

# 6<sup>th</sup> Conference of State Parties of the United Nations Convention Against Corruption (UNCAC)

St. Petersburg, Russia  
November 2015

The Office of the Contractor General

[www.ocg.gov.jm](http://www.ocg.gov.jm)

November, 2015



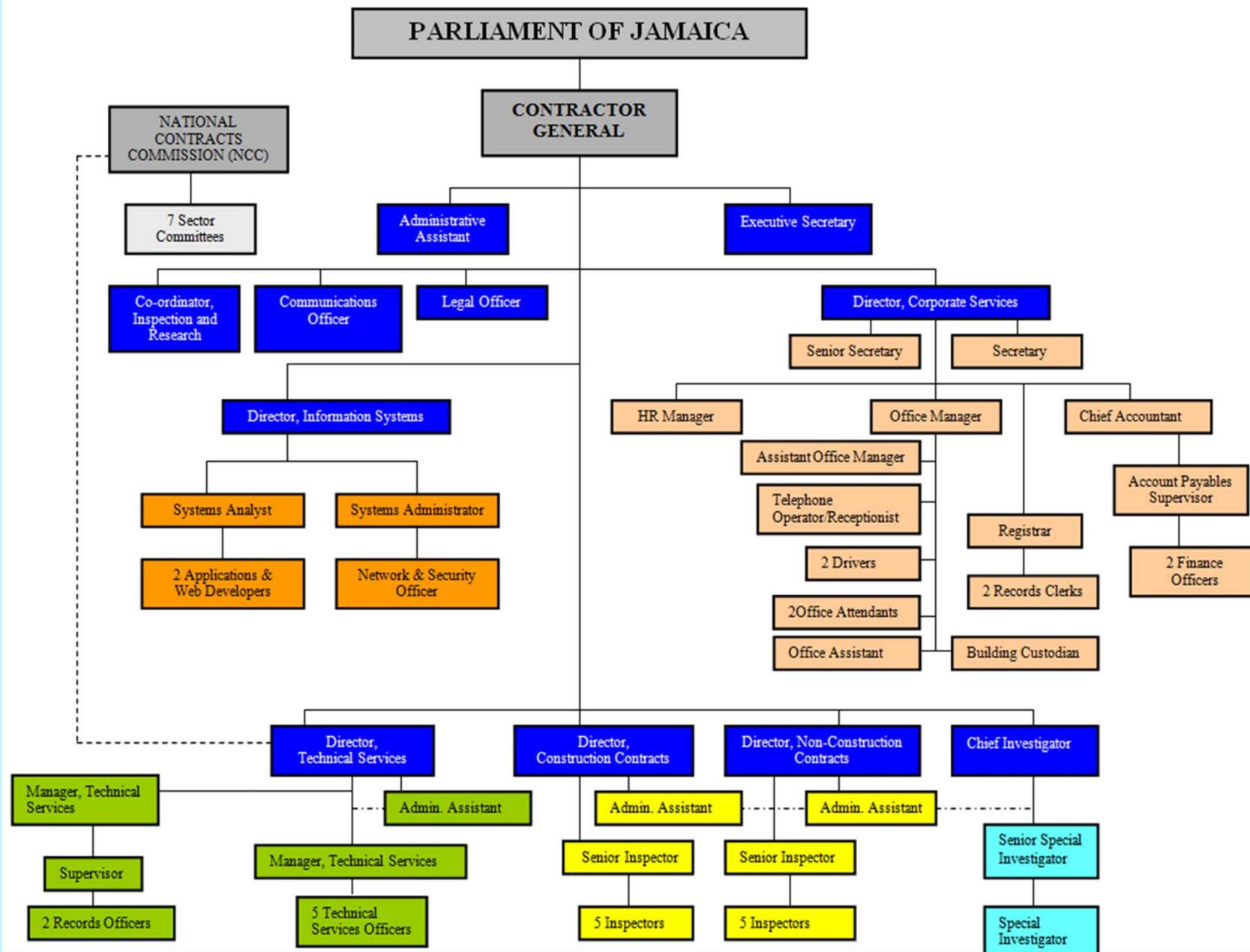
**“Anti-Corruption Reform in Small Islands: What is there and what else needs to be done?”**



# Overview of the Office of the Contractor General

- An independent Commission of the Parliament of Jamaica, which is mandated by the Contractor General Act to monitor and investigate the award and implementation of government contracts and licences. (Section 5 of CGA)

OFFICE OF THE CONTRACTOR GENERAL – NEW 63 PERSON ORGANIZATION STRUCTURE (2013/2014)



- The Office of the Contractor General (OCG) executes its mandate through its three operating divisions, namely:
- The Inspectorate – which is comprised of a Construction & Non-Construction Division;
- The Special Investigations Unit; and
- The Technical Services Division.

