more bureaucracy and one size fits all rules, but I would expect as a policy, coming out of POCS [Portfolio of the Civil Service], is that at a minimum, it is Caymanians that are given the first task in terms of who we are spending this money on. Thanks.

**The Chairman:** Any other questions?

Mr. Bush?

Thank you very much . . . oh, you have one more?

**Mr. Christopher S. Saunders:** I just wanted to just use this opportunity to also thank Mrs. Nixon and her team.

I know they have been doing a lot of stuff and I think, again, as we said to the other witnesses, that the group we have here today are some of the people who are actually doing things right. The group last week were the ones who were, just to put things in context but, we do not want the public to believe . . .

because sometimes I have heard people use the term "consultants for this and consultants for that". Some consultants are necessary; some, naturally, are not but there is a negative connotation that comes with the term, and the one thing that I would want to take away from this is that if we are going to be spending \$34.5 million or roughly \$35 million over five years, which is \$7 million per year, it highlights the importance for the civil service that is supposed to be providing the technocratic expertise. If we are going to invest \$7 million a year in external consultants, I believe taking a fraction of that to develop our own people, would actually serve the public much better.

Now, if it is medical it is a different thing to specialise and it is something we will expect, some level of specialisation, but \$7 million a year, over the last five years for consultants, says that we are still lacking some level of expertise within the civil service and that is not an average I expect to see continuing. So, if it means that we need to spend more on training and development, so be it. But \$7 million, I can tell you, it is very hard for us as legislators to sell that to the public and we cannot sell what we cannot buy. So, at a minimum, I would prefer to see that number drop to \$2 million or \$3 million and it goes into training and development of staff within the civil service. That, I think, would be a much better approach.

Some; I do recognise, is external, such as the Ministry of Financial Services and also Tourism; we can live with that. But, at the same time, if we can develop our own people and have those in offices overseas, if this is going to be ongoing, then, it is worth us investing in our people to do that kind of job that we will be going out to buy people for. Because we will always be marketing in the Cayman Islands, so if we know that we are going to be marketing, invest in marketers. If we know that we are going to be selling financial services, invest in those people. But we are not looking into the next 10, 15, 20 years to be using the same consultants to do something that we know we are going to need year in and year out. With that, I would just like to have that take away in terms of training and development as opposed to investing.

So, it is not okay for tourism to come and say, *Yeah, we are going to spend this much money because we need this* when we can have the expertise in-house because we know we are going to need it. Thanks.

**The Chairman:** Thank you very much, Miss Gloria, and keep up the good work. Hopefully you will be back. The next time you come back you will come back to get another certificate of good standing. Thank you very much.

**Mrs. Gloria Mcfield-Nixon, Chief Officer, Portfolio of the Civil Service:** Thank you, Mr. Chairman, and thank you to members of the Committee.

[Short pause]

#### HURLEY'S MEDIA LTD— (Cont'd)

**The Chairman:** Mr. Merren, thank you for coming back, sir. We have a couple more questions for you. I want to remind you that you are still under oath having sworn-in yesterday. I do not think that it is necessary to re-swear you today. I do not think that being on a double oath can make you any more truthful than you were yesterday. We have just a couple of questions and then you will be free to go.

Mr. Chris.

**Mr. Christopher S. Saunders:** Mr. Merren, first of all I have to apologise for bringing you back down here. One of the issues that was a parliamentary question of mine in the last sitting of the LA was concerning the telecom providers; those who have broadcast licence and what it is with regards to the obligations to the public in terms of free TV and everything over the air.

I understand from the response given, that that is an avenue no one would be looking at because of changes in technology and everything else, but I am mindful of World Cup Football coming up and it is a big thing for many of my constituents and I am sure it is the same for other Members and their constituents.

**Hon. Bernie A. Bush:** Those of us in the rural areas.

**Mr. Austin O. Harris, Jr.:** Quite right.

**Mr. Christopher S. Saunders:** Those of us in the rural areas [chuckle].

I understand from media releases that the entity that has the rights to the World Cup football has worked out some arrangement with the other providers to have those five games, at least I think the opening, the two semi-finals and the finals, plus the third place would be the five games, three. The question is: With World Cup looking to start (is it the next two months, July I believe or June?), where exactly are we in terms of preparing the public for that in getting World Cup Football to members of the public?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, as it stands today, the Free-to-air rights for the Cayman Islands was awarded to Logic. I have no idea how they are going to provide those. My understanding is that they are going to create two channels on their cable system, so if you want to watch those games, I think it is only four that they are actually making available through free-to-air. I do not know that they actually even have a free-to-air channel. So, if you want to watch the World Cup in the Cayman Islands, you are going to have to subscribe to Logic. I brought this up to the regulator on more

than one occasion and made them aware of the situation because it is more than just this one case.

Hurley's TV was licensed a free-to-air channel that we bought from the same company, Logic, back in 2015. Before they granted my licence, they were very specific as to what we had to do that would be considered "local content" and "free-to-air" and what our obligations were. We have basically done all that we can as far as that; I think the only thing in the licence that we just cannot afford to do is local news on weekends, but we do four hours of content, some nights, five hours of content per night.

Logic does not do any of that and I think this is the only rights that they have actually acquired since we have bought the TV station from them. I think the regulator should have stepped in on that to say, *If you are going to do the free-to-air rights, you are going to start acquiring content, you need to have the same licence and make the same obligations as Hurley's TV.* We are required to produce X amount of local content and do all this other stuff, but if they can just knit-pick and basically pick the content that they want, and it is being done so they will drive subscribers to their cable system when it should be available free-to-air to the masses, I think that is absolutely wrong.

**The Chairman:** In other words, you are telling us that the free football is going to be like free government TV? It is free if you pay Logic their monthly subscription but if you do not pay Logic their monthly subscription, then you do not get it?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, I think that is exactly . . . you have hit the nail on the head.

**The Chairman:** Some time ago the ICTA said they were doing consultations on a definition of local content. I do not know why that was necessary but I think they said that they were doing some kind of survey to find out what the people meant by local content. As I understood it, when the TV licence was granted when we were in the government way back in the 90s, there was a requirement that you had to have at least one over the air free channel and you had to have basically 24/7 or local content on that channel. Has that been changed in, for instance, like you all that have now gotten a more recent licence?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** I think their approach on that has changed. They did a consultation, I think it was in 2014, and they asked for input on local TV and free TV and in that consultation they asked what local TV should consist of; should every provider of a subscription TV licensee be required to have their own free-to-air station. My input on that was 'no', because this market cannot support four or five, or how many TV

stations that would be. We need to worry more about quality, and I proposed that it was one free-to-air TV station, maybe even two, and it had to be subsidised by the licensees paying a subscription fee because they had an obligation to do local content, make this free-to-air channel available in all our licences.

They seemed like they went down the path doing that when they gave us our licence to Hurley's TV and they were going there, but they have fallen short of that. You know, we have some cable TV operators that do not have *any* local content on their channels or they do not even offer that. So, they did define what local content had to be in our licence. Basically, public content would have to be 6 per cent local news, 25 per cent local arts and culture, 50 per cent local education and stuff like that. So, they went out and they said, *This is what you have to do as far as what is considered local content.* They went as far as to say we had to have four hours of public content per day and at least two hours per day of that content must be first time; in other words, made each day, not just made once and put in a loop. So once again, I think I am going to blame the regulator here. I think they have lost sight of what free-to-air should be. It was done so that the people in the rural areas . . . not everybody here can afford subscription TV, and that was there to ensure that those people had some sort of TV.

Now, I think what they have done was to strip that out of the cable TV providers and they are no longer required to do that or even play it, and now the burden falls on me, so I fund it.

**The Chairman:** It would not be outside of the norm for the regulator, to say to the other providers, just like how they have to pay subscriptions or whatever you call it, or royalties to HBO or Cinemax, to say to Cayman 27, *You need to carry local content.* And you need to talk to Cayman 27 about what kind of arrangement you can meet with them, so that that station has an opportunity to, and C3 would have to do the same as everybody else; but Cayman 27 would then have the opportunity to succeed in producing local content and developing local news and local programs for education and other purposes.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, that is correct.

**The Chairman:** Okay.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** When I looked at buying a TV station, I met with the regulator on numerous occasions and I pointed out to him that it was almost impossible for a free-to-air station stand-alone to generate enough revenue and to produce the content and acquire the content that it needed to be successful. I had a very open book policy on that and showed them what it

would cost to operate and what we thought the cable TV operators should pay as subscription fee, because every channel they have on their thing they are paying a subscription fee. They may have a few that are free like maybe TBN or something like that, but everything else from HBO, ESPN, World CUP, they bought those rights for that. So, yeah, it should be a fee. Classify Cayman 27 as a must carry; they are now required to put that on all their packages and then pay us a subscription fee. That is common in the United States and Canada. The UK is a little different, they charge everybody a subscription fee in Canada, to support BBC and their channels. So, that is definitely not out of the norm.

**The Chairman:** Alright, and they could do the same thing with the Government TV?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Yes, sir, should be.

**The Chairman:** Any other questions?

**Mr. Austin O. Harris, Jr.:** Yes, Mr. Chairman, thank you for the opportunity.

When the initial discussion took place, obviously it was largely questions to OfReg and I had to of course recuse myself as Councilor with added responsibility for OfReg, but as Councilor I have no responsibility, oversight or otherwise, over private sector companies and I just wanted to ask a question that I think is relevant to whether or not, as the witness has identified, the regulator should be/could be doing enough.

Yesterday, Mr. Merren, you stated over and over, the reason why Infinity Broadband, trading as C3 has not completed its license obligation to roll out broadband service to the entire Island, including the "rural" constituencies in the Cayman Islands, was because the regulator had not done enough. Again, to the question by my colleague, the Member for Bodden Town West, when querying and asking questions of the World Cup, it is interesting that, again, the reason why World Cup would not be available across the Island is the regulator's fault.

You mentioned yesterday also, that the biggest hindrance to your roll out or your make-ready costs which is again, prohibitive, to say the least. I do not think that anyone disagrees with you in terms of some of the challenges, as it relates to Datalink, and I think that is identified by the decision made by the regulator to suggest Datalink was being prohibitive with other licensees; of course, they have appealed that decision.

Getting back to your statement that the regulator has not done enough to facilitate new entrants to this broadband market, is it not accurate to state that in November 2015 the regulator agreed to amend the licensing contract for Infinity Broadband to allow it to

put in place its own infrastructure? And as a result of that amendment there are only two companies in Cayman that are allowed to erect poles; that is CUC and, now, Infinity Broadband? Is that accurate?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, that is accurate but we have to get permission from either, Cabinet or the NRA or someone to put on those poles. We cannot just start blasting poles down the road. We have made two applications in two different areas to put up our own poles and those have been basically stopped and no progress has been made on those.

**Mr. Austin O. Harris, Jr.:** Is it correct to say that with the ability to erect your own infrastructure for your broadband service, that could be accomplished at a fraction of the cost that you would otherwise be forced to deal with through the existing poles on the Datalink arrangement, if, of course, bearing the approval from the other boards, were made possible?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, our numbers suggest that it would be far less; that is correct.

**Mr. Austin O. Harris, Jr.:** Alright. Thank you, Mr. Merren.

**The Chairman:** Any other questions?

**Mr. Christopher S. Saunders:** Yes. In a nutshell, in your professional opinion, the games that are mandated by FIFA [Federation International Football Association] to be free, how are we going to get those games free? How can this work? The bottom line is that I want my free World Cup games for my people. I want my free football.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chair, it is simple. They need to make them available on their free-to-air channel and that free-to-air channel, if it is free-to-air, the other cable operators can carry those channels on their cable system just as they do with Cayman 27 because we are not a must-carry at this moment, but we have no issues with him carrying it. If it is free-to-air, all those games should be free to air and you should be able to watch them on your TV without a cable system.

**The Chairman:** Question: Can one of the other companies (I have to be careful of the word I use here as "pirate" is not a good word but I cannot think of a better word now) pirate signal down on a satellite and put it on their system, in this environment, if somebody has the franchise for that or would it be blacked out on the areas that you would have access to?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, the games are available on Fox out of the United States, Telemundo—both of those channels are on our cable systems, Flow's, Logic's, C3's cable system, but we have been advised that we have to block them by Direct TV that has the rights, that have now granted their rights on to Logic. So, we have been advised that we have to block them.

**The Chairman:** I guess in trying to help Chris to get his football, what would be the consequences if you did not block them?

**Mr. Christopher S. Saunders:** Hold on a second. Here is what I need to understand now: Your subscribers now, who have paid for, say, 30 channels, or whatever, you are going to tell me now that you will be blocking two of your channels that your subscribers have paid for?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, yes, sir. When those games are on we are supposed to block them out.

**The Chairman:** The same thing happened with the Commonwealth Games, right? There were certain channels and certain other providers that had to be blocked, if I recall correctly.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** That may have been the case, sir.

**The Chairman:** Yeah.

**Mr. Christopher S. Saunders:** So, are the customers going to get a refund? Because they are basically being . . . okay, granted, no fault of yours, but I mean, if I pay for Fox and I like to watch Fox and Friends, or whatever, you know, for all the Trump fans out there who love their Fox, and I expect to be watching Fox 24 hours in my house per day, you are going to tell me that for couple hours out of the day during that time, it may be shut down?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, there are content rights and everybody is allowed to buy them. There are two forms of content rights. There are the cable TV rights and then there are free-to-air rights, and what is happening here is that they are mixing both; they are allowing cable operators to buy both the free-to-air rights and the cable rights. That is how they are doing that. It is mostly sports that they are going to do this with, the large sporting events. They will not block your Friends or your Family Guy or anything.

