
PRESS RELEASE

FOR IMMEDIATE RELEASE

The Public Procurement Commission (PPC) ('the commission') notes a Letter to the Editor published in yesterday's edition (January 6, 2024) of the Stabroek News under the hand of Mr. David Patterson salaciously titled "*PPC Report is a whitewash of the complaint by Akamai.*"

The author contends that the commission in its consideration of a complaint lodged by Akamai Inc. by and through Mr. Brian Hackett, Chief Executive Officer, failed to consider the accuracy of the record of the tender proceedings and in so doing "*...simply adopted a defective report, performed no investigative analysis and rubberstamped the award.*"

The commission however did consider the possibility of the inaccuracy of the record of the tender proceedings and respectfully draws attention to paragraphs 23-25 of its Summary of Findings, which were not disclosed by the author, to wit-

[23] Section 10(1) of the Procurement Act, Cap. 73:05 expressly vests the procuring entity with the responsibility of maintaining a record of the tender proceedings. Parties are thereby bound.

[24] As noted by this commission before¹, a procuring entity is by such statutory responsibility expected to maintain systems of the highest integrity in ensuring an accurate record of the tender proceedings, including documents submitted by bidders. This is imperative since there is no mechanism within the current tender procedure of independently verifying documents submitted to, and or received by, the procuring entity. A Bid is submitted in a sealed envelope and only the administrative requirements are read and recorded at the opening. The tenderer is not given a receipt of what is in fact received by the procuring entity.

[25] The commission is cognizant that a record may not be accurate for a number of reasons, such as but not limited to, negligence on the part of the tenderer and or procuring entity, innocent but mistaken belief of submission and the misplacement of documents (intentional or unintentional). The forum for settlement of such conflicts, should they arise, would be the court. Unlike other enquiry bodies, the PPC is not vested at this time with the requisite enabling legislative framework to subpoena witnesses, administer oaths and or examine witnesses² so as to arrive at a determination as a fact as to an act or omission relating to the record and where such responsibility lies.

The aforesaid was not disputed by the author who simply made broad statements as to what the commission should have done, without any legal basis or authority therefor. As expressly noted in

¹ Summary of Findings – Motiram Construction

² e.g. Public Utilities Commission Act, Cap. 57:01; Commission of Inquiry Act, Cap. 19:03



PUBLIC PROCUREMENT COMMISSION

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the commission's Summary of Findings, the complainant is not left without remedy as there is recourse to the Court against the procuring entity, criminal or civil as the circumstances may dictate, being the appropriate forum for the settlement of such disputes of allegations of fact as to what was alleged to have been submitted and what was in fact received.

Further, the author, on divulged reliance of statements by "*AFC nominated commissioner*" Dianna Rajcumar, mischievously sought to divide the commission by giving the further erroneous impression that the findings of the commission were not supported by "[the two] *opposition nominated commissioners*". As the record of the commission, including its Minutes, unanimously adopted, corroborates, the Summary of Findings of the commission in this matter was adopted and accepted by all of the commissioners, except "*the AFC nominated*" Commissioner.

Notably, other findings by the commission against the procuring entity and tender board were not highlighted by the author. Inferences therefrom are clear.

While the commission as a constitutional body welcomes scrutiny, it regrets that it has had to too often address and correct inaccurate and erroneous statements coming from the same source. The Summary of Findings of the commission in its entirety can be accessed via the commission's website, www.ppc.org.gy for those interested in accuracy and logic.

Dated 7th January 2024.

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