The Contractor General's secondary functions are performed by the National Contracts Commission (NCC). The NCC is charged with the responsibility to register contractors and to endorse recommendations for the award of Government of Jamaica Contracts above a certain value threshold.

(Section 23A of CGA)

- The OCG, through its Technical Services Division, is related to the NCC and so acts as the NCC's Secretariat ensuring that all technical, administrative and human resource requirements of the NCC are fully satisfied enabling it to effectively and efficiently accomplish its objectives and mandates under the law.

- The Office of the Contractor General provides oversight to approximately 200 Government of Jamaica Public Bodies and utilizes various pieces of legislation, rules and regulations to ensure that the Public Bodies conform to the requirements for the award, implementation and termination of government contracts and licences.

- The OCG, which has physically been in existence for approximately twenty nine (29) years has seen the government contracting landscape change within this timeframe, with an increase in the number of contract awards and the complexity of same.

# Investigative and Contract Monitoring Powers of the Contractor General

- The Contractor General, by statute, is entitled to be advised of the award of any Government of Jamaica contract and has an almost unfettered and unrestricted power of enquiry to enable him to secure access to any public office, any premises, any officer, any other person, document, record, information or thing which, in his discretion, he might deem vital to the discharge of his functions under the Act. (Section 4 of the CGA)

- The powers of the Contractor General extend to all Government contracts and to every Ministry, Department and Agency of the Government of Jamaica and to every statutory body as is contemplated by Section 2 of the Contractor General Act.

- The OCG's jurisdiction also extends to any company which is registered under the Companies Act in which the Government, whether by the holding of shares or by other financial input, is in a position to influence the policy of the company.

- Section 18 of the Contractor General Act affords to the Contractor General the powers of a Judge of the Supreme Court for the purposes of the summoning and examination of witnesses and the production of documents.

- The conduct of Section 18 proceedings take the form of a Judicial Hearing which allows witnesses to be examined under oath and transcripts of the proceedings produced thereafter.

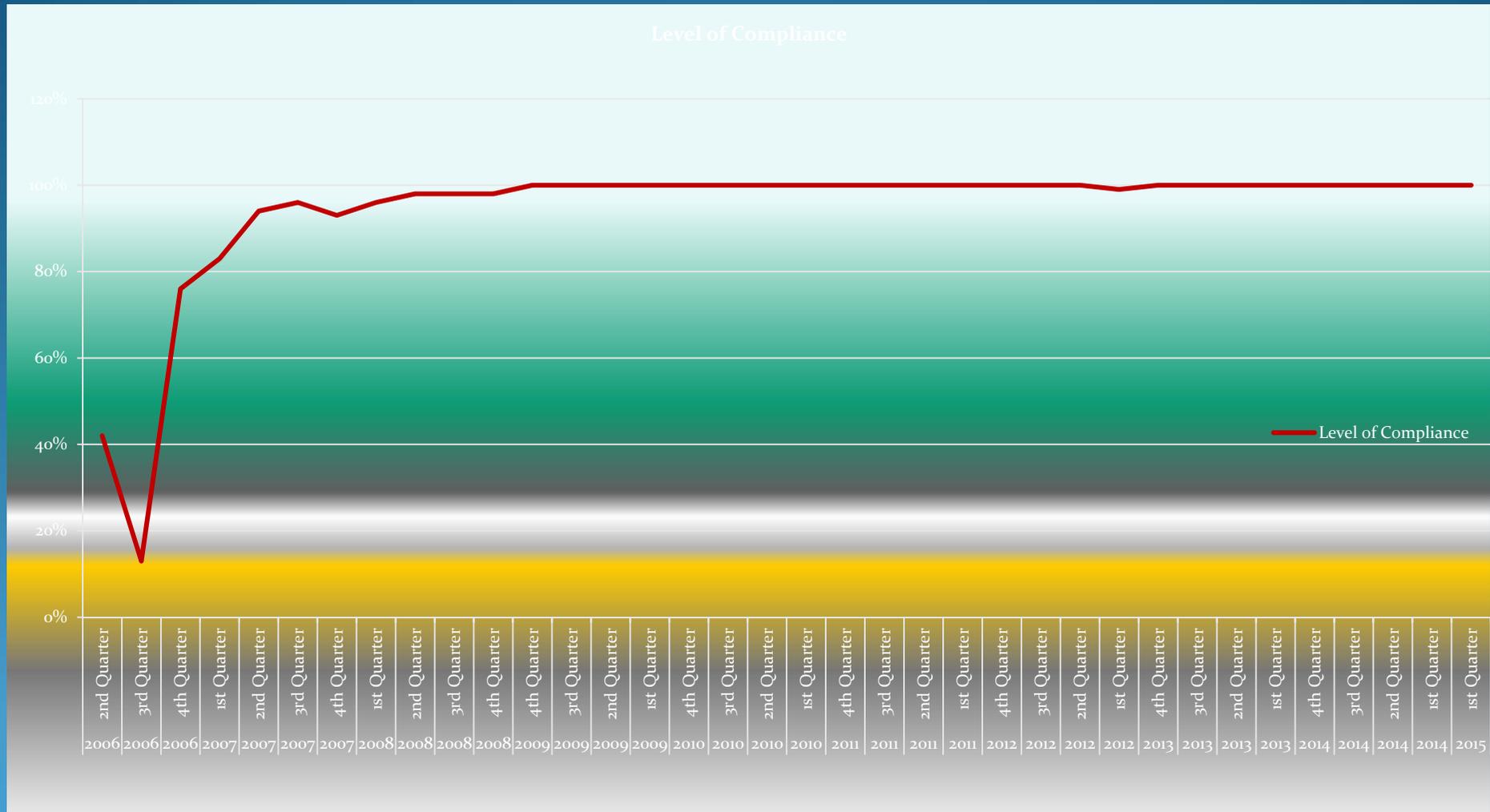
- The OCG must refer persons to other respective and appropriate state authorities for further action and/or prosecution, as the case may be, when it has identified, *inter alia*, a breach of duty, evidence of a criminal offence, and/or misbehavior on the part of a public officer. (Section 21 of the CGA)