**The Chairman:** So, what you are saying, and correct me if I am wrong, is that our local regulators have in

fact allowed a cable provider who has no free TV to buy both the cable rights and the free TV rights for the Cayman Islands?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** That would seem so, sir. I have not seen the contract, but I have been told that we have gotten a notice that we have to block those channels, that only Logic has those games.

**The Chairman:** Well, I would tend to agree with you that it should be up to the regulators to intervene and say, *We have no problem with you, a cable provider solely, buying the cable rights, but the free-to-air which you cannot possibly deliver under the present circumstances, you cannot purchase it.* And they should so inform Direct TV or World Cup, or whatever it is that they cannot sell that component to a company that has no ability to do it, because all they are doing is forcing you to go to the cable channels.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, I wrote a letter to the ICTA stating that a long time ago, that they have got to protect the free-to-air rights and not allow these people, that do not have a free-to-air channel, to buy the free-to-air rights.

**The Chairman:** Have you gotten a response?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** No, sir.

**The Chairman:** Okay. Maybe we can help with that.

**Mr. Christopher S. Saunders:** Mr. Chairman, I am going to tell you my issue with all of this. We learned yesterday that the telecom provider who is supposed to be rolling out a network is not going to roll out a network because it is not feasible. And by the way, I do not want to hear any of you guys referring to Bodden Town and Bodden Town West as a rural area again, because—

**Hon. Bernie A. Bush:** Or West Bay.

**Mr. Christopher S. Saunders:** Or West Bay. Yeah.

People have licences, we have granted licences, and they have X amount of responsibilities that go with those licences. If we are granting too many licences that it does not make it economically feasible for someone to do everything, then that is a problem. If we have granted licences and people have made promises that they are going to do something and they have not done it, then that is a problem, there has to be some penalty because, at the end of the day, this is really all about the public.

Now today, we are having the same situation where local content is supposed to be provided and all

of these licensees who have these licences are not doing it. So, the question is: Why do we keep granting licences to people who have an obligation to provide the public with a certain service, only for them to give the excuse that it is no longer economically feasible or, in this case, it is no longer technologically feasible. The question is then: What is the public supposed to get out of this, other than people coming here getting licences and overcharging us and not producing what they are supposed to be producing?

Now, my question in all of this that is coming to the witness . . . take something like the news; for the United States I came across several articles in terms of local news, where a lot of states and counties are losing local news to national news for the simple fact that it is no longer economically feasible. We have seen it with newspapers and everything else and if we continue to allow all of this air time that does not promote our culture, because we are still a young developing country in many respects, and even something as simple as the news, because that in itself, is no longer an area that makes money, it actually loses money. So, in other words, we are providing a public service. I mean, if they cannot even take the basic time out to even provide the news, at what point do we step in and say, *You know what, enough is enough* and start penalising these guys?

At the end of the day I do not expect and I know Randy they are your competitors, but something as basic as the news at a certain time, carry the rights or something like they do in the States, but to have them not provide their obligation to the public, it cannot continue. You have an obligation to the public, and somebody needs to enforce these obligations but do not come back down here and tell us that it is no longer economically feasible or technologically feasible. The public still demands to get something for what it is that they are giving up!

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, I would take that a step further. I am pretty sure that on any given day, our news cast is probably one of the most heavily watched programs on any of the cable systems, from 6:00 to 7:00 and other shows. As far as going and doing the build out, I do not think Logic or we have made any statement that it is not feasible to build to those other parts of the Island, especially the eastern districts. I think it is just the speed of which make-ready is being done at 160 poles. They have said that they can wrap that up faster but let us say that they double that, we are still talking a long time before the districts get the TV service or broadband service out there. So, I think Government or the powers that be, has got to get Datalink to the table and figure out a system.

You know, they have granted four licences—C3, Digicel, Logic and Datalink have been granted licences to build all these. So, they have probably put

too many subscribers out there to service this and it is going to be a battle to the death. Hopefully, the Caymanian people will support the Caymanian Company—I will take that little free plug (*chuckle*). But there are other things that need to be done too. Before all of you leave this House, Cayman 27 may not be producing news because it is a significant burden on the company to produce news every day. Mr. Chairman, you were there, Mr. Saunders you were there, Austin you have been in there, and Mr. Bush, you have been in there. You have seen what it takes to produce local news every day. We have 9 reporters in there, we have a slew of people sitting down behind, producing that news every day. It is a lot of human capital to produce that every day and we are required to do that at least one hour a day.

**Mr. Austin O. Harris, Jr.:** On the issue of World Cup, just because we are airing the subject out. On the one hand, I think there are grounds for agreeing with the witness and those in the Committee; that blocking the use of two channels which subscribers in Cayman have paid for, may present a problem. But certainly, likewise, as popular as the World Cup may be, and I too will be watching as many games as possible, hopefully free, but we have also adopted copyright laws in the Cayman Islands and I do not think that it would be appropriate at any given time to encourage the regulator to turn a blind eye to potential copyright infringement. The question that would come from this to the witness would be: Would you expect the regulator, in this case, OfReg, to enforce the existing copyright laws, whether it worked in our favor or in this case, not in our favor?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Well, we have been told that we cannot broadcast them or make them available on our cable system, we planned on doing that. The same thing happened to us with the Olympics, we had to take a legal action to get them to be forced to pull off the broadcast that they were told to be blocking. We will block it on our channels so, unless we can get some rights from Logic to broadcast those, C3 will have those games.

Cayman 27, I think it is a simple way to solve this thing and the regulator should say, *"If you do not have a free-to-air channel, you should not purchase the rights to the World Cup . . . to anything! You should not purchase those rights, the free-to-air rights. And if you are going to purchase those free-to-air rights, make a free-to-air channel, pay the \$7,000 or whatever the ICTA is; here is the licence just like Hurley's TV and start doing it."* I think you will see them sit down and they will pull back and stop acquiring these rights. We are not asking them to break the Law. I respect the Copyright Law; it was needed, it is a good thing to have it here. You know, these people, even the artists, it is how they make their money, the con-

tent that we get, in this Island, the movies and different things. If we were all pirating or stealing content, you would not get the quality of movies that are happening now in the world. So, I do support the Copyright Law and we will do our job but I just think if it is free-to-air, it needs to be free-to-air; it should not be free-to-air through cable TV.

**The Chairman:** I have another question for you. If I have my own satellite dish and I have direct TV on that, can anyone stop me from watching it?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** For Direct TV, the subscription you probably have is illegal in the Cayman Islands.

**The Chairman:** But everybody has it.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Yes, but there is nobody enforcing that. Dish Network, HBO have been here to try to push that. The laws are in here but nobody is taking the step to actually go after these people. There are people like RoCay and stuff here; they do not have licences to do that.

**The Chairman:** But that is another one that you would probably be able to get it on by paying them a subscription which the regulators have no control over, right?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Well, that is a whole other issue as far as I am concerned. They are allowed to operate [but] they do not have a subscription TV licence and they are not an ISP. They are providing content that is not licensed over our networks using, whether it is C3, *Logic*, *Digicel* or *Flow*. So, that is a whole other issue in itself. To me, that is blatant infringement of copyrights. It is blatant that the lady is providing services to customers here that are not licensed and she is not paying. We pay six per cent royalty fees to government, so to me that is revenue leakage right there and then.

**Mr. Christopher S. Saunders:** This goes back to the same issue. Take WhatsApp calling, for example, you pay for a data plan and you can call anyone that you want. Now, that is a set fee that you would pay, that the telephone companies would pay for but technically, a lot of telephone companies are losing money from WhatsApp calls; people all do the same with Messenger. The internet itself has changed the game; we have seen it with Amazon in terms of the sales and everything else. If someone has a website in South Korea, that site is basically showing content that is Copyright from the States, and you are going to that South Korea website and seeing the content that

they have there. This in itself is the world that we are living in today.

The bottom line is that I do not think it is a situation where something is wrong with the technology; I think something is wrong or inadequate with the laws that we have to govern the technology. Amazon and Google and all of those guys are getting away with it so, at the end of the day, if there is some company out there that is doing something and taking advantage of the technology and the fact that we do not have the proper laws in place to catch it, then that is a different thing altogether. That is where we need to step up now, in this case, same as with the regulators to some extent, where you are allowing a company to buy free-to-air rights, but the company does not offer free-to-air service. And this is part of the culture that we have created in Cayman. So, the question in all of this is then, what do you think are the changes that we need to make? Clearly, the technology is way ahead of where the Law is now.

I can tell anybody this much; I have Dish and I will be watching my World Cup Football and nobody cannot tell me otherwise and I pay my legal subscription. I do remember the times when I had Direct TV and I could go onto a website and get some codes, plug it in, do all that kind of stuff until one day they found a way to shut that down. The question in all of this is: What changes do you think we need to make in terms of the laws, because you used the term 'revenue leakage'. How can you actually stop that? In this day and age, you ever heard about regulating the internet?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Yeah, but that is not an internet, that is a closed looped internet system. That is somebody that is actually aggregating that content in Canada or wherever else that is, and providing you a box that you then get that content. Whereas, if you are watching that video on the internet, you know that is a broadcast, that is for the public and anyone of us can actually get that. You have to actually get a box to get those signals, so that is not a closed system; that is different. You know, they have Geotag and now they have Geo-blocking and different things like that. You can buy the broadcast rights for internet broadcast rights and stuff but one of the things that you have to is that you have to block that to just Cayman IP addresses. Just like every country, Cayman has been assigned area numbers which are IP addresses that are assigned to the Cayman Islands. So, you know what your area numbers are and you just block everything else out from that. We did that with the World Cup on some of the things we did. You just have to do that.

**Mr. Christopher S. Saunders:** Make a strong VPN [Virtual Private Network], I can tell you. You come into my house and you will swear you are in Miami

[Laughter]

**Mr. Christopher S. Saunders:** I have strong VPN. If we go to 0123Movies right now we can watch *Avengers Infinity War*, all of them are up there. So, the reality of it is, the technology is there and it is making the world smaller so these will be some of the challenges now. The point that I am making in all of this is that, recognising where the technology is going, it is important for us, therefore, to have access to this technology. Thus the reason the broadband issue is a big thing for me, because educationally it is something that we need. To live in the information age this is something that we need, and then having these little drip-drip speeds when everyone have all of these things coming down and being left out. It is really unacceptable. The speeds that we have, compared to what other people have, we really need to do a better job than this. And it is important for me and, I think, also to the public, that at least companies such as yours find a way to become economically viable. If it is a case where someone has a licence, and they are not doing what they are supposed to be doing, take the licence from them!

We are going to end up in the same situation because I suspect that it is just a matter of time and I am sure that you have had conversations about whether or not to keep your news divisions or not, but it is a public service and I would hate for us to end up losing local news to get stuck watching CNN, Fox or NBC or something else and, God forbid, we only have the newspapers to depend on for news. This is something that is important and typically, like with everything else, it is only after it is gone when we miss it.

Randy, I really want to thank you for continuing to do that, despite it not being profitable. At the end of the day, I will say this much, you are a Caymanian business owner and whatever it is that I can do, I still believe that you should be given preference in this market, as opposed to a bunch of foreign companies. I make that statement with no apologies and I think that is where we need to get to. So, whatever it is that we can do to help you and your company, as a Caymanian company operating within the Cayman Islands and reinvesting your money here, as opposed to someone taking my money and charging me an arm and a leg and not giving me the service and sticking that money someplace else, it becomes a no-brainer. So I just want to thank you for what it is that you are doing but this is not over.

**Mr. Austin O. Harris, Jr.:** Certainly, I would want to echo those sentiments of the Member for Bodden Town West, that I think we all in this room support Caymanian entities and . . . there you go, I agree.

I am just curious, because this has bothered me for some time, to know the private sector's view point on it. You brought up RoCay and of course the Members brought up Dish. As I understand it, the Dish

Network, similar to C3 or Infinity Broadband are selling licensed subscriptions to channels that you pay for but the providers of RoCay, Amazon or otherwise are not selling subscriptions, they are selling or renting a box. As such, the rules between subscription providers and the box providers, I do not know the technical term for what that box and that service is, but the rules are different. I wonder if you can express your thoughts on that.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Well, let us look at Netflix, because that is probably the easiest one. They have acquired that content. They acquired the content for different parts of the world; that is why if you go to the United States you may get a different set of contents available to view there, compared to international content or wherever else. They are under pressure from those content providers to make sure that that content that they are licensing for, whether it is just the United States, is not being watched outside the country. People are buying a Hide My IP and doing different things, so they are trying to stop that. A lot of it now—

[Inaudible Interjection]

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Yeah [chuckle]

A lot of them now are actually basically . . . they do not want to pay for content that are not really supposed to be paid outside the States, so people are finding a way around that, but they have an obligation to the content providers that they are acquiring that from to make sure it is only watched in the territories they bought the licence for.

Now, for Direct TV, you got a licence for that but I guarantee you, if Direct TV knew your address and knew that you were outside the United States, they would shut you down. So, as long as you keep up your address in the States or wherever else, but if they figure you are out, they are going to shut you down.

Content is changing how you consume it. It will get to the day where it is all available on . . . if you look now, Fox have their own 'over the top service' we call it. You can subscribe to that and you can get all of the Fox content. As you see, Netflix is developing more and more of their own content simply because the large content providers such as Disney and Fox and all of them are going, *Wait a minute, they are making all this money, we have our own content so we can do this as well and charge a subscription fee for it.* So, you will see more of that moving towards that and you know the subscriber is eventually going to pay even more, because the cable TV channels that you are consuming today and getting all of this stuff, they are eventually going to go away and more of these guys are going to come together and say,

Hey, if you want to watch any of the Fox stuff you are going to have to buy it from us. So, that may be \$9.95.

