

Statement by Rolston Anglin, JP

On Auditor General Report Major Capital Project – Building Schools

Former Minister of Education 2009-2013

Appearing before the Public Accounts Committee

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The Auditor General issued his report Major Capital Projects – Building Schools (“the Report”) and made a number of erroneous and inflammatory statements.

For the record I reject and disagree with the following charges made in the Report:

1. **That I intervened in inappropriate degree in the day-to-day management of these projects:** I got **regular updates and I enquired whenever I got complaints** and/or was made aware of anything happening in relation to any of the projects in the ministry. This was the case for day-to-day operational matters as well. What was I to do sit and twiddle my thumbs when issues existed?
2. **That the involvement of my predecessor in the conceptual design phase of the project contributed to poor management of the project:** This is yet another absurd position! Firstly the **school design may have driven up the project costs, but it certainly had nothing to do with management** of the project!
3. **In 2012 the PMFL was amended to adopt the FFR and they expected to see the business case and other concepts applied to the high school and primary school projects:** The genesis of the school projects was 2002 with final design settled in 2008 and the primary school projects were from 2010. **This is obviously an attempt to use 20:20 vision and criticize politicians by measuring them against 2012 standards!** The country knew we were out of space at high schools and primary schools!! Educators made it clear that facilities were interfering with teaching and learning and during my 12 years in the House this was accepted as fact! What would a business case have concluded?!?! We can debate design and the budgeted costs and whether they wound up affordable.
4. **At recommencement of the high school projects the assertion is made that this would have been the ideal time to provide Cabinet with full costing, design changes and completion date:** this idealistic and calm wording does not reflect the true storm, and the attendant pressures, that existed at that time. We had legal and construction advice regarding the timeliness of a restart to avert certain charges being made by the terminated contractor, subcontractors whose services and/or goods had been secured and the timeliness of restarting was critical, the necessity to have new school plant for our students etc. There was a real risk if there was a significant delay that the legal position in any lawsuit with the general contractor would have been compromised. We got as much data to Cabinet as possible within the time constraints.

5. **An assertion is made that the monies spent on the JGHS campus could have been used for other purposes:** I disagree with this assertion. There were necessary remedial work and we had to make the buildings are air tight as possible to secure them the best we could. Once again the Auditor General makes it seem as though this project was business as usual! With the uncertainty surrounding weather, the actual state of the buildings when the general contractor abandoned the sites and the risk of warranties surrounding certain mechanical equipment we did not have the luxury of the perfect calm in which this report was written!

I fully updated my colleagues in our caucus, and whilst there was much debate about whether we should have abandoned the projects altogether. The legal advice we received was that we should not abandon either school as they were discrete contracts. The general contractor could have argued that CIG could not afford to continue, thus their abandonment was proper and then make a significant claim for time, outstanding claims and lost profit. **This point alone clearly proves that the Auditor General and his staff are incompetent** and were in such a rush to criticize me that their arguments cannot even make sense. **If we had followed this path the government would surely have lost a significant lawsuit with the general contractor!** In addition we also had to act quickly and comprehensively in order to secure equipment that had been prepaid (mainly due to lead times) and to secure warranties.

6. **The report states that I was involved beyond my defined role. I will address these matters point by point as this is a complete and utter incorrect and with false misrepresentations:**