## Innovative work or initiatives implemented

- **The Quarterly Contract Award Reports** - Initiated in July 2006. All Public Bodies are required to submit the particulars of contracts awarded on a quarterly basis. The system is currently web-based and has a reporting range of J\$500,000 upwards to infinity.

- Initial compliance with the requisition was below 20% in 2006. However, with the adoption of a zero tolerance approach, failure to comply with the OCG Requisition resulted in an automatic referral to the Director of Public Prosecutions for a breach of Section 29 of the Act. Consequently compliance levels rose and the OCG's success in this regard is depicted overleaf.

# QCA Results



- **The Prescribed Licences Information Database** – An initiative which is aimed at streamlining the monitoring of prescribed licences and permits via the creation of a centralized repository of the laws, rules, regulations and procedures required to obtain each type of licence.
- **Zero Tolerance Initiatives** – to aid in securing compliance with OCG requisitions and initiatives, a decision was taken to refer individuals and Public Bodies which breached provisions of the Contractor General Act to the Director of Public Prosecutions to initiate proceedings.

- **Conduct of Judicial Hearings** – the exercise of quasi-judicial authority pursuant to Section 18 of the Act. This initiative resulted in the summoning of persons of interest, the receipt of *viva voce* evidence and the production of written transcripts, which resulted in a significant reduction of time for the receipt of evidence.
- **Public Body Presentations** – a series of sensitization presentations delivered by OCG personnel to public officers/officials of the agencies which are monitored. Same provided a platform to familiarize public officers/officials with the powers and scope of the OCG's jurisdiction as well as their respective roles and obligations as participants in government contracting.

- **Audit and Inspection Programmes** – Section 4 of the Act mandates the OCG to monitor the award of government contracts. To achieve this mandate with its limited resources, the OCG undertakes audits of the contracting activities of public bodies and routinely conducts site visits and attends site meetings.
- **Creation of Specialised Portfolio Assignments-** Skill sets across the OCG's technical team varies, and in recognition of same its Inspectors are given portfolio assignments which focus of priority areas in procurement and contracting. The assignments also serve as a two-fold management tool.

- **Portfolios include:**

- **Enquiry Management** – assessment and review of complaints received by the OCG;
- **Major Projects** – designed to place special emphasis on government contracts that are of significant value and national importance;
- **Recurring Services** – focuses on the assessment of services which are routine in nature and repeatedly entered into by Public Bodies;
- **Asset Divestment** – monitors the divestment of GOJ assets
- **Land Divestment** – oversight provided on the divestment of GOJ Lands. A member of the OCG sits as an observer on the Land Divestment Advisory Committee
- **Public Private Partnerships**

- **Works Quality Assessment Form** – a web-based form which allows members of the public to report on the quality of infrastructure works implemented in their communities. This allows stakeholder engagement in the most practical form and improves upon both the visibility of the Office and its ability to react to the direct needs of its stakeholders.

- **The OCG's Inaugural Fraud and Anti-Corruption Conference** – in 2015 the OCG hosted its inaugural conference. The conference had the objectives of bringing greater awareness to the anti-corruption initiatives and conventions to which Jamaica is a signatory, in particular, to the United Nations Convention Against Corruption (UNCAC).
- The OCG invited one student from each High School in Jamaica (188) and five (5) Primary Schools located within a parish significantly affected by lottery scamming, to attend the Youth Session on the Opening Day of the Conference.





- Jamaica Youth Theatre

# The OCG's Essay and Poster Competition

- As an outgrowth of the OCG's conference in 2015, an Essay and Poster competition was launched for students between the ages of 10-14 years for the poster competition and 14 -18 years for the essay competition. The competition is one means of engaging the youth in our society on matters of corruption. Approximately sixty-seven (67) entries were received for the poster competition and ninety-nine (99) essays submitted by students.