What we at C3 are building, is a superhighway so that you can get that content. We are just going to build the highway, so eventually our TV product as far as subscription TV may go away and morph into something else, but you still need to get that content one way, and whether it is wireless or on the highway of fiber, you are going to consume that somewhere else, and you are going to find that you have 90 different bills coming from Netflix and everybody else, that you are buying the stuff, so that is where it is going.

**Mr. Austin O. Harris, Jr.:** Just one final question, Mr. Chairman: Going back to the roll out of your broadband services, we mentioned that in your view, certainly the regulator could do more but, as it relates to your amended licence, you also have to get approval from the NRA, and was the second board Planning?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** No, it is NRA that controls the road and you know, the ICTA licensed us for that. We have made two attempts, the regulator has worked on us with that, but I think it was basically stopped at the NRA.

**Mr. Austin O. Harris, Jr.:** Just the NRA?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Yes, the NRA basically stopped that and did not go any further there, but we have made two attempts on it.

**Mr. Austin O. Harris, Jr.:** Okay.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** I am not sure, to be honest with you, whether we, if we want to put up those poles, I think rather than put them up as telecom-only poles, we put up a whole other infrastructure of poles and then CUC is coming across touching our poles and we are driving revenue under that, so it kind of goes both ways. The question for you guys is: Do you want to a two-pole system on all our roads? And that is something I do not know whether, you know, they are not the nicest thing to look at.

**The Chairman:** Yeah, and those poles tend not to move when they see a car coming.

[Laughter]

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** That is for sure.

**The Chairman:** I have one other question: Do you believe it would be normal, or the industry would react

favourably to this Committee making a recommendation to Government that the regulator encourage people who do not have free-to-air local content to subscribe to that channel which currently produces local content?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Mr. Chairman, I do not think I understand where you are going . . .

**The Chairman:** Let me put it to you simple: we do not want to use a name, but do you think it would be outside of the industry's norms if we made a recommendation to Government to encourage the regulator to tell all of the cable providers that they have to carry Cayman 27 and subscribe for it?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** That would be the norm. I think that is done all over the place, it should be.

**The Chairman:** Alright, okay, well thank you very much.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** And we have also suggested to them that they have to set a fee for the subscription fee. We have always said to them, *Meet with us and you set the fee*. Let the regulator set the fee and whatever it is that they set the fee at. If it is a penny, it is a penny.

**Mr. Christopher S. Saunders:** Has there been any consultation within the industry concerning the issue of net neutrality? Has anything been published with the ICT or any consultation out there?

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** I do not think they have sent anything out on that just yet, on net neutrality.

**Mr. Christopher S. Saunders:** Okay.

Just in closing for me, I think the UK is one of those countries where they actually have free boxes that they put in some of the homes to get the free TV or the free channels that are required in terms of keeping with the technological developments, as opposed to running stuff over the air. What would it stop then, because for the regulator to say, *Well, you know what guys, this is the box at a minimum that everyone needs to have and at a minimum, either, everyone pays to maintain this or someone carries it*. At the end of the day, if I was your competitor, I would be like, *Why are you going to force me to give Randy money, when I'm competing against him?*

At the end of the day, you guys in the industry need to get together and give the public what they are supposed to get one way or the other. And, if you guys cannot do that on your own, then I think the regulator needs to step in and make a decision and

say this is what needs to be done. So, I would support the Chairman in the sense of, not saying to force anyone because competition is still competition and they are competitors, but they have this obligation, meet this obligation or face a penalty. And if the solution is carrying Cayman 27 then, so be it, but they have an obligation that they need to be carrying out.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Well, Mr. Chairman, I think that is why you have a regulator. If we could all work everything out, we would not need any regulatory body in the first place, so you have to have somebody that sets the laws, and I may have been harsh on the regulator, but like I said, they just need to say, *This is what we are doing, this is what ought to happen*, and do it.

I think it is too much time spent with consultation. We feel, as the regulator, this is what should happen in this market and, to a certain extent, have your input, but I think it just drags out too long and you get lost in the noise. Just say, *This is what is going to happen; you have a requirement, you got this licence, their licence said that you have to have a free-to-air channel. We have moved away from that now, so we are going to put a free-to-air channel and it is going to be a must-carry, and if you want to have a must-carry, you go ahead and open a free-to-air station too. Pay for the licence and go ahead and open it.* So, I think that is where the regulator needs to come to.

The last part is we have to get CUC to the table, and they have got to be realistic. It is draining on all of us. We are trying to build as fast as we can because we need to acquire as many customers as we can. Having 2,000 customers is not paying the bills. We need 4,000, 6,000 customers to break even.

**The Chairman:** Thank you for your time.

**Mr. Randy Merren, Managing Director, Hurley's Media Ltd.:** Thank you, sir.

**The Chairman:** The Committee is adjourned until we have someone sometime in the future.

*[Laughter]*

**At 3:52 pm the Public Accounts Committee stood adjourned.**

**OFFICIAL VERBATIM REPORT  
STANDING PUBLIC ACCOUNTS COMMITTEE  
THURSDAY  
3 MAY 2018  
10:00 AM  
*Meeting with witnesses***

**“GOVERNMENT’S USE OF CONSULTANTS AND TEMPORARY STAFF—  
FEBRUARY 2018”**

Verbatim transcript of the Standing Public Accounts Committee meeting held 3<sup>RD</sup> May 2018, at 10:00 am, in the Chamber of the Legislative Assembly Building, George Town, Grand Cayman.

**PAC Members Present:**

Hon. D. Ezzard Miller, MLA - Chairman  
Hon. Bernie A. Bush, MLA, Member  
Ms. Barbara E. Conolly, MLA, Member  
Mr. Christopher S. Saunders, MLA, Member

Ms. Manesa Webb, Committee Clerk

**Apologies:**

Mr. Austin O. Harris, Jr., MLA, Member

**In attendance:**

Mr. Michael Nixon, Acting Financial Secretary/Chief Officer, Ministry of Finance and Economic Development  
Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development

**Audit Office:**

Mrs. Sue Winspear, Auditor General  
Mr. Julius Aurelio, Audit Manager  
Ms. Angela Cullen, Director of Performance Audit  
Mr. Gabriel Ncube, Audit Project Leader

**Witnesses:**

Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs  
Mrs. Tiffany Ebanks, Chief Financial Officer, Portfolio of Legal Affairs  
Mr. David Hails, Chief Officer, Cayman Islands Fire Service

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*[Hon. D. Ezzard Miller, Chairman presiding]*

**The Chairman:** Good morning, everyone. Let the record show that we have a quorum present and I would like to call the meeting to order, and I ask the Clerk to invite the first witness in.

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** I swear by the Almighty God that the evidence that I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

**Mrs. Tiffany Ebanks, Chief Financial Officer, Portfolio of Legal Affairs:** I swear by the Almighty God

that the evidence that I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

**PORTFOLIO OF LEGAL AFFAIRS**

**The Chairman:** Good morning, Miss Reshma. When you are asked the first question, please say your name and your position for it to appear on the record.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Yes, sir.

**The Chairman:** Okay.

Today, we are discussing the Auditor General's Report on the Government's use of consultants and temporary staff and at this time I will invite the Auditor General to give a few opening comments on

the report and also, if possible, to give the Committee a short update on how the audits for 2017 are progressing.

**Mrs. Sue Winspear, Auditor General:** Good morning, Mr. Chairman, PAC Members, ladies and gentlemen. Thank you for the opportunity to make some opening remarks, both, about the report and update on the 2016-2017 Audits.

If I start with the report, I would like to begin by taking the Committee through the reason for conducting the audit work on use of consultants and temporary staff, discuss some of the key findings and highlight how we believe government could use these reports to improve how it manages public resources.

The Performance Audit reviewed how effectively government manages its use of consultants and temporary staff to ensure that it is obtaining value for money. The audit focused on core government only—that is the Ministries, the Portfolios and the offices; not statutory authorities and government companies, although the recommendations are equally relevant. Our findings on the Government's use of consultants are based on the review of 23 consultant contracts between July 2012 and 30<sup>th</sup> June 2017. These 23 contracts accounted for 42 per cent of the Government's total spend on consultants over the five year period.

Firstly, I think it is worth saying that using consultants and temporary staff is a very reasonable thing for governments to do and there are many good reasons why you would want to use consultants and temporary staff, including bringing in specialist skills on managing peaks of workload. However, the use of those needs to be properly planned and well managed to ensure that value for money is obtained. Our audit found that the Government does not routinely monitor how much it is spending on consultants or temporary staff and so, my colleagues and I had to pull together the information from government's financial systems and analyse it. As a result, we estimate that the Government spent \$34.9 million on consultants and \$3.6 million on temporary staff; a total of \$38.5 million over the five year period.

We also analysed government spending on consultants year by year and spent fluctuated on an annual basis as we would expect, with three Ministries accounting for over half of the total spending on consultants, five types of consultancy service accounting for 80 per cent of the total spent and the top ten suppliers, government spent more than \$8.1 million with three of them. All of this analysis can be found on pages 10 to 15 of our report.

Our audit found that the Government has made progress in implementing the new procurement practices since my office last reported on the subject in 2012 and, indeed, you will be aware that the new Procurement Law came in a couple of days ago, along with supporting regulations. It is pleasing that of the reviews we did, seven of the eight government

entities we reviewed had procurement manuals in place, with the exception being the Portfolio of Legal Affairs. We noticed that in some cases there was scope for further improvements, rather unsurprisingly, and that includes potentially using specialists when negotiating contracts and also around the range of procurement methods that are used.

Despite these improvements, we found government does not consistently consider value for money when engaging consultants. The guidance requires that business cases be prepared and approved for all procurements over \$10,000 and invitations to tender or requests for proposal should be used for open procurement, and we would expect open procurement to be used for the most part.

Our review of the 23 consultant contracts found that only six business cases were prepared despite all 23 contracts being over \$10,000, and that those that were prepared could have been better and more comprehensive. However, on a positive note, most of the 23 contracts went through an open procurement process. We did identify five contracts awarded through single source procurement that, in our view, should have been subject to some form of competition.

Our review of contracts identified that the Government does not have standard terms and conditions and that generally they are accepting the supplier's terms, which poses a risk to value for money.

My office made the recommendation in 2011 that the Government should develop guidelines on setting out the circumstances when an entity should seek legal advice or assistance in preparing contracts. This has not happened and it is also not clear whether a contract has been subject to legal review prior to signing, as this is at the Chief Officer's discretion.

Further considerations in obtaining value for money are effective contract management and post-project evaluation. We found that the Government does not formally manage and evaluate the performance of consultants once they are appointed and there were very few examples of post contract evaluation to learn lessons for the future.

Finally, our report discusses the Government's use of temporary staff and these being staff employed through recruitment agencies or individual contractors. Over the five years we reviewed, as we said, the spending on annual temporary staff was \$3.8 million which was more than double the \$1.2 million in the 12 months to the 30<sup>th</sup> June, 2017.

Government could not provide us with an explanation as to why spending had increased to \$1.2 million over the 12 months to June 2017. Neither does it have any guidance on procuring or managing temporary staff. Our report includes 16 recommendations that are set out on Appendix 3 on pages 42 to 53 of the report. I believe if they are implemented, this will improve the Government's use of consultants and temporary staff. And I have with me today, people you

are familiar with—Angela and Julius as the Director and Manager of the audit and then, Gabriel Ncube on the end, who has provided most of the input to the field work for my office. Thank you.

The update on the financial audits, nearly forgot. So, it has been another positive financial audit season while we have been auditing the 2016-2017 financial statements with the statutory deadline being the 30<sup>th</sup> of April. All 44 public sector entities submitted their financial statements by the statutory deadline of the 28<sup>th</sup> February with one exception, a bit like last time, we cannot quite get the 100 percent; one exception—the Cayman Islands Stock Exchange.

It was a complicated season for preparers and auditors, partly because it was an 18 month period because of the change in the financial year so obviously, the additional time in itself presented complications but most significantly, because of the election there were not a lot of post-government reorganisations between entities and that impacted on opening balances and closing balances, budget analysis and all sorts of things that are required. We had the implications of the Public Authorities Law to consider and various technical matters that arose during the course of several audits.

By close today, we anticipate we will have 30 audits completed and four of those will be qualified with the remainder being unqualified.

I think the Committee will be particularly pleased to know, given their witness hearings in February into the qualified accounts from 2015/2016, that the Judicial Administration where Susan Bothwell is the Courts Administrator and Tiffany is their CFO who is supporting Reshma today, have gone from a qualified opinion to an unqualified opinion this year, so that is particularly pleasing; and similarly, the National Gallery of the Cayman Islands, where you had a witness session on the 22<sup>nd</sup> of February, have also gone from a qualified to an unqualified audit opinion and I just thought the Committee would be particularly pleased, given your interest, to know that.

I would like to pay a tribute to the guys behind, the Financial Secretary and all in the Ministry of Finance and Economic Development, who continue to lead by example being the first to have their audit completed and, of course, it was unqualified. That was signed off on the 8<sup>th</sup> of April, which is approximately two weeks earlier than the equivalent for 2015-16, so that is really positive. And finally I would like to pay tribute to all my audit staff, our private sector audit partners, and the finance teams across the public sector for their commitment and hard work in trying to achieve all the statutory deadlines. We did not manage it across the board, but it is not in spite of incredible long hours, consistent commitment over recent months from an awful lot of people, and I do anticipate that we will be signing off an awful lot more over the next week or so. Thank you, sir.

**The Chairman:** Thank you for that interim report on the audits and it is good to hear that we are progressing in the right direction and hopefully by next year we will get that 100 per cent and then we will get an even in the submissions as well as 100 per cent unqualified but is good to know that the people who came here, in particular, took that opportunity and that exercise and fixed their problems. So, congratulations to you all.

