

From: [Ruben, Martin](#)
To: [Harrison, Garnet](#)
Subject: FW: Management Response to Final Audit Report
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Attachments: [Management Response to Final Audit Report.doc](#)

From: Gough, Peter
Sent: Tuesday, September 01, 2009 3:06 PM
To: Ruben, Martin
Cc: 'Stuart.Jack@fco.gov.uk'; Ebanks, Donovan; Manderson, Franz; Baines, David; Bush, Eric
Subject: Management Response to Final Audit Report

Martin,

I enclose the management response to the Audit Report.

This response represents the views of all those persons that this email is copied.

Thank you for patience in awaiting this response.

Peter Gough



Management Response to the Audit Report on the Review of Expenditures for Special Investigation

1. General Comments

The main criticism of the Government in the Auditor General's Report is based on the premise that the investigation into police corruption should have been handled like a normal government project using well defined project management techniques. The Government does not agree that this was a normal project and furthermore it is felt that the use of these techniques would be inappropriate for this type of police corruption investigation.

Projects normally have a beginning, middle and an end, where there is a detailed specification of what is to be achieved with a detailed budget established before the project commences and timely reporting of progress and costs against the project plan and budget.

This investigation was unique to the Cayman Islands and developed in such an unpredictable way that it was not possible to treat it like a normal project.

In the beginning, the Foreign and Commonwealths Police Advisor for the Overseas Territories advised the Governor to engage the Metropolitan Police to carry out a specific investigation which was limited in scope and duration. However, other information was uncovered that resulted in the Governor, Police Advisor and the Commissioner of Police, Head of Governors Office recusing them selves from the oversight of this investigation and the top management of the RCIPS were totally depleted by being placed on required leave and sick leave. So in a short space of time, personnel involved in the oversight and management of the investigation were excluded. In project terms this is equivalent to the project sponsor, the project management team and the project manager leaving the project. Nevertheless, as evidence throughout this management response, fiscal oversight was maintained

The report does not provide the reader with this type of background or context, what started out as a small well defined investigation developed into a full blown covert police corruption enquiry the like of which has never been seen in the Cayman Islands.

In covert operations normal rules of open tendering, competitive bids and seeking best value are difficult to follow. In some cases following the rules may endanger the lives of undercover officers, informants or the public at large, in addition the whole investigation could have been compromised. It is naïve to expect normal business processes to be followed to the letter in this type of corruption investigation.

2. Costs and Reporting

The report deals with costs in a way that could mislead the public and do not take into account normal government reporting practices. The Cayman Islands Government, as part of their financial management system, do not provide costs of police investigations to the public as a general rule, as many agencies may be involved and their costs are contained within separate budgets. For example an investigation that involves the Customs Department, Police and the Legal Department the costs are covered from three different Portfolio/Ministry budgets. In this particular operation the costs are spread across the Portfolio of Legal Affairs, Cabinet Office and the Portfolio of Internal and External Affairs, the majority of the expenditure falls under the latter. However other amounts for computer services, legal advice and prosecutorial service falls under the budgets of other agencies and are separately accounted for.

With regard to the Portfolio of Internal and External Affairs, Cabinet approved a budget of **\$6.14 million** for the 2007/8 and 2008/9, under the “exceptional circumstances” clause of the Public Finance and Management Law and these funds were subsequently approved by the Legislative Assembly as a supplementary appropriation. During this process Finance Committee openly discussed the financial details of the investigation. The Government does not accept the conclusion in the report that it did not report in the appropriate manner.

The Audit Report provides estimates of the expenditure, as time has elapsed in the production of this report, actual expenditures are now available The Portfolio of Internal and External Affairs have actually spent **\$5.84 million**, which is **\$300,000** less than the budget appropriation.

The statement in the report that the *“Legislative Assembly has not approved all the funding necessary to complete the investigation”* is true however, this is not because the Government has not sought approval but because of timing of the financial year, the project will continue into the new 2009/10 financial year.