**I WILL MAKE THE DIFFERENCE**

EXTORTION  
ELECTRICITY THEFT  
LOTTO SCAMMING  
TAX EVASION  
NEPOTISM

PAYOLA  
ENCROACHING ON INTELLECTUAL PROPERTY RIGHTS  
BILL PADDING



**STOP CORRUPTION NOW!**

SOCIAL UNREST  
CRIME AND VIOLENCE

RAIN DRAIN  
POVERTY

STOP THE DESTRUCTION  
LET'S END CORRUPTION



FRESH GROCERIES

**CORRUPTION**

WHITE COLLAR CRIMES  
BRIBES  
FRAUD



**JAMAICA**

**PROBLEM!**

Petty Corruption is a Cycle: **BREAK IT**  
by Promoting Gender Equality and Female Empowerment



**STOP OUT**



**CORRUPTION**  
MAKE JAMAICA THE PLACE TO LIVE, WORK, AND DO BUSINESS!

**I WILL MAKE THE DIFFERENCE**

EXTORTION  
ELECTRICITY THEFT  
LOTTO SCAMMING  
TAX EVASION  
NEPOTISM

**STOP**

**CORRUPTION**

IDENTIFY IT  
SEARCH FOR IT  
DESTROY IT!



**JAMAICA NEEDS TO GROW**  
**CORRUPTION - HOLDING US BACK**

WOMEN

WEEKS WITNESS