Having said that, today we are here to deal with the consultant services for the Portfolio of Legal Affairs. It looks like you had the biggest spend of all of the entities that the Auditor General reviewed. You all spent \$8.2 million or 23 per cent of the total over that five year period and we would like to have some explanation as to why the Portfolio of Legal Affairs has so much consultancy fees.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, before I began, would you permit me to just read a brief statement?

**The Chairman:** No. The Committee decided almost two years ago now, that because people were using the statements for the wrong purposes and I am not saying that would be your intention, but we got into situations where people were using the opportunity to make statements to level personal attacks at the Audit Office and other staff so, we just put down a blanket rule of no statements. You are here to be asked questions. You can use whatever part of your statement and answer the question that you see fit and we can accept that, but we do not allow statements which would pre-empt what we are going to ask.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Understood, Mr. Chairman. Thank you.

**The Chairman:** So, if you could just give us an overview of what you used consultants for, what they represent and why the cost is so high, we can drill down after that.

**Ms. Reshma, Acting Solicitor General, Portfolio of Legal Affairs:** Certainly, Mr. Chairman.

At page 14 of the Auditor General's report, reference is made to the Portfolio of Legal Affairs and the spending of \$2.7 million, which represents 33 per cent of the total expenditure on consultants over the five year period. For the Portfolio this was on legal services as stated in paragraph 21.

In looking back over that period of five years, there was a significant volume of what I would say unprecedented litigation arising out of the Tempura matter, which started from around 2007 until 2009 and there were a number of cases that were all inter-related and, if I may say, that was probably an exceptional period of time in the context of that investigation and then the litigation that it spawned, so that would

account significantly, if not predominantly, for the expenditure over that five-year period.

**The Chairman:** The majority of the funds spent hiring lawyers for court work . . .

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Yes, Mr. Chairman.

**The Chairman:** Why is that necessary when we have a fully staffed Legal Department and they seem to be earning QCs in that department at an alarming rate?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** I think, looking back at it, it was the complexity of the issues that were raised and that is one of the considerations that are taken into account when a determination is made as to whether there is a need to engage external consultants. I also think the demands on the department at that time, as a result of those cases, were quite significant. In addition, we had a previous member of staff within the Chambers who had been involved in the early stages. He left the Chambers in 2013, so, for continuity, having regard to the volume of work that had already been done, it was deemed appropriate to have him continue on, even after he had left the Chambers. And similarly, the Queen's Counsel who had been instructed to lead, he continued his services as well, so that extended over that five year period.

*[Inaudible interjection]*

**The Chairman:** They probably do not want to tell us which court case it was. Yeah.

Was that one of the Tempura cases?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Yes, Mr. Chairman.

**The Chairman:** So, the person was retained to continue the case at cost about what he was paid as a staff member or . . .

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** I would need to confirm their rates that were being charged in comparison with the salary, Mr. Chairman. And I can provide that information to you but, you asked in terms of the case. One of them I can say was the matter of Kernohan versus the Governor and the Attorney General and others and that was instituted in 2009. Then there was, in 2011, another case, and that was Kernohan and the Attorney General versus Bridger. There was an application that was then filed in London by the Commissioner of Police against Bridger. That was in 2012. The Kernohan's matter was eventually resolved in 2014 and there was a further application in the mat-

ter of the Commissioner of Police and Bridger in 2014. So, there was a long history of these proceedings.

**The Chairman:** Does anybody know the total cost of Tempura to the country?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, would that be in terms of the investigation and the financial costs or . . .

**The Chairman:** Everything.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** I have read, and I cannot say, I cannot verify, that it was in the region of approximately \$10 million. Again, I am not in a position to confirm that.

**The Chairman:** Oh, yeah. I think you forgot to tell us who you were at the beginning of the statement so, if you could do that.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** My apologies, Mr. Chairman. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs.

**Mr. Christopher S. Saunders:** Good morning, everyone, and I just want to thank Reshma and her team member for coming this morning.

I am a little bit saddened that the Legal Department is actually here this morning and the reason being is that a while back, one of the things we were pushing for was that all government contracts should be at least signed off by a representative from the Finance Department and the Legal Department to ensure that there are some elements of protection within the contracts that government is using.

When I look at Page 16 and going over into Page 17 of the report, just to read it briefly, it says: "The Financial Regulations 2013 (Revision) states that any contract for the purchase of supplies, services and assets over \$50,000 should be subject to public tender and for the purchase of supplies, services and assets over \$20,000 that, in the opinion of the Chief Officer, can be provided by only one supplier, they may be procured from a single source subject to the overall requirement to ensure value for money and appropriate evaluation of the supplier proposal."

Going to section 32, it says: "We found that all of the eight Ministries and Portfolios we reviewed, except the Portfolio of Legal Affairs, had procurement policies and procedure manuals." [UNVERIFIED QUOTE] Basically, in a nutshell, the only entity at a Ministry/Portfolio level that does not have procurement policies in place is your department. And for us, where we are pushing for compliance with the various laws, whether it be the Procurement Law, the Public

Management and Finance Law, and where we are pushing departments and everyone else to make sure that they comply with the Law in terms of going out there and purchasing goods and services, it is a bit disheartening that the one department that technically should know the Law is the one that is actually not in compliance with the Law and that is, I am going to tell you, a very uncomfortable position for us to be in because, we cannot sit down and be pushing for one thing and then the legal advisors are the ones that are not following the Law.

My question in all of this, through you, Mr. Chairman, is: How did we get to this position in terms of . . . I mean, it is not as though this is a new ministry, department or statutory authority; this is an entity that has been around for a while. The Law has been around for a while. This is not something new within the Law. How was this overlooked to begin with? And what steps are now being taken? And from an internal reputation's standpoint, because there are other civil servants looking at this and are probably saying these are the people who are supposed to give us advice, what are you guys going to do to fix your own internal branding within the Government or the Civil Service to say, *You know what, we are on point, but this is completely unacceptable?*

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Through you, Mr. Chairman, to the Honourable Member.

You are absolutely right. We have not had a procurement manual in place. I have been acting in this post from last year and it is one of the things that I noticed. I cannot speak to why this had not been done previously. There was never any information guidance provided to me on that point, however, moving forward and in light of the recommendations made by the Auditor General, we recognise that this an area that needs to be addressed, so we did undertake in our management response to look into this and have something prepared.

It is also quite timely that we now have the new Procurement Law and Regulations in place. I know the Central Procurement Office is also going to be issuing guidance for all of the civil service entities to follow. So, we intend to put something in place to deal with this moving forward.

**The Chairman:** How do you determine any kind of consistency in your procurement of lawyers? Or, is it just that you accept the person that you would like to handle the case, based on whatever the guy's performance is in similar cases in other jurisdictions? Or, is there no format or standardised way in which attorneys are recruited to do cases?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Thank you, Mr. Chairman. What I would say is that although we do not have anything documented in the form of a manual which

speaks to that, our practice has been firstly to do an internal capacity review. Our starting point is always to assess whether we have the capability in-house to deal with a particular matter. If there is a specialisation in law, if there is a particularly technical nature or a certain degree of expertise that might be required, having regard to the request for advice or the subject of the litigation, we would consider that as well.

We would also look at the likely demands that a particular request or case may impose on existing resources. In other words, is there going to be an impact on our delivery of other legal services to other clients? Is there a particular political sensitivity to the subject area? Those are just a few of the considerations we would look at in determining than 'do we firstly need to engage outside counsel'. If the answer to that has been determined as yes, the next step would be, how do we go about choosing the appropriate service provider and to that we would obviously be looking at the expertise, past work experience; if it is somebody that we have worked with that have a good track record, and I would say at this point, we tend to call upon external service providers that we have used in the past and have long standing relationships with.

We would also look at years of experience, obviously the seniority of the individual, satisfaction from past cases that they have worked on with us, knowledge of the Portfolio's needs, qualifications, reliability and timeliness in the provision of services. So, that is the standard approach, if I may say, Mr. Chairman, that we tend to use when proceeding to determine if and when external service providers ought to be engaged.

**The Chairman:** Can you give us an overview of how the Portfolio of Legal Affairs is structured, what departments you are doing and where the majority of these consultant services go within that structure?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Certainly, Mr. Chairman. If I can start, the Chambers are headed by the Attorney General. In the middle of that we have the Solicitor General and there are positions for two Deputy Solicitor General; they are at the senior level. We have two Senior Crown Counsels: there is Crown Counsel 1, (for Crown Counsel, there ought to be five), Crown Counsel 2, is our most junior. If we are operating at full capacity, that would be 12 which includes the Attorney General who rolls his sleeves up and gets involved.

We tend to find that the cases which are briefed out are probably at a more senior level and therefore would warrant bringing in more senior counsel rather than junior practitioners. From time to time however, we might have junior counsel supporting that lead counsel, if you like, if there is a particular capacity demand as well. But it is not that we tend to be bringing them in for what I would call routine or sort of institutional type matters. They tend to be more

complex in nature and probably involving more technical issues if you like.

**The Chairman:** Is there a requirement in your contractual relationship with these consultants that they do in fact work with one of your junior staff for the possibility of knowledge transfer and . . . ?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Absolutely.

Sorry, Mr. Chairman.

Absolutely! It is standard practice that where external counsel is engaged, he or she is going to be instructed by a Crown Counsel, who is going to work very closely with that individual. That is going to be the direct point of contact, and what we have found is there is in fact a very valuable knowledge transfer that is being passed, but it is not limited to the instructing counsel, it is shared amongst the other lawyers in the department as well.

**Mr. Christopher S. Saunders:** Sorry, just for my own understanding and maybe the auditors can best answer this: When we say "legal services", within your audit, the DPP [Director of Public Prosecutions] was also included in legal services, correct?

Now, I just want to understand because I understand that the DPP is a separate legal entity to some extent. So, the answers that are being given today are they just for your section or do they also include the spending within the DPP? I want to understand that just to make sure there is no confusion.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, through you, the answers I am given are for the Portfolio of Legal Affairs and exclude the Office of the DPP.

One thing that we noticed from the report is there were certain statistics being given that seemed to include certain contracts that might have been done on the criminal side. I think part of the confusion may have arisen or that may have been because traditionally, we were all the Legal Department, where we were joined, and then, in 2011, the Office of the DPP, Ms. Richards was appointed to that post and I think by 2012, if I am not mistaken, there was a physical separation of the two entities. I think there has been some reference to a few contracts in the Auditor General's report, but they relate to criminal matters and therefore do not touch and concern the Portfolio.

**Mr. Christopher S. Saunders:** Which brings us to the next question: What is roughly the split . . . oh, sorry.

**Mrs. Sue Winspear, Auditor General:** I was just going to clarify the spending which is from 2012 onwards, when there were separate entities. If there was some confusion, it is unfortunate that through clearance those matters were not brought to our attention,

but we believe there are two separate entities and two separate areas of spending.

**Mr. Christopher S. Saunders:** So, the \$8 million plus, that we are talking about, roughly how much of it is Portfolio of Legal Affairs and how much is DPP, because I do not want anyone out there to believe that the full amount is all PLA when some of it should be DPP? And I do not want them to unnecessarily look like they are out there spending all this money on Tempura.

**Ms. Angela Cullen, Director of Performance Audit, Office of the Auditor General:** Through you, Mr. Chairman, and just to clarify, the \$8.2 million is the total spent by government on legal services. And, as Ms. Reshma pointed out earlier, in paragraph 21 we see that the Portfolio of Legal Affairs spent \$2.7 million of that and our audit focused on that \$2.7 million spending PLA had and caught between 2012 and 2017. Of the three samples that we selected for PLA, we looked at one and it was actually a contract that was for DPP but had been procured by the Portfolio of Legal Affairs on their behalf, so the spend is recorded against the Portfolio of Legal Affairs, even though the contract was something they were doing on behalf of the Director of Public Prosecution.

**Mr. Christopher S. Saunders:** Okay, so if we are—

**Mr. Chairman:** Just a minute. But is that not a conflict? Is it not that the DPP and the Portfolio of Legal Affairs are supposed to be two complete, constitutionally separate entities? Why would the PLA be procuring services for the DPP?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, I think part of the issue might have been even though the split might have occurred, we are sharing our finance team and I cannot say if it may have been a situation where the Portfolio was somehow billed for these things or the invoices were somehow being paid by the Portfolio but then reimbursed by the DPP's office. I do not know if that was just a sort of administrative oversight.

**Mr. Chairman:** The Portfolio of Legal Affairs, in 2012 when we separated and created the position of DPP, as per the 2009 Constitution (we are already three years late in getting it done), you did not separate the finances? Are you still sharing financial services today?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** That is correct, Mr. Chairman.

**Mr. Chairman:** Why? Is it because of the restrictions in recruitment?

**Mrs. Sue Winspear, Auditor General:** Should I give a perspective? It is only a perspective because I know Miss Tiffany is there. Miss Tiffany can say for herself. She is the CFO for a number of Central Government Portfolios and offices. They tend to be smaller in their nature and therefore as an economy measure it is not sensible for each to have their own finance administration. So, it should be shared, but the work they do, relates specifically to the entities that they are serving but I mean, Miss Tiffany will be able to say more.

**Mrs. Tiffany Ebanks, Chief Financial Officer, Portfolio of Legal Affairs:** Tiffany Ebanks, CFO for the Portfolio of Legal Affairs. I will try my best to clarify. Of course, I was not there at the time so I cannot say for certain.

In terms of what happens now, the Auditor General is correct that I am CFO for multiple entities, however, we do treat them separately so, separate financial, separate payments, et cetera. At the time, like I said, I cannot speak for what was happening back in 2012. Based on what Miss Winspear said, I know the Director of the DPP was appointed in 2011 however, there was some time to physically separate. There may have been time to get bank accounts, et cetera opened.

