

From: [Ruben, Martin](#)
To: [Harrison, Garnet](#)
Subject: FW: Op Tempura
Date: Friday, December 16, 2011 12:18:06 PM
Attachments: [Memo to Dan Duguay.doc](#)

From: Duguay, Dan
Sent: Wednesday, August 26, 2009 3:13 PM
To: Ruben, Martin
Subject: FW: Op Tempura

Do you have a copy of this?

Dan Duguay
Dan Duguay MBA, FCGA
Auditor General
Cayman Islands
Tel: 1-345-244-3201
Fax: 1-345-945-7738
E-mail: dan.duguay@gov.ky

From: Lutz, Kim **On Behalf Of** auditorgeneral
Sent: Thursday, July 16, 2009 8:18 AM
To: Duguay, Dan
Subject: FW: Op Tempura

Kim Lutz
Administrative & Finance Manager
Office of the Auditor General
phone 244-3200
fax 945-7738
email kim.lutz@gov.ky

From: Stuart.Jack@fco.gov.uk [<mailto:Stuart.Jack@fco.gov.uk>]
Sent: Wednesday, July 15, 2009 5:12 PM
To: auditorgeneral
Subject: Op Tempura

Dan

Please see attached memo

S Jack

<<Memo to Dan Duguay.doc>>

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MEMO

To: Dan Duguay
Auditor General

From: the Governor

Date: 15 July 2009

Review of Expenditures for Operations Tempura and Cealt

Thank you for your memos of 25 June and 13 July and the copy of the latest draft of this report.

I fully recognize your right to look into these matters. As you know I strongly support the principle that the Auditor General should at all times be free to act independently, including the freedom to publish your reports.

I have today had first sight of the Solicitor General's memorandum to you dated 4 June 2009, and I have discussed that memo with, among others, the Commissioner of Police and the Assistant Solicitor General. As the Solicitor General indicated in her memo, the release of this Report ahead of the two pending criminal trials in Grand Court (currently set to be heard in August and September of this year), as well as during the currency of the Kernohan and Scott civil proceedings, has a potential to negatively impact those cases. The Solicitor General rightly points out that "the full impact will not be known" until matters are concluded. This places us in a most awkward position.

After further consideration, and in the interests of completeness, I think it essential that we seek the specific views of the leading counsel who are responsible for the criminal cases (Mr. Andrew Radcliffe, Q.C.) and the Kernohan case (Mr. Martin Griffiths, Q.C.). We respectfully ask that you delay the release of your Report until we can provide a copy of your draft Report to each Q.C. and in due course convey their respective reactions to for your consideration. I cannot immediately give you a timescale for this but we will endeavour to get their views without undue delay.

In the meantime I should like to add a few further comments on the factual nature of the report. I still consider that it does not set the unusual and evolving context in which this expenditure was incurred, particularly in the early stages. Op Tempura was not a major project from day one. The then Police Commissioner called in the Metropolitan Police Service with my agreement and the assistance of Larry Covington to carry out a specific investigation covertly. We could not foretell at that stage that the investigation would develop into what it did. It is not, as I understand it, unusual for a police force, including in the Overseas Territories, to bring in outside expertise to conduct such investigations.

There was agreement with the MPS that they would receive full cost recovery: this is recorded. The investigation was to be funded out of RCIPS moneys as would any other investigation but could not at this initial stage be put through regular accounting hands for security reasons. The Financial Secretary was consulted in confidence. Once Op Tempura became overt approval for additional funding was sought from Cabinet and Finance Committee.

Paras 5.03 and 5.05 of the current draft do not present an accurate picture in respect of TORs for the Strategic Oversight Group. I apologise if my office's earlier comments (Alan Drury's letter of 25 May) did not set this out as clearly as it might. The SOG was set up in November 2007. TORs suggested by Mr Yates were accepted and used until they were revised in November 2008. Both sets of TORs (07 and 08) included, as one of the SOG's

responsibilities, "To provide a forum where all resourcing issues can be resolved". Furthermore the original TORs spoke of "To oversee all matters" whereas in the later version "oversee all administrative matters". When the original small MPS team had to be expanded, with consequent resource implications the matter was looked at by the SOG under George McCarthy and on 24 January 2008 it concluded in writing that the extra resources should be approved.

There was no question in my mind that the SOG's purview included finance, though I accept that the TORs did not spell this out in detail. Where its role was more limited was in overseeing the professional, investigative aspects where we had initially to look to Larry Covington for advice, then to John Yates, and eventually to the Acting Police Commissioner, and, as I recall, this was one of the reasons for the change from "all matters" to "all administrative matters". However these would not appear to be aspects of direct relevance to your report. My office had some involvement in the resource aspects in the initial period. But the Governor controls no funds and so by the time Martin Bridger and then BGP were employed on CIG contracts financial and contractual matters clearly resided with the Portfolio/RCIPS.

One final comment. While Mr Bridger's contract in particular is clearly a significant part of the expenditure on Op Tempura I find it odd that your report focuses as much as it does on individuals rather than areas of expenditure and systems and in particular that it names them.

Stuart Jack
Governor