Lack of Corruption



**CORRUPTION... BIG PROBLEM!**



**CORRUPTION**

CRASH



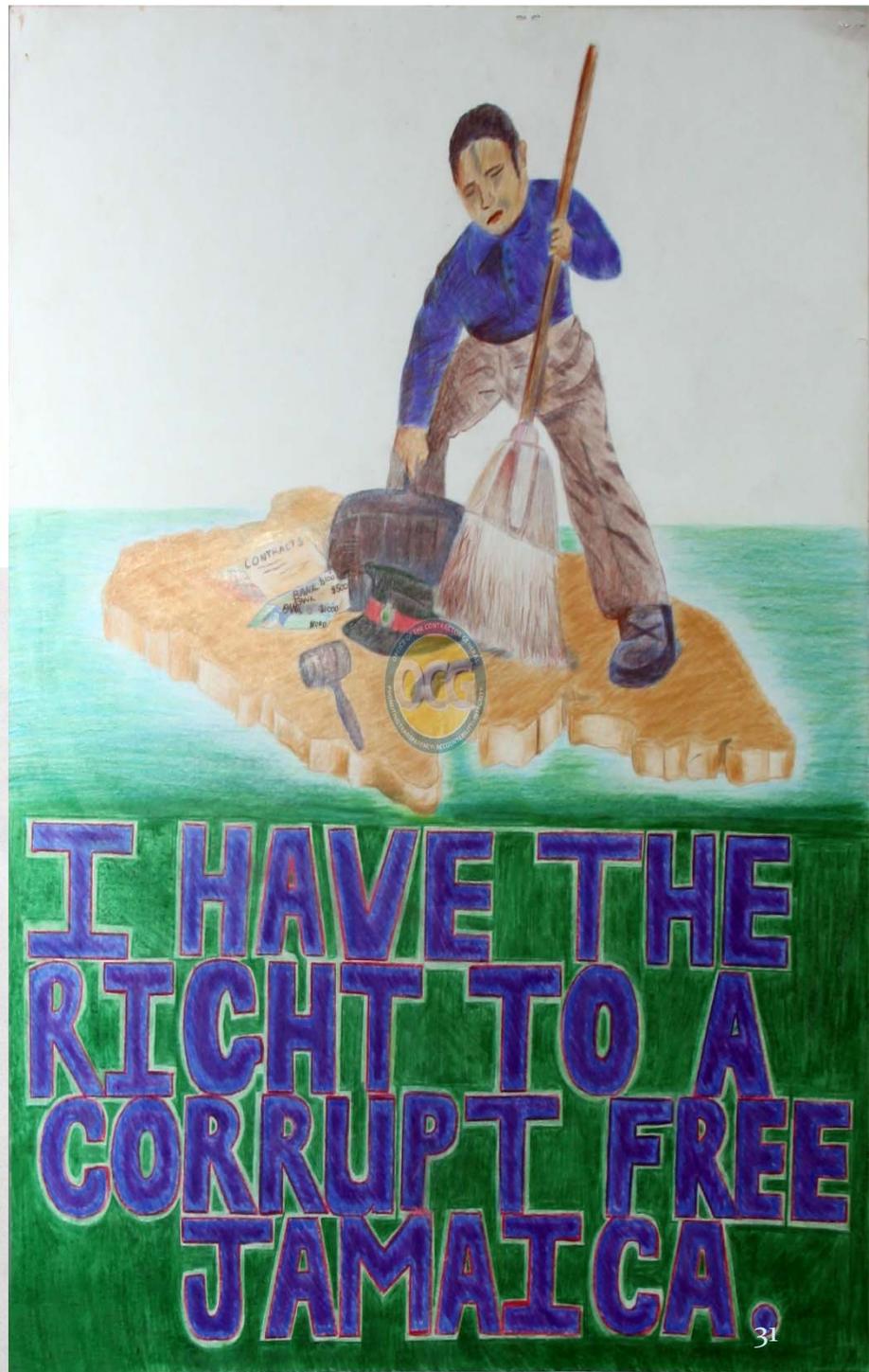
**BIG PROBLEM**

**STOP!**

**Jamaica Against Corruption**



# STOP! CORRUPTION



**"JAMAICA WEEPS"**



**DONT  
SQUEEZE**

**NO--TUCRUC--OZ**

**THE  
LIFE OUT OF  
JAMAICA**

# YOUTH AGAINST CORRUPTION



# NIA

National Integrity Action













# Office Highlights and Performance Overview

# OCG Human Resource Qualification

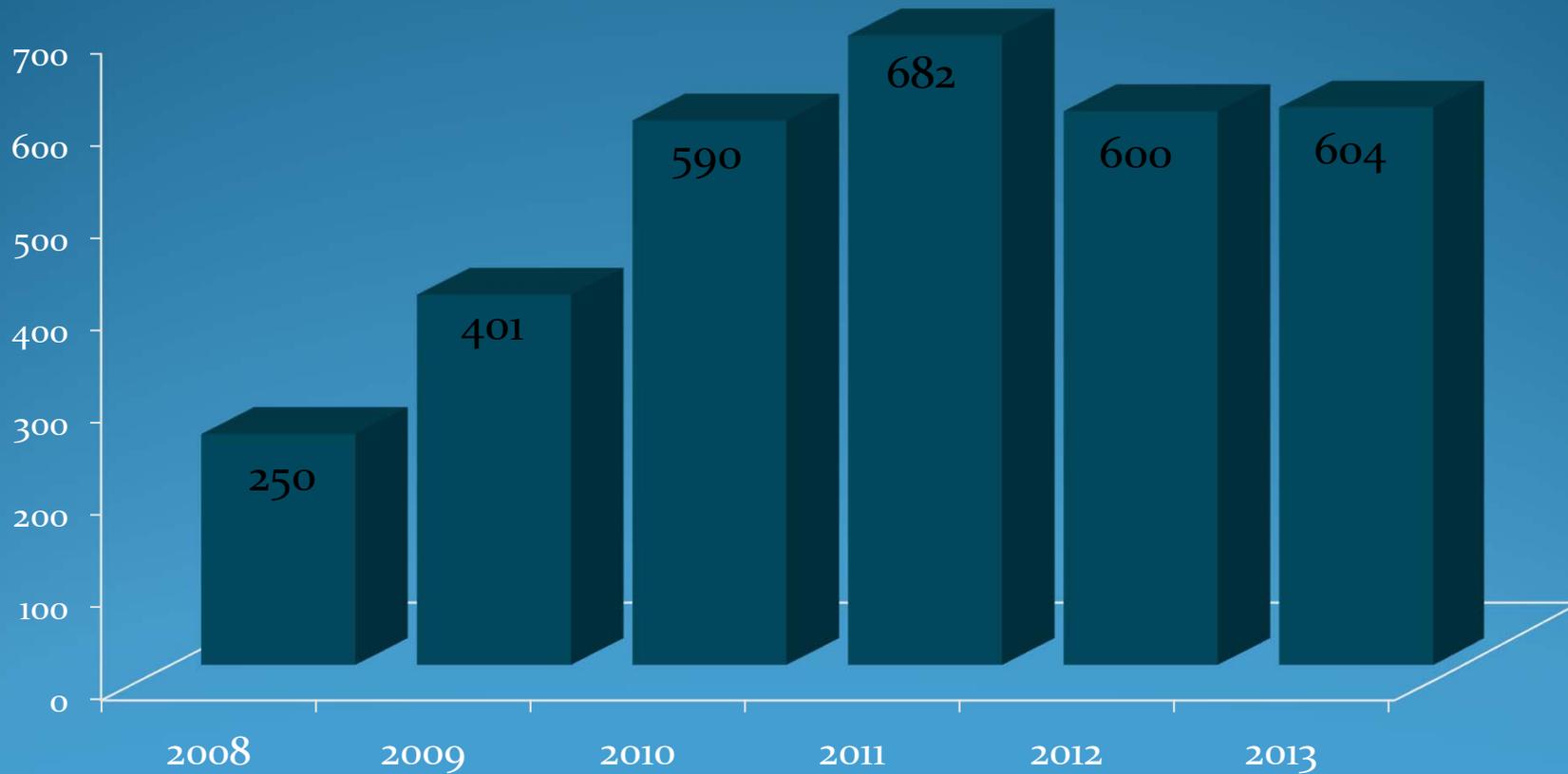
- The following represents the tertiary academic qualifications of members of Staff:
- Legal Education Certificate - 4
- Master of Management - 1
- Master of Science - 9
- Masters of Business Administration - 3
- Bachelors Degree - 40

The list does not reflect qualifications which are being pursued and professional development courses.