Now, if I understand correctly what Miss Cullen said, is that, the contract was with the DPP. I think it would be incorrect that the Portfolio of Legal procured the services. It may have been an instance where it was paid because, at the same time, they were somewhat still going through the process of separating. So, it may have been where the payment came out of Portfolio of Legal and was reimbursed by DPP however, I do not know that it would be accurate to say it was procured by the Portfolio of Legal Affairs.

**Mr. Christopher S. Saunders:** Thank you very much for that.

What I am trying to determine, because we are discussing \$8.2 million dollars spent over a five year period, is that if \$2.7 million is directly for the Portfolio of Legal Affairs, then, is the remaining \$5.5 million for the DPP? I am just trying to get a breakdown from a constitutional standpoint of how much of it was for the DPP versus the Portfolio of Legal Affairs.

**Mrs. Sue Winspear, Auditor General:** Just to see if Gabrielle or Angela can answer that, but it will be other entities as well and other Ministries.

**Ms. Angela Cullen, Director of Performance Audit, Office of the Auditor General:** Through you, Mr. Chairman, I will try to clarify: So, of the \$8.2 million, \$2.7 is the Portfolio of Legal Affairs and we can give you that breakdown

The next biggest spender on legal services is what is now called the Ministry of Education, Youth, Sports, Agriculture and Lands, and also the Ministry of

Human Resources and Immigration. Both of those spent around \$1.5 million over the five year period, and then many of the others spent money on legal service where they were around four Ministries or Portfolios that spent \$.5 million over that five-year period, including the DPP [Director of Public Prosecutions, which is around \$600,000. Financial Services and Home Affairs, Portfolio of the Civil Service and Ministry of Health is a bit lower at \$370,000.

**Mr. Christopher S. Saunders:** Thank you, Mr. Chairman. Through you, sir: the reason I asked those questions, just to put it in context, is that when we look at pages 42 onwards, which is Appendix 3 in terms of Recommendations, there are, like, looking at Recommendation No. 9, for example, the Portfolio of Legal Affairs should develop framework agreements or call off contracts for the provision of legal services.

What we want to make clear is that if a government department is going out there to procure legal services, we would expect at the end of the day, the only entity or area within government that has the qualification to say this is good or bad legal services would be the legal department. We want to distinguish in between. What we do not want the public to think is that the Portfolio of Legal Affairs went out and spent \$8.2 million dollars when in fact there were other entities that were also spending this money. We do not want that message out there that basically that is what is being done. That is why we wanted to clarify that.

So now, for us, Mr. Chairman, we would like to know what it is that the Education [Ministry] and these other Ministries were spending this money on, and we also need to find out why is it that they think that they needed to go outside. Or maybe you guys . . . well, based on the recommendation it appears that you guys were not even consulted. So, it would be scary for us to think that if they needed legal advice and the Attorney General is the legal advisor to the Government or its Chambers and these Ministries are going out and securing legal services outside of what it is that the Attorney General should be doing, then, I think the public and this Committee also need to understand why that is being done. But we cannot sit and have a legal department to be doing all of this stuff. I mean, granted, yes, you do need consultants but, we would like to understand why they would have engaged externally for those issues, as opposed to going through the Attorney General.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, through you: I am grateful to the member for that clarification being sought on the figure of the \$8.2 million because we were concerned as well that the impression that the public would have was that it was a spend coming from the Portfolio, which is not, in fact, correct.

As to your point about the other entities that might have been engaging external consultants, and whether the Portfolio and the Attorney General had

been consulted prior to that being done, I am not in a position to say if we were. I was not in a management position back during that period of time, so I am a little bit constrained in my ability to say with any degree of certainty if we had been consulted previously, but it may be, so I think it is something that we would need to be looked into if you wish to have that input from us.

**Mr. Chairman:** Can we ask the Finance Department? There used to be a rule in government that you had to get the Legal Department's permission to engage external legal advice and it usually had to be on the basis that they did not have the resources to provide it or it was such expertise that they needed to go. When was that rule changed? Was it under the PMFL Law or what?

*[Inaudible reply]*

**The Chairman:** So, the rule might still be in place, it is just being ignored.

**Mr. Michael Nixon, Acting Financial Secretary, Ministry of Finance and Economic Development:** Mr. Chairman, I am not aware of such a rule actually being in place.

**Mr. Chairman:** Well, I am acutely aware of it being in place, because I was subject to reprimand because the HSA sought outside legal advice because at that time, the Attorney General's Chambers did not present themselves in court to defend the HSA at the time and the HSA lost a case. And I was reminded, in no uncertain terms that we needed the approval of the Attorney General's Chamber to engage outside counsel.

Why would the Government have this elaborate legal affairs office if any Ministry can just decide on their own to go and seek legal advice from somewhere else? I mean, it would be the equivalent of everybody deciding they can have their own computer services consultants outside, when government has centralised computer services. What is the difference?

**Hon. Bernie A. Bush:** Mr. Chairman, through you, [a] simple, clear, scenario. It has been in the news; four people applied for a job. The one gentleman who is not qualified per the job description got the job. Caymanians appealed. The Appeals Tribunal said yes, the Caymanian should have gotten the job, not the English gentleman. He was not qualified.

The Education Ministry has now hired a private law firm to go to court to fight against the Caymanian for the English man. Should they be consulting you? Should they be going through you? And, would this money for the private law firm come through you?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, through you. I believe that matter is currently before the court, so I would be a bit reluctant to comment on any of the substantive issues raised in it but, ah . . .

**Hon. Bernie A. Bush:** Ma'am, we are not looking for the information, we are just looking for the procedure.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** As I understand it, in that case, Mr. Chairman, through you, there was consultation between the Ministry of Education and the Attorney General's Chambers in relation to the question of representation.

*[Inaudible interjection]*

**The Chairman:** Could we get back now to—

*[Inaudible interjection]*

**The Chairman:** Oh! Okay, you are you finished. Sorry.

*[Inaudible interjection]*

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** No, sir.

**The Chairman:** Can we get back to what progress has been made on establishing your procurement manual and whether that manual now is going to be the procurement manual for all the entities that you manage as CFO or each one is going to have their own procurement manual.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, just to clarify the question, were you looking at the entities that fall within the Portfolio of Legal Affairs or those other entities that . . .

**The Chairman:** Entities that fall within Legal Affairs.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Our seven departments, yes.

Mr. Chairman, the intention is to have a comprehensive manual and procedures for the entire Portfolio, so that all seven departments will fall within it.

**Ms. Barbara E. Conolly:** Mr. Chairman, through you. Can you give us some indication of when this manual will be completed as to any timeframe?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** I think we tentatively put in initially the beginning of May but I think we are look-

ing now to the end of May, the reason for that is we are exploring some of the recommendations that have been made by the Auditor General in terms of possible arrangements such as call off agreements with external providers.

Obviously, we are requiring some input from those that we tend to call on more frequently to get a sense of if that is something they would be willing to engage with. We are also just trying to get a sense of how the procurement manual should be crafted in light of what we see as a sort of uncertainty of litigation and therefore the difficulty, if you like, of using traditional procurement methods, such as the competitive tendering when there is an urgent need to get legal advice or representation. So, we have taken on board the recommendations that have been made and we are trying to craft the path of how to incorporate them in a manual for the Portfolio.

**The Chairman:** I do not understand part of that last question when you are saying that you are concerned about the intricacies of a particular legal case and the urgency in terms of going through a business case and a competitive procurement. You are trying to find a way to write into the manual that you do not have to do a business case and you do not do competitive recruitment. You just go to the one that you believe is the best?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** To clarify, Mr. Chairman. One of the challenges that we found is that sometimes if a piece of advice is required very urgently or we have sort of a very short timeframe within which to respond or provide a defence in a matter, it is not practical to then go to an open tendering process to try to identify a suitable provider for legal services, so in that sort of arrangement, probably something akin to a direct award might be more appropriate.

So, there is consideration being given to, if you like, a sort of pre-qualification exercise, whereby there are certain service providers that we would tend to engage with regularly to sort of ensure that they are fit for purpose if you like, for the needs that we have. And I understand the Auditor General to be suggesting that what would be a type of arrangement that would allow us the flexibility to call on them as and when required, but at the same time, sort of meeting the overall tendering procurement requirements.

**Mr. Christopher S. Saunders:** I know in the corporate world it is standard to have something we refer to as "panel firms", where you have a list of companies that would have been pre-approved to provide certain legal advice, legal services, and I think somewhere along the line something like that should be acceptable.

I think what we will probably be looking for, in terms of the procedure, is anything outside of the pre-approved panel firms is at a minimum, I think at least

the Cabinet should have some leeway, since more than likely you would be representing Government, to at least approve XYZ or have some discretion specifically for legal matters recognising the urgency of it as opposed to going and building a building. Because if something is moving, you need to be able to move immediately. So, I think within the procedures or something along the line, at least that responsibility should be given to Cabinet or some responsible entity under the Law.

**Mrs. Sue Winspear, Auditor General:** Sorry, just for clarification. We recognise the situation legally and the circumstances and if you see in the report we were suggesting things like call off arrangement, framework contracts. We got our audit consultants on such arrangements which means you go through, as Reshma said, just pre-qualified so you kind of ensure the value for money in a holistic sense.

We are also not in the least bit adverse to situations where a single source would be necessary and the Procurement Law allows for that. It allows for a chief officer's discretion. The point we were making in this is that we did not see any evidence of the correct sort of thinking and procedure. I am sure it was there, but again it is documenting why you have gone through a single source.

**The Chairman:** This is why we are concerned, if you do not have any kind of standard contract. How do you know you are getting value for money? Is that based on success or failure before the judge?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, that might be one indicator, perhaps, but I would not say that it is the determining factor whether value for money was obtained by a particular service provider. As members would be aware, there is always an uncertainty with litigation and even though you may think you have the absolute strongest case, it just may not be your day in court and the verdict may not be what you expected or anticipated. There are rights of appeal, of course, and even after those have been exhausted, you still might not get the desired outcome.

So, I think we tend to look at value for money, perhaps more broadly. We are looking at obviously the rates that we are paying for these external consultants and what we have found in our experience is that the external firms, even with the levels of Queen's Counsel, tend to be more cost-effective than those offered locally. So, that is an important consideration but generally, the quality of the advice has been sound in terms of repeat engagements. I think that demonstrates the confidence and the trust that we have in the service providers and the fact that we tend to draw on a small pool of well-known long-standing firms that government has had these relationships with, is testament to the fact that we are confident in the quality of services that they provide. The timeli-

ness is not an issue; they work closely with instructing counsel and they agree the timeframes, so we have not had situations or there is nothing that comes to my mind where that has been raised as an issue. So, when we look at the value for money, I would just suggest we look at it a little bit more broadly than simply a win/lose scenario, sir.

**The Chairman:** I noticed from the report that your biggest supplier of legal services is HSM Chambers. That does not bore with the argument that you just gave me because are they not one of the newer chambers in this country and also one of the smaller ones?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, again, putting it in context, the audit was over that five year period and, as I mentioned previously, it was a former Assistant Solicitor General within the AG's Chambers who had originally been involved heavily, if not singly, with a lot of the work on those Tempura-related litigation matters.

When he left the Chambers in 2013, and went on to HSM, the work went with him because of the depth of knowledge that he had and to ensure that continuity of service, so that is why you will see HSM there and as I indicated previously, because of the related litigation that sort of spawned from that, he remained involved as the instructing counsel on the ground.

**Mr. Christopher S. Saunders:** Sorry, through you Mr. Chairman, just for my own understanding.

Going by media reports, they are one of the more active firms that are suing government for all of these immigration matters. So, on one hand we are giving business to somebody and on the other hand they turn around and sue us. How do you reconcile that kind of relationship where the lawyer you are with one day, that you are supposed to be building a good relationship with, is at a firm suing you for something else?

I mean, there has got to be some conflict somewhere along the line. I know in divorce cases where one spouse has retained one person they are conflicted with doing business with the wife or something else but, how do you guys reconcile that. I am just curious, I am not a lawyer. I am just curious.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Through you, Mr. Chairman, if I can assist. As I said, looking back at it, there was that need to ensure the continuity because of the volume of work that he had put into it. It was a logical step. Again, it would have been extremely challenging and difficult if that was simply to be passed on to an existing member of the Chambers to sort of bring him or herself up to speed.

The other point that I would make is that flurry of litigation that we have seen from HSM has been in recent years, I would say, and probably in that 2012-14 period, I think less, so, if memory serves me correctly. I understand the concerns that you have raised, but it just might have been that at that point in time, it really was not quite as it appears now in terms of the challenges being brought by that firm against the Government.

**Mr. Christopher S. Saunders:** Recognising the other building across the road, which is the courts and this is a building of politicians, I will say this much, in our business you are either fish or fowl so, if you are going to work with us, you work with us, if you are going to sue us, you sue. But I am going to tell you straight up, you cannot be both. So I want you guys to bear that into consideration when you guys are selecting these attorneys.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Through you, Mr. Chairman, I know. Just to add to that, that that counsel is no longer employed with HSM.

**Mr. Christopher S. Saunders:** So, Mr. Chairman, through you, sir, one of the things I just wanted to make sure we clarify, so as to tie up as a loose-end was about the Ministry of Education and the Ministry of Human Resources using other legal services. Now, I note from the Auditor General's report that those Ministries had policies and procedures in place with regards to procurement, so I do not want it to leave the impression that they went out and probably engaged legal services and then probably followed the proper procedures. I am going to go by the assumption that if they had the processes and procedures and were doing some things well, that if at least they went out and got these legal services, I will give them the benefit of the doubt that at least they probably followed the correct procedures. I do not want it to be kind of left out there, because I know we touched on it, but we never kind of closed it up and I do not want to leave the impression with the public as if though the Ministry did something that it should not have done or whatever, so just to clarify that, please.