- **Pressure officials to record payments incorrectly:** this was a matter of myself as Minister thinking an item had received adequate funding, and a relevant appropriation, in 2011/12 vs 2012/13. **The matter was resolved and was paid! Did I ask her to record a fictitious transaction? No! Did I ask the Chief Officer to not record the transaction? No! Did I ask the Chief Officer to record a transaction that had no basis? No! If I got a date incorrect then so be it!** Quite frankly the bottom line for me was getting children into school as we had enrolled children for Reception Classes and we needed to make adequate provision for them. The advice I was given was that to have fired these contractors and bid such a small portion of each project would have costed more than the ex-gratia payment (I will cover this more). In my opinion a Minister is ultimately responsible for the delivery of outputs and management of the budgetary allocation approved by the Legislative Assembly. A minister is responsible to the Cabinet, the Legislative Assembly (and by extension the Finance Committee), the General Public who voted them into office and their Party who endorsed the as an approved candidate. According to the Auditor General my assessment is incorrect and that section 39 of the PMFL affords me certain powers and that I exceeded those powers. I want this Committee (and the Auditor General) to re-read the PMFL and tell me where the issue as to whether an item had an appropriation, or not, and what year it should have been recorded in is covered by the PMFL! **We had a disagreement on this point but bottom line is the amount was paid and recorded correctly.** To say that I was “pressuring” the Chief Officer is untrue! To expand this point into the role of the minister is a farce by the Auditor General (but again shows his desired outcome, to issue bad reports on Cayman politicians and by extension Cayman itself)!
- **Contracting Policy:** Mr. Chairman of all the inaccuracies in this report this takes the cake! Firstly Mr. Chairman the Policy was to award small works contracts not

necessarily work to small contractors. Secondly Mr. Chairman **the decision on how to procure works, in this instance as small works contracts, were within my authority as Minister.** The Cabinet had to approve the budget allocation. I then had to deliver the outputs.

The Auditor General has a complete lack of understanding of a role of a Minister and certainly how the former Governor Mr. Duncan Taylor ran the Cabinet. As a side note but relevant to this critical point on more than one occasion I presented a paper to Cabinet and the Governor insisted that I change it to a note to Cabinet. He was a stickler for detail and felt that we should be practicing the new constitution correctly! On a point like this I provided Cabinet and verbal update and informed the Cabinet of my approach as Minister to try and alleviate the impact of the recession that our economy was facing.

On September 15th, 2010 I updated the House and announce this policy publicly (see Exhibit 1). Let me not try and take undue credit. This policy emanated from my Caucus! My colleagues felt that it was critical to spread around as much work as possible as so many small-medium sized contractors were hurting. MR. Chairman I think you will recall the crisis that existed at that time! We had daily calls as representatives from families and business owners who were in trouble. We fully realized that this would have a cost implication on the schools projects. The decision was simple, get as many people back to work or have a burgeoning poor relief budget on the already overwhelmed Social Services Department.

The Auditor General is completely wrong and inaccurate yet again! I went to the Cabinet, the House and stated publicly on the Rooster Talk Show the policy that the government was embarking upon regarding small works contracts. Further Mr. Chairman I did not instruct any ministry staff on who should get work. This was left to them! To further add to his inaccuracies the Auditor General then goes on to state that here was a Cabinet Paper in July 2012 in which I indicated for the “first time” this procurement approach! **Which one is it Mr. Auditor General? You say I did not take it to Cabinet but then you say I took it to Cabinet in July 2012!**

The bottom line is this matter was taken to caucus, Cabinet, the LA and the public in 2010!! My Ministry Officials even had an “open house” of sorts at the GT Library where they invited contractors to attend and they explained what the criteria would be in order to qualify for these works!

Mr. Chairman it does not end there! **I received many complaints from contractors and colleagues as there were accusations that some “big PPM” supporters getting allot of work at the schools! My response was simple: Did they qualify? Are they Caymanian? I do not know who votes for whom? I did not get into who got contracts! As long as families were better off, less children were coming to school hungry, less children were being held out of school because parents did not have lunch money!** That was the state of the Cayman economy back then! Many members of this house cannot relate to this as this was not their economic reality! That was my reality as an MLA, Minister and Caymanian!