# Monitoring of Non-Construction Contracts, Licences, Permits and Concessions

- Of the six hundred and four (604) procurement opportunities/contracts which were monitored during 2013, four hundred and thirty four (434) represents monitoring assignments which were carried forward from 2012. The remaining one hundred and seventy (170) or approximately twenty eight percent (28%) represents new procurement opportunities/contracts which were assigned during 2013.
- In this regard, the Non-Construction Contracts, Licences and Permits Division had monitored marginally more projects in 2013 than it did for the previous year.

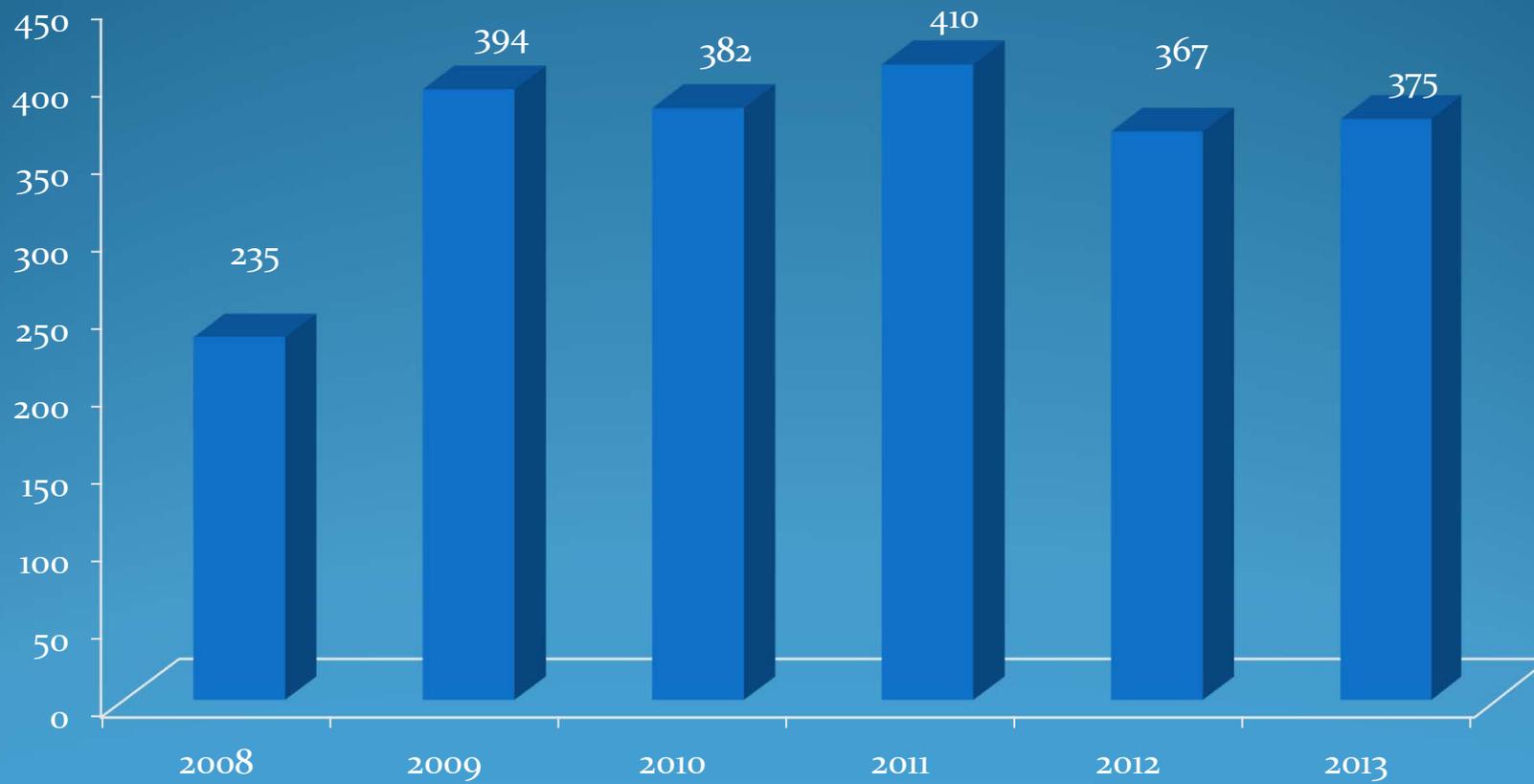
# Comparison of Procurement/Contracts Monitored



# Monitoring of Construction Contracts

- During the 2013 calendar year, the Construction Contracts Division of the Office of the Contractor General (OCG) monitored the Pre and Post Contract stages of three hundred and seventy five (375) contracts. As such, there was a 2.2 % increase in the number of works contracts which were monitored for the year 2013, in comparison to the previous year in which three hundred and sixty seven (367) contracts were monitored.