**Mrs. Sue Winspear, Auditor General:** Through you, Mr. Chairman, just for clarification, we are not aware of any requirement to go through the Portfolio of Legal Affairs. We are not aware that Ministries cannot go directly to other law firms. So, if there is something that we have missed, we have missed it, but we have not come across anything that says they cannot do what they are doing. Thank you.

**The Chairman:** That is one of the good things that got washed out with the PMFL [Public Management and Finance Law].

What I want to ask—

**Mr. Christopher S. Saunders:** Just looking at recommendation No. 9, just to close that off. Recommendation No. 9 and also 10, where it says, "The Government should develop standard terms and conditions for consultant contracts that ensure its interests are protected and it is able to achieve value for money." Now, the responsible entity that is given there is the Portfolio of Legal Affairs and the Central Procurement Office and it also says in Recommendation 11: "The Government should develop guidance to help identify which contracts should be reviewed by lawyers or be subject to legal advice prior to signing, and against the responsible entity there is the Portfolio of Legal Affairs." And then, in Recommendation 12 it says: "The Government should ensure that the legal department has sufficient capacity and tools such as standard checklists to carry out legal review of contracts consistently." [UNVERIFIED QUOTES]

So in essence, within these Recommendations we have placed a lot of responsibility on the Portfolio of Legal Affairs in terms of reviewing contracts and looking at contracts, which makes sense from a best practice standpoint. If that is the case, as far as we are concerned . . . well, not just legal services contracts but all contracts should, at some point be signed off by the Portfolio of Legal Affairs. One on the legal issues and, similar to what we said in the Major Projects Office Hearing, Finance should also be looking to sign off for value for money, because we already agreed that not the cheapest could be the best, but at the end of the day we just want to make sure there is some balance.

So within government, we would expect a standard for all contracts requiring Finance and Legal sign off. If that is the case and we are going down that route, then, I think it is safe to say that we are putting some responsibility on the Portfolio of Legal Affairs to sign off on contracts, and I would assume it would cover all contracts. So, there should be some provision there, which would make sense to have some legal review.

Going back to the point you made earlier where, if we are signing standard contracts that are given to us by suppliers, we are doing business on a supplier's term and not necessarily our terms and the only people who are equipped to fix that is the Portfolio of Legal Affairs. So, we cannot have it both ways. It is either, they have the responsibility to do it or they do not, but it cannot be a recommendation; this has got to be a practice.

**The Chairman:** To that requirement to be a practice is, as any progress been made on developing standard terms and conditions in consultant contracts across government?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** We have not been ap-

proached by others entities, Mr. Chairman, since the Auditor General's report, that is, to provide any sort of standardisation if you like. It is something that we are happy to look into, but obviously that is going to require the input coming in from the other Ministries or departments, which are engaging consultants as well. We are very reactive, so if these things do not come to us, we are not in a position to offer any kind of legal guidance or assistance to them and I appreciate that that has been one of the challenges that was previously identified by the Auditor General, but in terms of next steps, whether anything has been taken out at a wider government level I cannot say.

**The Chairman:** But should it be part of your remit as Government's legal advisors to put forth a suggested standard terms in contracts that should be in all of the . . .

So, are you telling us that you have not been consulted by the Procurement Committee under the new Procurement Law to draw up any kind of standards that should be included in the contracts for procurement?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Not yet, Mr. Chairman, no.

**The Chairman:** Not yet, but the Law came into effect Monday.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Monday.

**The Chairman:** And it has been in the books for what—a year?

[No audible reply]

**The Chairman:** It was supposed to provide for all these things to happen. So, we have no idea that all of the fanfare that has been built up around this whole procurement thing, that it is going to make any difference because if a basic thing such as the procurement contract has not been vetted or the Legal Department has not had input into and made suggestions of certain things that must be included, in order to protect the Government, what is the point? And where does your responsibility stop, if you are the legal adviser to the Government?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** So, two points to that, Mr. Chairman. As I said, I have not seen anything coming in from the Procurement Office just yet. It may be that it is imminent because I know they are working on various guidance and policy documents that are supposed to be rolled out throughout government. As soon as we hear from them, then we step into action. But in terms of the other consultancy agreements, as I

indicated, it is a little bit difficult for us to do it in a sort of a vacuum if we do not know the types of consultancy arrangements that are being entered into by other entities.

**The Chairman:** Certainly, there is certain language and certain areas that should be covered with any procurement contract, the specificity of the individual exercise and that individual contract. I can see that you need to wait for them to tell you what it is but certainly you should be in a position to offer broad advice that these ten things should be included in any contract that you are going to do any procurement on.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** I agree, Mr. Chairman. You are right. There are certain standard provisions that we can certainly do a checklist and provide to the Government. It would probably just take just a little bit of work because if we are doing a construction contract on the one hand, that might have certain requirements. If we are doing for the suppliers, other types of goods and services that might be different. IT contracts, for example, for software or service level agreements are an entirely different species of agreements so what you might have to put in there. So, it would require identification or classification of the various types of agreement that we have seen and putting forward a very basic list.

**The Chairman:** Right. You all do not see your roles as the Portfolio of Legal Affairs in government, to offer advice unless asked?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** We are happy to do that but I think ultimately it comes down to resources as well because it is a time-consuming exercise, Mr. Chairman, and that is the unfortunately reality of it.

**The Chairman:** Okay.

Mr. [Acting] Financial Secretary representative, can you give us some idea why we are at the point of the Procurement Law coming into effect and we still do not have these kinds of principles put in place as to what must be included in a procurement contract?

**Mr. Christopher S. Saunders:** As per schedule.

**The Chairman:** And why have you not asked the Legal Department to provide you with that advice?

**Mr. Michael Nixon, Acting Financial Secretary, Ministry of Finance and Economic Development:** Mr. Chairman, I cannot speak to the specificity of what is included in all of the new Procurement Law and Regulations, but I can tell you that the Procurement Office has been working to ensure that issues such as

standardisation of terms and conditions of contracts are included, so I expect that if they have not been issued as yet, in terms of contact with the Portfolio of Legal Affairs, that it will happen very shortly.

So, the Central Procurement Office has spent quite a bit of time and energy and effort in getting ready for the implementation of this new legislation and obviously, we want to make sure that it is in place and government agencies are adhering to it. Issues like contract standardisation and processes and tendering procedures, et cetera, there is an education process which is actually ongoing right now within the core government—

**The Chairman:** How are you going to educate people when you do not know what it is going to be? Principle No. 10 under the Schedule for the Procurement law says, "Legality: Public sector entities shall conform to legal requirements". And if you are at the stage where the Law has been brought into effect some 9 months to a year after it was passed by this Legislative Assembly, and nobody has approached the Portfolio of Legal Affairs, to get some kind of standardisation, what have you been doing for the last nine months?

The question is: How can you educate people on something that you have not made a decision to educate them on?

*[Inaudible interjections]*

**The Chairman:** You are not personally responsible, so I am not asking you to answer things that you may not have intimate knowledge of but, we have heard the expert in procurement on the radio, promoting the effectiveness of this Law, and how effective it is going to be and everything and it is alarming at this point in time, to be told that the Portfolio of Legal Affairs has not been consulted and intimately involved in making sure that these procedures are . . . that they are going to train people under Legal. That is very worrying.

**Mr. Christopher S. Saunders:** Mr. Chairman, just to expand on what you are saying, is that, when you do look at the Auditor General's recommendations, and going back to Recommendation No. 10, for example: "The Government should develop standard terms and conditions with consultant contracts that ensure that its interests are protected and it is able to achieve value for money." [UNVERIFIED QUOTE] The date of implementation is the end of Q2 2019 but we have a law that has now come into effect the 1<sup>st</sup> of May, 2018. Are we to assume that between the 1<sup>st</sup> of May 2018 and the end of Q2 2019 that there is anarchy in the procurement process?

**Mr. Michael Nixon, Acting Financial Secretary, Ministry of Finance and Economic Development:** Through you, Mr. Chairman, I do not think that is a correct characterisation, Mr. Saunders. There are pro-

curement rules and processes in place across government. Coming in with the new Procurement Law is to tighten those rules and requirements and to add more clarity and specificity; guidance, essentially, to public sector agencies on the best practice—what we would like them to follow in terms of procurement processes.

This is new legislation, it is just coming into effect, there have been a number of education sessions going on over the last several months, in fact, they are still going on as we speak, even though the Law has come into effect.

From the Ministry of Finance's perspective, we recognise that there is still a long way to go because we have just pulled the trigger, essentially, on this new legislation, but we have to allow some time for government agencies to essentially start operating under the new arrangements. We are committed to monitoring their compliance with the new arrangements and to ensure we will work with the Attorney General's office but also with Internal Audit and with the various chief officers to make sure that they are complying. And the Central Procurement Office is being staffed to provide guidance to all public sector agencies for any questions, any assistance, that they may need in order to comply with the new legislation.

**Mr. Christopher S. Saunders:** The issue that still remains outstanding is the fact that it is now a law. The Law is now in effect so, the issue then, from what I understand, because I was not even here when it was passed, is that you put an effective date for a law that the Government in essence would not have been able to meet because—

*[Inaudible interjection]*

**The Chairman:** The Law said that it would be brought into effect by a notice from Cabinet. There is no reason for the Government to issue a date to bring in the Law if they have not completed the preparation to implement the Law. So, if they have now put a date to implement this Law, with the knowledge that they do not have the necessary stuff in place. It is too straightforward and honest. I could not survive the bureaucracy that has now been created with the PMFL Law which is an ability to hide when we want to . . . You are an accountant. You know the difference between cash accounting and accrual accounting. Accrual accounting allows you to tell a lie twice as much.

The Law says in Part 1 - Preliminary: "1(1) This Law may be cited as the Procurement Law 2016. (2) This Law shall come into force on such date as may be appointed by the Cabinet and different times may be appointed for different provisions of this Law and in relation to different matters." And the Cabinet has issued a notice saying the Law came into effect on May 1<sup>st</sup>, 2018.

It is reasonable for us, the Public Accounts Committee, to assume that that notice would not have

been issued unless the Cabinet had been convinced that all of the necessary policies and procedures were put in place, because this is two years old now, you know. Anyway, we digress.

When you have committed here to providing stuff at the end of Q2, 2019 for some of these standardisation and stuff, are you in progress of having these things in hand or are we going to run into another Procurement Law scenario where the time is up and you need another five years?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, just to clarify. Looking at Recommendation 11, where that reference to end of Q2, 2019 is made, I do not think that was put in there by the Portfolio, so I am not entirely sure which entity that relates to.

**Mrs. Sue Winspear, Auditor General:** For clarity, Mr. Chairman, Committee members, it was a combined Government response that came through the DG's office that involved all chief officers, to my knowledge.

**The Chairman:** Oh. Okay. So, you do not attend the chief officers' meetings on a regular basis?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** I do, Mr. Chairman, yes.

**The Chairman:** Oh. And you do not recall these things coming up and commitments being made by the Chief Officers Committee or whatever it is called, to have these things in place?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** I do not recall this being done at a chief officers meeting. I do know that there was a request for various chief officers to provide input but, we put in our additional response which is noted as specifically to PLA [Portfolio of Legal Affairs] and then we made reference in the data plan implementation that we said it was difficult to estimate a likely implementation date for this recommendation, so that comment is quite specific to our Portfolio.

**The Chairman:** So, you are not in a position to recommend to the Government by Quarter's end or Second Quarter 2019, what types of contracts the legal department should review prior to Government signing them?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** That was not the commitment we were given, however, we are happy to assist in that process as best we can, and I anticipate that we should be able to meet that dateline but we will certainly provide whatever assistance we can.

**The Chairman:** Well, you better find out who is giving these commitments on things that you are supposed to do. Okay.

So, these implementation dates in here do not have any meaning then?

*[No audible reply]*

**The Chairman:** Okay.

Are there any other questions?

*[Inaudible interjection]*

**The Chairman:** We do not want to impregnate the legal department with any political considerations now, do we?

**Ms. Barbara E. Conolly:** Mr. Chairman, this might be repetitive here but I do have a question on the business cases. When the Auditor General's Office reviewed three of your department's contracts, none of them had a business case to justify the need. What decision-making process is used, taking into consideration value for money for consultancy services or legal advice in the absence of business cases?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Through you, Mr. Chairman. As indicated previously, the business case would usually be associated with some sort of an open, competitive tendering process which, as I have indicated, we do not adhere to for the use of consultants and the reason for that is generally, the uncertainty of when a need for a consultant might arise as well as the urgency in responding, which does not lend itself to any sort of protracted procurement process. For that reason, for those legal consultancies that we have, there would not be business cases.

Moving forward, however, one of the things that . . . sorry, Mr. Chairman.

**The Chairman:** Not to interrupt you, but that is really not acceptable to the Public Accounts Committee. Again, this is not a one-off thing you are doing. So, you should have some kind of a business case and check system that you follow for these consultancies. Unless you want to change their name and call them additional lawyers, because consultancies tend to give a different connotation than what you seem to be recruiting, because you seem to be recruiting lawyers that you do not have in-house for particular legal cases.

**Mrs. Sue Winspear, Auditor General:** Just for clarity, when we refer to business cases, they can be on a spectrum from quite simple and straight forward justification for the need, through to something incredibly extensive that you would expect for a big capital infrastructure project. So, we are not expecting a massive,

massive, but we are expecting justification and we expect that just as much as does the procurement requirements for single source arrangement, as we do for any sort of contracted out arrangement, because it is about justifying the need.

