

From: [Ruben, Martin](#)
To: [Harrison, Garnet](#)
Subject: FW: Audit Report
Date: Friday, December 16, 2011 12:12:56 PM

From: Ruben, Martin
Sent: Thursday, August 06, 2009 2:18 PM
To: Stuart.Jack@fco.gov.uk
Cc: Duguay, Dan
Subject: RE: Audit Report

Your Excellency,

I discussed your proposed changes with the Auditor General and we have concluded that they would require obtaining additional audit evidence and clearance with all parties concerned, especially those involved with the SOG. Therefore, given the timing and need to finalize this report, we have decided not to include your suggested changes. With your much appreciated earlier comments from today that I incorporated, I believe the report now provides the reader with a better understanding of how the investigation was initiated and the lack of a role for the SOG regarding financial management and ensuring value-for-money.

I will be sending over the revised draft to Peter Gough this afternoon.

Best regards,

Martin

From: Stuart.Jack@fco.gov.uk [mailto:Stuart.Jack@fco.gov.uk]
Sent: August 6, 2009 13:10
To: Ruben, Martin
Cc: Duguay, Dan
Subject: RE: Audit Report

[Martin](#)

Mistakenly I hit the send button a few minutes ago without my comments!

Thank you for your time this morning and your willingness to listen to my and others' issues. I am grateful for your proposed changes. I have suggested different language in a couple of places - but of course it is your report and you are free not to use it.

I still feel that there remains an implication that Tempura should have been treated as a "project" from day 1. As I explained I do not regard that as reasonable in the circumstances, even with the benefit of hindsight. Once the scale of the investigations and of the accompanying expenditure became clear the argument for more conventional project financial management is stronger. But it is moot whether this should have been within the SOG given that that was not their remit or within the Portfolio with or without a degree of encouragement and ongoing oversight by the SOG.

Thanks again

SJ

-----Original Message-----

From: Ruben, Martin [mailto:Martin.Ruben@gov.ky]
Sent: Thursday, August 06, 2009 12:36 PM
To: Stuart Jack * Grand Cayman - UBS
Cc: Duguay, Dan
Subject: RE: Audit Report

Your Excellency,

Further to our meeting earlier this morning where we discussed your comments regarding the contextual nature of the information in the executive summary and on the terms of reference for the Strategic Oversight Group, I've added some text to the report that I believe will address those comments. Before I send the text over to Peter Gough for his consideration in the government's response, I would like to share these changes with you first so that you can see what I have done. I am sending over the revised text to Peter later today.

I would also like to thank you for the time you took to review the report and to give me comments that, in the end, would help the reader understand what happened and provide a better context to the report's findings and recommendations.

Regards

Martin

1. Executive Summary: I've added a new paragraph as follows:

1.03 The investigation started as a small initiative that was administered out of the Governor's Office due to its very unusual nature. As the investigation grew in size, responsibility for its administration was transferred to the Cayman Islands Government with oversight for the operations handed over to a committee known as the Strategic Oversight Group.

2. Project oversight and cost management: I've amended the paragraphs describing the TOR as follows:

5.04 Based on a suggestion by Assistant Commissioner John Yates, terms of reference were circulated and agreed at a meeting of the committee in November 2007. We have been informed that the terms of reference were never intended to include responsibility for oversight of the project's financial management and to ensure its value-for-money. It included, however, a reference "to provide a forum where all resourcing decisions can be resolved". Due to the unusual organizational framework for this project, we expected to find clear terms of reference for the oversight of expenditures by the Special Oversight Group. For example, we expected to find some reference to providing clear direction on how the costs of project should be managed with due regard for value-for-money. We found that this did not exist.

5.05 At the outset, this committee was chaired by the Chief Secretary, and attended by various individuals, including H.E. the Governor on occasion, Special Legal Counsel (appointed by H.E.), and the Senior Investigation Officer from time to time. As of December 2008, the RCIPS Acting Commissioner of Police has taken over as chairperson of what is now called the Special Investigation Advisory Committee and, for the first time, the Attorney General's Chambers is represented.