## Comparison of Construction Contracts Monitored 2008-2013



# Enquiry Management

- Pursuant to Sections 4 and 15 of the Contractor General Act, during the year 2013, the OCG continued to review matters/complaints which were reported to or noted by its Office regarding government contracts, prescribed licences, permits and the divestment of state assets. Often times, these matters/complaints were submitted to the OCG by members of the public as well as Public Officials. However, in particular instances, the OCG sought to enquire into matters which had been highlighted by the media, which was of importance to the Office.

Year	Total number of matters/complaints which are ongoing
2013	118
2012	104
2011	110
2010	77
2009	-

# Quarterly Contract Award Reports “QCA”

- Prior to the 3<sup>rd</sup> quarter of 2012, Public bodies were required to report contract values up to \$250,000/\$500,000 to \$10m/\$15m. Since then, Public Bodies are required to report on all contracts above \$500,000 to infinity.

Detailed overleaf is a tabular representation of particulars of the reports made to the OCG for the period 2009 – 2013.

Reporting Period	Total Number of contracts awarded	Total Value of contracts awarded (JA\$)	Total Value of contracts awarded (US\$)	Number and percentage of Contracts Awards to Unregistered Contractors	Value of Contract Awards to Unregistered Contractors
2009	11,256	\$15,508,086,974.00	\$175,252,423.71	3,025 (27%)	\$4,351,556,617.00
2010	10,455	\$14,307,249,677.00	\$163,735,977.08	2,893 (28%)	\$4,585,816,557.00
2011	11,152	\$16,143,777,148.00	\$187,543,879.51	3,106(27.9%)	\$4,738,208,283.00
2012	9,399	\$25,752,214,653.20	\$289,383,241.41	1,688 (17.9%)	\$2,492,373,496.64
2013	8,622	\$45,445,481,023.75	\$450,982,246.94	137 (1.59%)	\$254,187,197.38

- The OCG has noted a downward trend in the number of unregistered contractors being used by Public Bodies. The OCG classifies “unregistered contractors” as those contractors who, based upon the nature of the service, goods or works being procured and upon the procurement Guidelines, ought to have been registered with the National Contracts Commission (NCC) in one or more of the NCC’s categories. A significant decline can be seen for the reporting year 2013 where the percentage of contracts awarded to unregistered contractors fell from 17.9% to 1.59%.

## NATIONAL CONTRACTS COMMISSION ENDORSEMENT OF CONTRACT AWARD RECOMMENDATIONS

- There was a minimal increase in the total number of endorsed contracts of approximately 11%, moving from five hundred and twelve (512) in 2012 to five hundred and sixty eight (568) in 2013 and an increase in the value of endorsed contracts of approximately 34 % over the previous period, 2012.

Year	No. Works	Value of Works JAs	Value of Works US\$
2013	180	\$11,769,078,879.00	\$116,791,494.28
2012	148	\$10,314,568,600.00	\$115,907,052.48
2011	175	\$14,137,796,921.00	\$164,240,205.87
2010	118	\$12,493,926,279.00	\$142,983,821.00
2009	197	\$38,201,687,543.00	\$431,706,266.73
Year	No. Goods	Value of Goods JA\$	Value of Goods US\$
2013	144	\$8,737,706,750.00	\$86,709,405.08
2012	151	\$4,628,846,414.00	\$52,015,354.69
2011	162	\$8,052,332,407.00	\$93,544,753.80
2010	97	\$3,595,757,775.00	\$41,150,809.97
2009	189	\$26,463,640,655.00	\$299,057,980.05
Year	No. Services	Value of Services JA\$	Value of Services US\$
2013	244	\$11,874,847,397.00	\$117,841,097.52
2012	213	\$9,289,546,639.00	\$104,388,657.59
2011	218	\$7,821,048,775.00	\$90,857,908.63
2010	133	\$3,890,683,889.00	\$44,526,022.99
2009	244	\$9,018,351,218.00	\$101,913,789.33
Year	Total No. of Endorsed Contracts	Total Value of Endorsed Contracts JA\$	Total Value of Endorsed Contracts US\$
2013	568	\$32,381,633,026.00	\$321,341,996.88
2012	512	\$24,232,961,653.00	\$272,311,064.76
2011	555	\$30,011,178,103.00	\$348,642,868.30
2010	348	\$19,980,367,943.00	\$228,660,653.96

# SPECIAL INVESTIGATIONS UNIT

- Having regard to the mandatory requirements of Section 20 (1) of the Contractor General Act, the Reports of Investigation for all matters are promptly submitted to “the principal officer of the Public Body concerned and the Minister having portfolio responsibility therefor.”
- Additionally, the Reports of Investigation are submitted to the Houses of Parliament, pursuant to either Section 21 of the Contractor General Act and/or pursuant to the further discretionary powers which are reserved to the Contractor General under Section 28 (2) of the Contractor General Act.