**Mr. Christopher S. Saunders:** Quick question (sorry) before we move on, just for my understanding. When these things are being processed for payment, these entities, what supporting documentation is being used to say something was approved or this spend was approved because there is a set process to be followed? And I hope it is not a case of someone just printing an e-mail and signing on it, that this is what was agreed. So, I am trying to understand now, from a supporting documentation standpoint, what justification is given or what is used to make these payments.

**Mrs. Sue Winspear, Auditor General:** Through you, Mr. Chairman: through the financial audits that we are currently undertaking, we always look at supplies and consumables and things that are brought in and the processes and systems of control around it. For smaller entities, it can be difficult to get a segregation of duty, i.e. more than one person involved, but we always expect there to be a proper system in place and a proper segregation of duty and if there is not, those are the sorts of things you will see coming through in the management letters; ISA 260 points that we make to those entities. There are examples we found through this financial audit peak, where there have not been proper procurement processes in place, not that this is specific, absolutely not relevant to the Portfolio of Legal Affairs, but a general comment.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, if I could just touch on that point raised by the Auditor General's Office, in terms of the business cases, I am grateful for her sentiment that she is not expecting a sort of elaborate case that you would tend to find for a capital project, but what we have recognised is that for audit purposes, it is good practice to have something. So, moving forward, one of the things that we are looking into is to have some kind of a justification statement.

While we understand the basis and the need for an external counsel from time to time, it certainly would not be difficult to actually just have that recorded in sort of summary form identifying the need and sort of the thought process that we have gone through to get to that stage and I think that would be very consistent with their best practice.

**The Chairman:** Can you give us a timeframe to put that rule in place? Next Friday?

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Maybe the Friday after that, sir?

**The Chairman:** By the end of the next quarter, I mean, whatever, you know? We need a commitment from you.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Certainly by the end of the next quarter, Mr. Chairman.

**The Chairman:** Okay

**Mr. Christopher S. Saunders:** I just want to thank as a side note for coming down here today. I know sometimes these things are not easy, with all of the different questions back and forth, and I just want to wish you guys luck. But just reiterate what I said openly, that where we are concerned is that the Legal Department plays a very important role, similar to that of the Ministry of Finance, when it comes down to procurement and we just need to make sure at the end of the day, that you guys will also recognise that and get your house in order, so we can start beating on other guys to get in order. Because we need you and Finance tight, so that we can get other people in line and I can tell you exactly what will happen—they will come here and they will throw you guys under the bus. They will do it, I am telling you. It is just human nature and so, that is just one of things I wanted to make sure that you guys at least get yours in order, your procedures and everything else. The entire civil service is relying on you guys. But outside of that, I just want to say thanks for coming.

**The Chairman:** Not to leave on a sour note but, we tabled a report in February, in which, I believe, we made a recommendation that we expected that before any contracts were signed, there is some legal review, whether that is by somebody agreed by the Portfolio of Legal Affairs. The question I have is: Has anybody contacted you to find out how you are going to respond to that recommendation in a government minute which is due 1<sup>st</sup> of June? The 90 will be up, I believe.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, I have no knowledge of that and I am not aware of anybody attempting to contact me in that regard.

**The Chairman:** Well, I would invite you to contact the, I guess it would be the Deputy Governor, who is responsible for gathering a commitment from Government and a response to the government minute in response to the Auditor General's and the Public Accounts Committee recommendations, because we are likely to ask the Auditor General to review it in about six months to find out whether you have implemented

it or not. And the Standing Orders of this honourable House require that government respond to the PAC and the Auditor General's report within 90 days of it being tabled in the Legislative Assembly. And the response is not whether they are going to implement it or not, it is how it is going to be done.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Mr. Chairman, just for clarity, could I just ask you to repeat the specific recommendation that has been made?

**The Chairman:** To the best of my knowledge, the recommendation is that all contracts that are signed by government are reviewed by the Portfolio of Legal Affairs or by somebody agreed by the Portfolio of Legal Affairs to do so, before they are signed.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** And Mr. Chairman, is there any threshold in place, in relation to the value of the contract that needs to be reviewed, or is it all contracts across the board?

**The Chairman:** Well, we would expect that some contracts would be just standard and you would have reviewed it and we would expect that if you agree that is the form they should use, they would have the respect (to put it that way) to use that contract. But certainly, in larger procurements, particularly those that are handled by the Procurement Committee, that those contracts have legal sign off.

**Ms. Reshma Sharma, Acting Solicitor General, Portfolio of Legal Affairs:** Thank you, Mr. Chairman.

**The Chairman:** Thank you. Thanks for coming. We will break for lunch and come back at 1 pm.

Proceedings suspended at 11:40 am

Proceedings resumed at 1:46 pm

## ADMINISTRATION OF OATH OR AFFIRMATION

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

## CAYMAN ISLANDS FIRE SERVICE

**The Chairman:** Good afternoon, Mr. David Hails. We want to thank you for finding time in your busy schedule to come here to answer a few questions for us. When you are asked the first question, for the purpos-

es of the record, state your full name and the position that you occupy.

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** David Hails, Chief Fire Officer.

**The Chairman:** Chris your turn.

**Mr. Christopher S. Saunders:** Thank you, Fire Chief Hails, for coming this afternoon. As you may be aware, the Committee is currently looking at the use of consultancy reports that have been going between the periods of . . . What is the period?

*[Inaudible interjection]*

**Mr. Christopher S. Saunders:** [Two thousand and] eight to 2017. However, in the public's interest we noticed that there was one consultancy report that was made public, which, in this case, was a PwC [PricewaterhouseCoopers] Report, and even though it is outside that time period we believe that it probably would have been in the public's best interest to also take a look at that consultancy report. So, in the vein of where we are at, because next week I believe we have other chief officers coming in to discuss the use of consultants, and so, this is not something that is new. But, like I said before, this is one of the things that members on both sides, basically where the issue was raised, and as such, we just decided to put this one a bit forward as opposed to leaving it out there for too long and the public having the incorrect observation or the incorrect conclusion . . . sorry.

I am assuming that you have seen this report?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** That's correct, sir, yes.

**Mr. Christopher S. Saunders:** Okay, perfect; that is good. And even though I think we have you scheduled for an hour and a half or something like that, I don't expect it will really last that long. But for us, we just wanted to make sure that at least from the public standpoint that there is some confidence going forward and this is not something that is just outstanding.

At the same time also, this Legislative Assembly approves a substantial amount of money each year to the Fire Service, so we just want to make sure that that money is being spent in accordance with the value for money and everything else that this Committee would normally be concerned with. So, that is pretty much what it is that we are looking for.

I also wanted to use this opportunity to thank you and your team for the work that you guys have been doing. Again, this is something more for informational purposes. I know people have a view of the Public Accounts Committee sometimes, so I just wanted to set your mind at ease there.

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Okay.

**Mr. Christopher S. Saunders:** I think the role that you and your team plays is an important one within our country. Many times when many people are asleep at night you guys are the ones who are up manning the country in making sure everything is running smoothly, and at the same time, you guys are the ones running into buildings when others are running out and that is one of the things I think this Committee is also aware of.

Just on a side note, I think the service that you guys provide to the country is invaluable and I hope that even at the end of this session we can at least agree that we need to do something about the life insurance for fire officers because that is one of the things I am concerned about, but that is something that we can raise with the Chief Officer separately. They also have families and everything else. So, it is within that vein that we are trying to get a few things answered and to make sure that the Fire Service is providing the value for money that we would expect from any other government department. Okay?

With that said, one of the things that jumped out at me in looking at the Executive Summary from the PwC report, is where it says that fire officers are passionate about the service they provide. Many stating they would go above and beyond where necessary. This was confirmed by the positive citation among many of the external stakeholders, so, I think that in itself bodes well in terms of the public to know that we do have fire officers who are passionate about what they do. So, that does help. And I think it confirms the view that many people may have. However, it says: "The current Chief Officer is not supported by a permanent senior management team; five out of the six are acting officers." [UNVERIFIED QUOTE]

In terms of going through the Public Service Management Law (PSML) as per vacancies and everything else, would you (and this is where the question kicks in) be able to give the Committee an update in terms of where you are in filling those positions, because having 5 of 6 senior officers acting would put a strain on any organisation? So, can you just give us a brief update in terms of where you are in probably filling those positions? Have any of them been filled since this report, or are you close to filling any of them?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Can I just start off by saying that I was not aware that I was going to be questioned on this report this afternoon, so I have not done any background studying on this report in detail? I am aware of it and we're acting upon it but I was not aware I was going to be asked questions on this report this afternoon.

Your question was about the acting ranks and the promotions going forward. Yes, we are engaged in numerous things there. The job descriptions are being looked at, at this time, which is a very important component to taking these positions forward. The job descriptions need to be put in place and ratified by the Portfolio of the Civil Service before we can go to the next step for recruiting for those positions on a full time basis.

**Mr. Christopher S. Saunders:** Thank you very much.

Roughly, in terms of training and development which is one of the biggest items that this Assembly had voted on, as per spend; do you have a sufficient budget in the event that if you find someone who is willing but not yet quite able, that you have sufficient resources? Because, ultimately, if it is a situation where resources are inadequate, then, this is something we would expect to come back before this Assembly first and if needs be, will probably vote to increase the budget or whatever. So, in that situation in terms of getting those positions filled, would you say that you have sufficient resources for training and development if you do find potential people but who are not quite there as yet?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** We actually have a very healthy training budget this year, over \$300,000 and that is being spent at this time on various training opportunities for quite a lot of the personnel within the Service.

One of the things we are looking at is once the job descriptions come out, they are going to be linked to the UK's National Occupational Standards (NOS) for Fire Service. And from those reports, those job descriptions, we will be able to ascertain which classes are required for personnel that are promoted in the future. Obviously, that budget we received this year will go a long way to actually giving us the opportunity to put those personnel in those positions and give them the correct training to carry out those roles.

**Mr. Christopher S. Saunders:** Okay, perfect. Thanks.

Just quickly and for my own understanding: I noticed you said that you had used the UK Standards. Now, in the past I know many fire officers usually get training within the United States. Is it a situation now that we are going to just one standard or, will we continue to use both the US and the UK Standards?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** The training which is carried out in the US will continue. I think we have actually got personnel there, if not this week, next week, carrying out training in the US, so that will not change.

One of the good factors about the National Occupational Standards is they are quite open as to how you achieve your aims. So, it is a document which gives you the opportunity as an organisation to

create your own training and advancement for personnel, and provided you meet the requirements of the document, there is no stipulation within the document as to how you would achieve that.

**Mr. Christopher S. Saunders:** Just to confirm then: Officers who previously would have had US Certification would not be disadvantaged under this new process?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** No sir. As I said, we have actually had personnel; either, just coming back from the US or going there very shortly, and the costs thereon can link directly into the National Occupational Standards.

**Mr. Christopher S. Saunders:** Okay.

**The Chairman:** You said you are getting help from the [Portfolio of the] Civil Service (PCS) on your job descriptions. Are they providing you with a list of competencies to match the job descriptions?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** No sir, we've provided the list of competencies.

**The Chairman:** So, they are writing job descriptions based on a pre-determined list of competencies?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** The Portfolio of the Civil Service is not actually writing the job descriptions; it actually ratifies job descriptions after they have been written.

*[Inaudible interjection]*

**The Chairman:** Eh?

**Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development:** Mr. Chair, I believe he is referring to where they actually evaluate the job descriptions.

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** That is correct, sir.

**Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development:** They do not actually do the preparing of the job description; they evaluate it for where it should be placed in government's grades.

**The Chairman:** For salary?

**Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development:** For salary, yes.

**The Chairman:** Okay.

**Hon. Bernie A. Bush:** Mr. Chairman, who is doing these job descriptions at the present moment?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** At the present moment the job descriptions are being carried out by PwC.

**Hon. Bernie A. Bush:** Mr. Chairman, through you, sir: Your contract calls for you to [have] a succession plan, job descriptions and organisational charts. Am I right or wrong, sir?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** That is correct, sir, yes.

**Hon. Bernie A. Bush:** So, Mr. Chairman, through you: This PwC report cost, I think, \$88,000. In his contract he is the one who is supposed to do these. Now, can I also ask if PwC is also doing the succession plan, or is there a succession plan not in place yet?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Sir, the succession plan is taking place at this time.

**Hon. Bernie A. Bush:** Taking place?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Yes.

**Hon. Bernie A. Bush:** Okay—taking place. Okay.  
And the organisational chart, who is doing that?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** As with all of these documents, the job descriptions and the organisational chart, will have to be ratified by myself before they are passed into the Fire Service organisation.

**Hon. Bernie A. Bush:** No, I never asked you that, sir; I asked you who is doing them, because in your contract, it says that you are to do it but you have already made it clear that the job descriptions are being done by PwC which will cost more of the public's money again which you were supposed to do, according to your contract.

So, for the organisational chart, is it right to say that PwC is doing that as well?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** PwC helped suggest an organisational chart which will be looked at and it will be decided whether that organisational chart will be implemented.

**Hon. Bernie A. Bush:** Once again, who is doing the organisational chart?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Within the PwC report there was an organisational chart attached to that report.

**Hon. Bernie A. Bush:** So, PwC did that as well. Okay, so that is two things on your contract. Okay.

The succession plan, is there one in place? Is it a "yes" or "no", sir?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** There is succession planning going on at this time and once the job descriptions have been finalised, then, a total succession plan will be implemented after that.

**Hon. Bernie A. Bush:** Taking almost two years. Okay, sir.

Through you, Mr. Chairman, I am going again to the PwC report. You keep referring to NOS of the UK Standards. What standard were we using before?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Are you talking about aviation or domestic, sir?

**Hon. Bernie A. Bush:** Let's go domestic.

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** With domestic we are not qualified to any standards.

**Hon. Bernie A. Bush:** And aviation?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Qualified to CAP 699, which is Civil Aviation Publication 699, taken directly from the National Occupational Standards.