- **Flexibility on quality of work:** I did not direct anyone to be allowed to do shoddy work! This is yet another outrageous claim in this report. **This is so insane I will not waste the time of the Committee to respond.** I challenge for the proof of this!
- **Inappropriate involvement in details of project management:** Mr. Chairman I now I am sounding like a broke record but I challenge the Auditor General to prove this point! **Anyone who has said this is simply lying.** As Minister I was given many updates! With the amount of problem and litigation that was occurring around the high school projects I was forced to spend much too much time in updates on these projects! When it was not Tom Jones issuing “stop work” notices or other major sub-contractors threatening to abandon the project...I never attended the Team Meetings which were for day-to-day management of the projects. I knew that would have been inappropriate and I simply did not have the time, I had a Ministry to run, a district to help manage, a caucus to keep informed, a family to help raise! There were a few instances when the ministry team did not feel like they were getting matters resolved and they came to me to get assistance from other Ministers who in turn asked me to speak directly with their officers to get the matters resolved.

I had two instances where this arose. Firstly when we got the green light from London on the primary schools projects I requested a meeting with PWD to ensure that my vision and the urgency of this matter was highlighted. I also requested that they do the architecture and project management services. The rest of the design, bid and building of this project was left to the project teams. I received updates only.

The second instance was involved me being approached by an extremely irate member of the public outside the Rooster Studios when I had made an appearance there and updated the general public on ongoing projects in the ministry. He challenged me to justify the type of roof that was in the design of the buildings. He stated that we were not creating as much work opportunities as we could if we had used a wooden roof vs the metal roof in the design. Unfortunately I had no idea what he was talking about as I was not involved with those sorts of details! Upon returning to the office I asked the project team about this matter. I queried two points: (1) cost implications, (2) hurricane shelter implications and (3) labour opportunities. It was explained to me that it have costed less, not compromised the hurricane shelter designation and it would indeed create more jobs. For me this was a simple decision. To cover all bases I spoke to the then Deputy Governor about the hurricane shelter aspect and he had no issues with the change. I updated my colleagues on this matter and ensured that there were no dissenting voices. I then asked the ministry officer to call a meeting with the PWD architect so that he could understand that this was a change that I as minister was requesting and that we had thought it through.

I attended one actual team meeting and this was at SJACPS. I was at the school for another matter and took the opportunity to look at building. When I enquired of the contractor I was directed to the project office. I entered the office and the team were meeting with him at that point. [We chatted for a few moments and they proceeded to update me on the status and we all walked the site]. I in no way participated in this meeting.

I again challenge the Auditor General to prove that I was involved in day-to-day management of these projects!

This leads me to the next point.

- **Involvement in Inspection Requirements: This is a staggering accusation!** We had situation where we had made all plans and arrangements to have CHHS open in September 2012. The project team updated me on the main issues one of which were timeliness of planning inspections. I in turn updated my ministerial colleague who was always supportive of my ministry's needs. She suggested we meet with the relevant officers to explain the urgency of our situation. At no time did I ask or tell any planning official to circumvent any requirements or processes in order for CHHS to achieve an SPO.

Planning officials suggested that they would assign an inspector to CHHS. This was due to the sheer magnitude of inspections (and inevitable follow ups for anything that failed). Under the planning Regulations an SPO will only be issued if a planning official is satisfied that the building is safe to occupy (i.e. there are no life safety items outstanding). Buildings have been issued these over the years in Cayman such as the Shetty Hospital and Boundary Hall at Cricket Square.

The planning officials were not interfered with by me nor any members of the planning team! This charge is baseless and borders on insanity in my opinion.

Mr. Chairman staying on the point of interference I find it **quite curious that the Auditor General never mentioned in his report that at my request he came to the ministry's offices in Royal Plaza and met with me and two officers from my Ministry on March 30th, 2011. I had received complaints about the way certain contacts had been bid out by the former general contractor and that it was unfair.** After getting representation from more than one supplier I asked them to come and meet with the ministry staff and explain the situation to them. To try and avoid accusations of interference I contacted the audit office and asked for an audience. If what we heard was true we were going to ask the construction manager to re-bid the packages. We were of the view that even though this contract was tendered by the general contractor and not government, but ultimately it was coming at the expense of the public purse! **My notes indicate that the Auditor General agreed with our position. Was this interference? I call it being vigilant and doing my job!**