5.06 As the oversight group, we expected to find regular reporting of costs and discussion around financial management of the project. The topic of financial management and ensuring value-for-money was effectively absent from the proceedings we reviewed and only arose on rare occasions. In addition, we found that the Strategic Oversight Group provided only general direction without any structured way to follow-up on the administrative actions it recommended.

From: Stuart.Jack@fco.gov.uk [mailto:Stuart.Jack@fco.gov.uk]
Sent: July 31, 2009 17:07
To: Ruben, Martin
Cc: Duguay, Dan; Ebanks, Donovan; McCarthy, George; Manderson, Franz; Gough, Peter
Subject: RE: Audit Report

Dear Martin

Thank you for your helpful explanation.

I like others now wish to see this exercise finalised - I too have spent too much time on it. But I hope that we would all agree that we want the report to be as factually correct as possible. So - and I intend this to be my last communication of this sort - there are still a couple of comments I feel bound to make.

1. TORs. I hope you would reflect the fact that three people have said that they were discussed and adopted even if you have not seen this confirmed in minutes - probably because of the peculiar circumstances of Op Tempura. One of these was the extreme sensitivity of a covert police investigation, so that the investigating team (who at this stage were not strictly consultants but serving police officers lent to the RCIPS and sworn in as RCIPS officers) kept the papers. I do not regard that as strange.

2. The nature of the "project". This was not a normal government project and indeed in the early stages, with few investigators and the inability to follow normal financial procedures (because of secrecy), it could not be called a project. We did not expect it to be prolonged or of the scale it later developed into. That does not mean that there should not have been due care in respect of the use of public money or that everything was necessarily done perfectly. We can always learn lessons.

Best regards

Stuart Jack

-----Original Message-----

From: Ruben, Martin [mailto:Martin.Ruben@gov.ky]
Sent: Friday, July 31, 2009 12:23 PM
To: Stuart Jack * Grand Cayman - UBS
Cc: Duguay, Dan; Ebanks, Donovan; McCarthy, George; Manderson, Franz; Gough, Peter
Subject: RE: Audit Report

Your Excellency,

Please see attached for my response to your e-mail.

Have a nice weekend.

Best regards

Martin Ruben, CGA

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Email: martin.ruben@gov.ky

From: Stuart.Jack@fco.gov.uk [mailto:Stuart.Jack@fco.gov.uk]
Sent: July 29, 2009 17:06
To: Ruben, Martin
Cc: Duguay, Dan; Ebanks, Donovan; McCarthy, George; Manderson, Franz; Gough, Peter
Subject: RE: Audit Report

Martin

I fear that the draft still does not present an accurate enough picture of the factual background and the unusual context of what started as a small scale covert investigation. The Auditor General is absolutely entitled to try to clarify how much public money was used and how it was managed and to make recommendations accordingly; and those with financial responsibility should always try to ensure the proper use of public moneys. But Op Tempura, particularly in its early stages, was not and could not be a normal case of the purchase by CIG of services.

One of the specific features of these investigations, particularly while they were covert, was that many documents were secured with the MPS team after being shown to and discussed by the SOG or myself, so we did not keep copies. Although we do not have a copy of the minutes recording agreement of the TORs I have checked with Simon Tonge, who was then Head of my office and who attended the SOG (and who now works in Azerbaijan), and he recalls as do I discussion and agreement of the TORs in the SOG.

While Peter is right in saying that the SOG was not providing day by day financial management it did have a remit to keep an overall eye on resources issues: the TORs included "forum where all resourcing issues could be resolved." This remained in the later revised TORs. While Tempura remained covert we could not put the expenditure through regular channels for security reasons. As an exceptional and temporary approach my office (Simon Tonge) dealt with the finances until such time as they could be handed over to CIG. This was in accordance with advice from the Financial Secretary, which we had early on sought in confidence, and with the

agreement of the FCO. Initially it was expected that the cost would eventually be covered, as with any other investigation, by the RCIPS budget. As the investigation expanded and the Commissioner was distanced from it I wanted the SOG involved to an extent as it included senior CIG officials with experience and/or responsibility for financial matters, which my office did not have.