**Hon. Bernie A. Bush:** He is under oath, right?

*[No audible reply]*

**Hon. Bernie A. Bush:** Okay. You are saying that what we have in place now, the CAP 699 was taken from the NOS?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** That is correct, sir; the aviation version. It is basically an aviation version of the National Occupational Standards but it is linked directly to the National Occupational Standards.

**Hon. Bernie A. Bush:** Mr. Chairman, go ahead, I have to put up another question. Go ahead.

**The Chairman:** I want to get back a bit to the job descriptions that PwC is doing for you. It bothers me that you seem to have the cart before the horse, unless I misunderstood you in that you identify the competen-

cies first and you are doing a job description based on the competencies. Did I understand you correctly?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Yes, the competencies have been linked directly to the National Occupational Standards (NOS) and they are being incorporated into the job descriptions.

**The Chairman:** But the normal process that I am familiar with is that you have a function to perform for which you do a job description and then you decide what competencies are necessary to perform that function. You do not have competencies to which you write a job description?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** I'm not actually writing job descriptions at this time and I haven't seen them yet, so I can't really comment upon the contents of the job descriptions until I see them, sir.

**The Chairman:** Okay. At what—

**Hon. Bernie A. Bush:** Mr. Chairman, he just said that he is writing them but when I questioned him, he said PwC—

**The Chairman:** No, he said PwC is writing; he hasn't seen them yet.

My other concern is in terms of existing staff. Once the job description is done and the competencies are identified by PwC, is PwC then going to do a gap analysis to determine what competencies existing staff do not have for that job description and that list of competencies? And, how do we get those competencies made up for existing staff? What process is that going to follow?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** I'm not 100 per cent sure, sir, because the PwC report is being commissioned by the Ministry and so, I am just acting upon what is being published in that report and what I am being told at this time.

**The Chairman:** So, the Ministry is actually driving the reorganisation of your department in terms of identifying from the organisational chart, which is part of the consultancy, the job description, the competencies and I would assume the gap analysis. In that case, then, I guess, we are asking the wrong person the questions if you are saying that the Ministry is making that determination.

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** What I am saying, sir, is that the Ministry actually commissioned PwC consultancy, not the Fire Service.

**The Chairman:** How will the recommendations, if they are a part of the consultancy, be implemented? Is it going to be under the supervision of the Ministry or under your supervision as Chief Fire Officer?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** I find it difficult to answer that question, sir, because, as I said, the Ministry commissioned the report, so I can't really answer that question because it is their report and they are making the decisions on it.

**The Chairman:** But we have the Chief Officer coming next week, so we are just trying to find out because that is concerning. If you are the Chief Fire Officer, I would like to suggest that the expertise know what kind of jobs you need, and what the competencies are for those jobs to meet the NOS requirements are going to be rests with you and the Fire Service and not with the Ministry.

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** That is correct, sir. The Fire Service actually developed the competency role map for the NOS.

**The Chairman:** Okay, you are confusing me now because if you are developing the competencies and by "competencies" I am assuming, based on your knowledge, and what the prescription qualifications and competencies are for different levels in the NOS (I am guessing here because I don't know anything about the Fire Service)—right?

**Mr. David Hails, Chief Fire Officer, Cayman Islands Fire Service:** That's correct, sir, yes.

**The Chairman:** And then the Ministry above your level has commissioned a report from an accounting and consultant firm to write an organisational chart for you and to write job descriptions and identify the competencies. Is that what I understand that you said?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** No, sir, the competencies have been provided by me to the Ministry.

**The Chairman:** Okay, then, who is placing what competency with what job description?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** The competency levels are being carried out by the Fire Service. I cannot answer that question yet, sir, because I have not seen the job descriptions yet.

**The Chairman:** Okay. In your professional judgement, the gap, the missing component from the Fire Service in terms of progression and succession, is it on the administrative managerial competency side or,

is it on the fire extension, prevention, NOS competency side? Where is the shortfall?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** I think, sir, the shortfall has been no promotion into slots that have been held vacant for a very long time and some personnel at the level they at, the jumps that are going to have to be made into these higher positions are quite high and we are going to have to look at the competencies of those personnel at this time and identify a skills gap and then look at ways to provide training, experience and exposure to actually fill those gaps.

**The Chairman:** Any guesstimate on timeframe to fill in those gaps?

**Hon. Bernie A. Bush:** Two, three years.

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Once we have seen the job descriptions and we have had a good look at them and ratified them, then we will be more in a place to carry that out. But in the meantime, we are not sitting on our laurels on this. We are taking forward as quickly as possible. There are certain timelines which have been issued and we are going to start training next week, actually. Very shortly, each person who is in a position for promotion is going to be given one to one mentoring and training as to various things but prospects for promotion is one of the main things that we are going to be looking at.

**The Chairman:** That is all going to be done in-house?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** That is going to be done in-house and with consultants as well.

**The Chairman:** From your experience level, what do you regard as most important for the top four positions—managerial and administrative competencies or fire/technical competencies?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** I certainly think you cannot get away from the fire/technical experience and competencies, because if you get a large incident, then, personnel [officers] are going to be the strategic commanders of the incidents. They are going to be responsible for actions taken at those incidents.

**The Chairman:** Any other questions?

**Hon. Bernie A. Bush:** Yes, sir.

The Fire Service, were we already trained to NFPA [National Fire Protection Association] Standards when you arrived?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Sorry, sir. Are you talking about recruit training or general training?

**Hon. Bernie A. Bush:** General training, NFPA Standard.

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** No, sir. I believe that there is nobody in the Fire Service trained to NFPA1001, Fire Fighter I, and Fire Fighter II. They might be trained from a book that refers to that, but they've got no professional qualifications through the NFPA.

**Hon. Bernie A. Bush:** Okay.

In the PwC consultancy, what part did you play in this? What part did you play in the review process?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** In the actual review process itself, sir, the review was carried out by PwC.

**Hon. Bernie A. Bush:** Yes, sir. And what part did you play in that?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** I am just explaining it. They went to various locations and spoke to numerous personnel within the Fire Service.

**Hon. Bernie A. Bush:** Okay, sir, one second there. One second there.

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Sorry.

**Hon. Bernie A. Bush:** Just hold that thought; I want you to continue on. You say they went to various places and spoke to various personnel. Who picked the people for them to speak to? The people that they went to speak with, that hand-picked those people—*Well, go speak to Tom, go speak to Mary, go speak to Jane?* Who hand-picked those people? Who sent them to those people?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Going back, sir, I think it was carried out by PwC?

**Hon. Bernie A. Bush:** Correct, we know that. But PwC were given instructions. Who selected the people for PwC to speak to?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** I do not recall, sir.

**Hon. Bernie A. Bush:** You do not recall? Good answer. Continue, sir.

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Oh yes. I was just saying that the personnel from PwC went to various locations, spoke to various personnel and we were not involved in that process. The Fire Service was not involved in that process.

**Hon. Bernie A. Bush:** Okay, sir.

At one stage, the Deputy Governor stated on radio that the fire officers told him that no fire fighters within the Service are qualified to fill your post. Are you in agreement with his statement?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Sorry, sir. Can you repeat the question, please?

**Hon. Bernie A. Bush:** The Deputy Governor went on the radio and said that fire officers told him that no fire fighters within the Service are qualified to fill the Chief Fire Officer's role. Do you agree with him?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** At this current time, I would say yes, sir.

**Hon. Bernie A. Bush:** Okay.

Based on the PwC process, several officers were interviewed and asked if persons within the Service were qualified to fill the vacancy senior roles and a list of names of officers were presented and recorded during the process. Can you explain why this information was not documented and made known to the public in the final report?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Sir, I had no control over the report whatsoever; that was issued by PwC.

**Hon. Bernie A. Bush:** Oh. Because it is strange that I read that in the report, yet I have personally spoken to a few officers who say they made recommendations and gave names, but yet in the PwC report it does not come out. Okay.

Go ahead, Mr. Chairman.

**The Chairman:** The rest of my questions relate to things that you say the Ministry is doing, which I must tell you it gives me some serious concerns from my managerial administrative background, but I will reserve those for the Chief Officer next week.

**Hon. Bernie A. Bush:** In our Fire [Brigade] Law, is the NFPA [National Fire Protection Association] Standards in that Law?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** We can refer to NFPA when we are carrying out the fire prevention role, sir, yes, but it is not a direct link. There are rules and regulations, fire codes,

which we use for fire prevention and we can refer to the NFPA under some circumstances.

**Hon. Bernie A. Bush:** You said you were given a healthy training budget. When all of a sudden you keep coming to the NOS and going away from the NFPA, all of the previous professional training that our Fire Service has had, all of the good firemen that we have, because they just could not turn bad overnight, we know we have had bad Heads of the Fire Department, that is a proven fact—no one wants to say it but, will all of a sudden all of those qualifications be null and void because they have to do NOS?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** As I said, sir, there are no NFPA qualifications for fire fighters.

**Hon. Bernie A. Bush:** So, all the previous training that the firemen have gone on and done courses that they took, they are null and void now and they have to do everything all over again to be qualified?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Not at all, sir. As I said earlier, we are actually still sending personnel to the States for training and that will continue.

**Hon. Bernie A. Bush:** Is everybody being given a fair shake or just a hand-picked few?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** We are going through a training schedule at the moment and we are attempting to get as many personnel as possible on that training.

**The Chairman:** I think you said earlier that if you do the American-based training, it can be transferred to the NOS.

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** That is correct, sir.

**The Chairman:** I think some of our concerns would be that we do not want to introduce a new standard to which, with the current fire fighters—through no fault of their own, because most of them did not select where to go to get the training—that training will not be transferable. Do the levels equate? I do not know enough about it to probably even ask you, but when you are talking about the NOS, is that the British National . . .

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** It is the UK Fire and Rescue Service, National Occupational Standards.

**The Chairman:** National Occupational Standards. How does that equate to a similar standard in the US,

to which it appears most of our fire officers may have been trained and are still being trained?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Yes, sir. As I said, the National Occupational Standards are a list of competency-based training, being practical and theoretical, but they do not give strict guidelines as to how that training is achieved, so what that means is the organisation itself can assess the training needs and carry out that training and directly link that into the National Occupational Standards for competency.

**The Chairman:** So, the National Occupational Standards do not require a specific testing, based on specific training? You can say well, the person received X hours of training in water or Co2 and make the recommendation and that is accepted by the NOS?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Yes, sir. It is all about demonstrating competency through practical demonstration and theoretical knowledge. If you can demonstrate that, then, the assessor will sign you off as being competent in that particular section of the National Occupational Standards.

**The Chairman:** Right. And if I recall, from your experience in the UK, you would be in a position to make that assessment and sign it off as an NOS performance, or would we have to bring in somebody else to do that?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** I am qualified to do that, sir, yes, but, I am a very busy person and I would like to get other people to do that within the organisation. So, we have got the Station Managers in charge of each crew and we have the Division Officers who we will get qualified as assessors, then, they will be able to assess the performance of individuals and sign them off as being competent.

**The Chairman:** Okay.

**Mr. Christopher S. Saunders:** Fire Chief Hails, I would very much like to thank you for coming here today. One of the things that this Committee is primarily looking at is we basically spend millions of dollars a year in the Fire Service and just like with any other department, we want to make sure that what they are required to do by law and in terms of serving the public is being done.

We do also recognise that under the Public Service Management Law, a lot of the responsibilities are vested within the Chief Officer himself and while you may be responsible for a lot of the day to day type operations, a lot of the strategic and other issues that

we probably would be more interested in is something that should be directed to the Chief Officer.

With that said, from speaking with the Committee members, I think the majority of the questions that we would have relating to the PwC report should be directed to the Chief Officer, and in that stead, I just would like to thank you for coming here today and we will continue next week with this. But from that standpoint, I just want to say thanks very much.

**Hon. Bernie A. Bush:** Mr. Chairman, I have two more questions, sir

What is the name of the company that you came from, the company that you were associated with— Serco?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Sorry, can you say again?

**Hon. Bernie A. Bush:** What company is Serco? Which company is Serco?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Serco is a world-wide company that provides various jobs for personnel and carries out a lot of contracts with military, looks after railways, looks after leisure centres. . .

**Hon. Bernie A. Bush:** What does it have to do with fire services?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Serco has actually got a fire service. It is Serco Fire Service.

**Hon. Bernie A. Bush:** Is that where you trained or did you work there at any time?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Yes, sir. I worked at the International Fire Training Centre, which was run by Serco.

**Hon. Bernie A. Bush:** Thank you. And a lot of the people that you are using now, to train, and the money that is training the people that you are bringing in, are they coming from Serco?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** That is correct, sir. Yes.

**Hon. Bernie A. Bush:** Okay.

The NFPA, you do know that it is adopted in Chapter 3 of the Fire Code?

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Of the Fire Code, sir, yes; I did not say it was not. I said when we are carrying out fire risk assessments or fire prevention inspections we would refer to the Fire Code. If the subject to which we are

looking at is not coded in the Fire Code, then we can refer to the NFPA.

**Hon. Bernie A. Bush:** Okay. Thank you, Mr. Chairman.

**The Chairman:** Okay, Mr. Hails. Thank you very much, sir.

**Mr David Hails, Chief Fire Officer, Cayman Islands Fire Service:** Thank you, sir.

**Hon. Bernie A. Bush:** Two and a half years, no succession planning.

**The Chairman:** I would like to adjourn the Meeting and we will come back on Wednesday, [May 9<sup>th</sup>] at 9:30 am. Tomorrow is a free day.

**At 1:50 pm the Public Accounts Committee Meeting stood adjourned until Wednesday, 9<sup>th</sup> May, 2018, at 9:30 a.m.**