3. Value for Money

The report was slated to focus on “value for money”, however the report only focuses on costs not value. No comparisons have been made with other police corruption investigations. If this had been done it would have shown that these types of police corruption investigations are expensive and even more so when you have to fly in expert resources from the United Kingdom.

There is an assumption in the report that because a project management approach was not adopted then “value for money” was compromised or not achieved; there is very little evidence in the report to substantiate this claim.

4. Cost Mitigation

The Government was concerned with the rising cost of transportation and took the decision to replace all rental cars with unmarked police vehicles, when the operation became overt and police vehicles were available.

The report highlights the fact that Metropolitan Police Officers were flown back to the United Kingdom at premium economy and at regular intervals. These conditions of engagement are standard for the Metropolitan Police. However, as the investigation progressed contractors replaced the Met Officers at much lower daily rates, and the travel allowance was discontinued and other allowances reduced. This indicates that the Government was concerned with value for money.

The Government does not accept the criticism that they were not concerned about the costs of this investigation or value for money, as the examples above show they were. However it has to be accepted that running a covert operation using an outside agency, namely the Metropolitan Police, will cost more than a normal policing operation.

5. BGP

The report does not provide sufficient background or provide the context for the hiring of these contractors. After the senior police command was removed a number of people came forward making unsubstantiated allegations against police officers. To record these allegations in a secure and covert way the Government was advised by the Metropolitan Police to engage BGP who had the necessary expertise and independence to carry out this sensitive work, we were satisfied, from the advice received that they were the only accredited company in the United Kingdom to carry out this type of work. Approval was gained from the Central Tenders Committee for this company to be engaged without going through the normal government tendering process. If, as the report suggested that an open tendering process should have been undertaken, it could have undermined the entire operation.

The original contract for this company was to act as debriefers for the persons coming forward, the amount of work involved was estimated at 40 such sessions the actual work was triple of what had been estimated, although the contract was not amended to reflect the additional workload, the same terms and conditions were applied. Because of the covert nature of the operation, BGP charged other costs on a “cost recovery basis” Monthly reports and invoices were authorized by the operational management of Tempura and then scrutinised and paid by the Portfolio of Internal and External Affairs.

To reduce costs, BGP employees replaced returning Metropolitan Police Officers and at a substantially lower daily rate, in addition the Daily Allowance was reduced from \$100 to \$20.

The Government does not accept that normal contracting rules should apply in this case as this could have jeopardize the investigation. The Government does accept that an amended contract should have been entered into, however there was a strict authorization procedure in place for all invoices that were paid for the extra work.

The Government does not accept that the BGP contract did not represent value for money.

6. Strategic Oversight Group

This group was established by the Governor to assist in the general oversight of the investigation. They were not set up to manage or direct the investigation from an operational or financial perspective. It was set up as an advisory body to the investigatory team that was strategic in nature and focused on advice on political, constitutional and community issues. It also provided a forum where risks, media, resourcing and legal issues could be discussed.

The new group that has been established to oversee the ongoing investigation is chaired by the Commissioner of Police and does have financial oversight as part of its Terms of Reference.

7. Metropolitan Police not paid.

The Metropolitan Police were slow in sending regular bills; in addition the Portfolio of Internal and External Affairs were not satisfied that the billing was accurate, because the amount of information provided was not adequate. It is accepted that Government should settle their accounts promptly but only after they are satisfied that they are accurate. The delay in payment did result in substantial savings for the Government due to the change in the exchange rate.

8. Lack of accounting for the different phases of the investigation

At the outset of this investigation there were no distinct phases, as Operation Tempura progressed and people came forward this then turned into Operation Cealt, some of the same people worked on both operations and did not keep separate records of their time. As a more distinct phase emerged, records were kept and budgets were prepared for each operation. The funding for both operations were brought together for legislative approval, but were kept separate from the normal police operations. The Government does not view the non separation of budgets as improper or compromises normal reporting procedures or in any way undermines value for money.