Year	Total number of published Reports of Investigations
2013	4
2012	6
2011	4
2010	9
2009	5

# Main challenges faced in implementing the initiatives.

- Budgetary Constraints

The OCG is funded through the Consolidated Fund and, as such, faces the same budgetary constraints as many other Public Bodies. Though this fact is recognized, the fiscal space within which the OCG operates constrains certain of its operational activities and does not readily allow for the impact and reach which is required if the Commission is to operate at its optimal.

- Human Resource Constraints

A direct relation exists between the budgetary constraints of the Commission and its ability to expand the human capital which is available to it. The core operational activities of the Commission are executed by approximately thirty (30) members of its staff or approximately 47% of its sixty-four (64) member staff complement.

- Approximately nine thousand contracts are awarded by GOJ public bodies, not including the divestment of state assets. It is humbly submitted that given the sheer volume of contracts, which is spread across approximately two hundred public bodies, the oversight which is required to give full effect to the Act cannot be effectively or efficiently realized with thirty (30) operational personnel.

- Nuances in the applicable rules and/or procedures

GOJ contracting has undergone numerous changes within the last decade as evidenced by the numerous revisions to the Procurement Rules and the promulgation of regulations. Though the rules have sought to remedy observed challenges and deficiencies over the years, there still remains room for improvement and greater clarity especially in the areas for which the rules are silent.

- Consideration and/or Adoption of Recommendations

The OCG humbly submits that as an oversight Commission, it has a unique vantage in regard to matters related to public expenditure, principles of governance and issues of transparency.

It is through practical observations and the conduct of its investigations, which are not without the involvement of persons implicated, that the OCG arrives at its considered recommendations. Against this background, the OCG submits that its recommendations are not given, in all instances, the required degree of attention by other public institutions which are in a position to give effect to same and to translate the recommendations into policy, regulations and/or statute.

## Jurisdictional Challenges

- The OCG has had numerous jurisdictional challenges related to, inter alia, its jurisdiction to monitor and investigate the pre-contract award activities of Public Bodies:
  - In 1991 a determination was made that the OCG had the authority to review the pre-contract component of government contracting:
  - The OCG's jurisdiction was again challenged in 2012 and by 2013, the Courts again ruled that it was within the OCG's remit.

- Section 30 of the Contractor General Act provides as follows:
- *“30. Remedy under any other provision of law unaffected.*
  - *30. (1) A ContractorGeneral may initiate or continue any investigation and report thereon pursuant to this Act notwithstanding any legal proceedings relating to the subject matter of the investigation.*
  - *(2) Nothing in subsection (1) shall be construed as preventing a court from ordering the Contractor-General not to publish a report or part thereof if the court is of opinion that such publication is likely to prejudice any proceedings pending before the court.”*

- Despite the provisions of Section 30(1) of the Act, and arising out of a Judicial review proceeding brought against the OCG, the Supreme Court of Jamaica ruled that an OCG investigation be halted pending the outcome of the Judicial review matter.
- The matter is currently being appealed.

**The Fight is Far From Over!**

# Recommendations

- Innovation is KEY!
- Meaningful and long term change cannot be achieved without the involvement of key stakeholders;
- It is of equal if not greater import to strive towards the attainment of international best practices and standards in the quality of works which are executed

- The organization has also recognized the need to become seemingly ubiquitous but also to ensure that its staff members are properly equipped, fully trained and aware of the latest technologies, standards and methodologies associated with contract award and implementation

- All staff are employed on a competitive and objective basis. Recruitment involves:
  - Public advertising of job opportunities;
  - Short-listing of candidates;
  - Panel Interviews and standardized scoring;
  - Psychometric Testing for top tier candidates;
  - Conduct of background checks for successful applicants.

# Continuous Training

- Training opportunities extended to staff include:
  - Cross-training opportunities with local and international counterparts. Such courses include:
    - Basic Detective Training with the Jamaica Constabulary Force
    - Digital and Communications Data Training & Certification;
    - Behavioural Assessment for Law Enforcement
  - Particulars of annual training is detailed in each of the OCG's Annual Reports.

- Sharing of resources and Intelligence;
- Involvement of the Citizenry;
  - Without the involvement of the citizenry and the sharing of resources and intelligence between agencies, the anti-corruption community.
- The engagement of the youth.

# OCG's Website

- In the interest of transparency, and as permitted by law, the OCG has a website which provides the public with useful information regarding its initiatives, activities and resources which are of relevance.
- <http://www.ocg.gov.jm>

WE ARE THE OCG