A quick look at some of the papers my office holds on Op Tempura supports my explanation above, for example:

14 January 2008 SOG discussed resources and the budget

25 January I wrote to the Chief Secretary as Chair of the SOG asking them to look at a number of issues, including "Financing of the investigation". In respect of a suggested increase in the investigating team I urged the SOG to deal with this matter carefully: "...in the interests of eventual accountability the exact numbers in my view need to be justified (eg what is the function of each), kept to the necessary minimum (numbers and time), and at least a rough estimate made of the cost."

30 January Chief Secretary, I and several others met to discuss funding issues

12 February Simon Tonge wrote to Chief Secretary with as much information as was available at that stage on the costs so far and forecast budget.

Thereafter Simon had to distance himself from Tempura as he was seen as a possible witness, the Commissioner was already for some time out of the management of the Operation, and the investigations became overt, so financial matters could be handed over to the Portfolio where they rightly lay.

The Governor's Office does not hold nor is therefore accountable for CIG funds for purposes of this sort. So we cannot normally get involved in managing the finances of such undertakings and in this case only did so for a limited period because of the exceptional circumstances. But as having overall, if not financial, responsibility for the RCIPS and as the person who, together with the then Commissioner of Police and the FCO police advisor, called in the MPS in the first place I and my staff repeatedly urged care in the use of resources, as illustrated under 25 January above.

From this perspective I fear that the new sentence at the end of para 5.02 might lead to misunderstanding on the part of readers. The Governor's office has throughout had strategic responsibility for Ops Tempura and Cealt, but did not and could not have financial responsibility under the PMFL - this should be made clear. Operational-level responsibility in the meaning normally used by the police lay with the police themselves, in this case the investigating team, who decided how to conduct the investigation. They would use the SOG as a sounding board as Peter explains and consult me on major strategic decisions.

I would also ask that you take another look at the Executive Summary, as this may be all that some people read. By only mentioning the Governor (in paras 1.01 and 1.02) you may leave the inaccurate impression that everything that follows was my direct responsibility, whereas, as I have explained, most of it was not and could not be (eg others dealt with the contracts). Paras 1.01 and 1.02 are not totally accurate: it was the Police Commissioner who commenced the investigation and commissioned the MPS with the agreement of the Governor and the advice and assistance of the FCO Law Enforcement Advisor. You might also want to make clearer the unusual context, particularly in the initial stages.

Stuart Jack

-----Original Message-----

From: Gough, Peter [mailto:Peter.Gough@gov.ky]

Sent: Tuesday, July 28, 2009 3:38 PM

To: Ruben, Martin

Cc: Duguay, Dan; Stuart Jack * Grand Cayman - UBS; Ebanks, Donovan; McCarthy, George; Manderson, Franz

Subject: Audit Report

Martin,

In my last response to you I included the Terms of Reference for the SOG, however, you have still included in the report in section 5.03, that "you found no evidence of their adoption."
".

The Terms of Reference, which I previously supplied, for the group were adopted at the first meeting of that group (SOG) on the 16th November 2007.

They were formally adopted in the minutes that were compiled by Simon Tongue, Head of the Governor's Office.

I have spoken recently to the ex SIO, and he said that John Yates was not involved in the process. The minutes record that Simon Ashwin circulated the draft to the SOG were agreed by George McCarthy, Andre MonDesir, Larry Covington, Martin Bridger, Simon Ashwin and Simon Tonge.

The Terms Of Reference spell out the role of the Oversight Group and as you can see, it was not set up with the remit to project manage the operation or to provide financial management, 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.

If you need to see documentary evidence of the above I will supply.

I would prefer the report to be changes that to include this information in the management response.

Give me a call if you wish to talk this through.

Peter
Peter Gough
Strategic Advisor
Cayman Islands Government
345 2442439
345 9164697

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