The SJACPS Project: The primary schools projects went to one large construction company and three medium sized construction companies. I say medium sized based on what understood their past projects to have been. The Auditor General opens section 52 on page 15 by trying to intentionally mislead the PAC and the public into believing that the government's policy of spreading work around via small works packages related to the primary schools projects. That policy related to small works at the high schools. There are many accusations laid at myself, ministry staff and the CTC that the Auditor General needs to prove. How did the ministry go out of its way to select a small, inexperienced contractor? The departmental tender committee had one ministry staff and three PWD officials! **That means three-quarters of the committee were not from the ministry!!** I would make the following observations:

- a) The winning contractor had built a project of 32 townhomes with a total square footage of over 35,000, contract value in excess of \$4 million. It included a pool, wastewater treatment plant etc. He also built a home in excess of 6,000 square feet and contract value of \$1.9 million. This

does not represent what anyone would define as “small contractors”. “Small” refers to companies who may do roofing only, small repairs, small concrete jobs like fences etc.

- b) To put together a proper bid document for these projects which were in excess of \$1.5million by my definition means you are not “small”.
- c) On the issue of the ex-gratia payment we made what was considered the least costly call given the circumstances.

Mr. Chairman we made some mistakes on this project. We tried to save money by removing the performance bond given that they were all Caymanian companies and we did pay out the retention monies early. On the latter point we made a call based on the circumstance that existed at the time. Looking back these were mistakes. Mr. Chairman I do not think that it is a coincidence that all of these projects experienced these difficulties. I do not believe it relates to the perceived size of the contractors. The fact of the matter is if you start out with a pre-tender estimate that is too low, then the evaluators of the tenders will not spot bids that are too low. In other words Mr. Chairman the projects simply could not have been built at the awarded contract amounts.

At the end of the day Mr. Chairman, even after all of these difficulties, I maintain we achieved value for money on the Primary Schools Projects. In summary we achieved:

	Square	Class-	Bath-						Football		
	Footage	rooms	room	Library	Admin	Music	Dental	Canteen	Field/Track	Storage	Add Classes
EEPS	2,787								1		
LSHS	1,827	2								1	
GTPS	17,510	8	1	1	1	1	1				
BTPS	10,710	6	1	1	1						
SPS	12,638	8	1	1	1				1		2
SJACPS	10,710	8	1								
Total	56,182	32	4	3	3	1	1	1	1	1	2

Please note that interactive whiteboards, modern furniture and fixtures, landscaping, netball courts etc. are also included in this total cost figure!

Mr. Chairman if any government delivered what is in effect a new, large primary school (and then some) for under \$14million I think we would all agree that this is value for money! That is what we achieved! Yet the Auditor General has said we did not achieve value for money.

Mr. Chairman the Auditor General has stated that the former Premier influenced the selection of the project manager hired by the ministry. This is simply not true.

Mr. Chairman we were very careful in the eventual selection, so much so that the Chief Officer met with the **former Auditor General (Dan Duguay) and Martin Ruben (Audit Principal) who agreed that a case had been made for a sole source** contract (See Exhibit 2). I am afraid I cannot give all of detail about his initial introduction to the Ministry but it would have come about during our first rounds of meetings with the private sector regarding the massive issues we had inherited as a government. What I know is the former Premier had nothing to do with his appointment. The high school projects were in crisis and we went with a sole source and quite frankly it saved the country millions of dollars in my view from a potential lawsuit with the former general contractor.

Mr. Chairman what is even more disconcerting as the fact that in conducting this audit the Auditor General completely ignored facts that had been brought to his attention:

- a) Shortly after taking office the Ministry was contacted by a local bank seeking payment for a bridge loan that it had extended to the former general contractor on the high schools projects.

This transaction was made under very curious conditions and yet the Auditor General made no mention of this! How could any fair and rational auditor not mention this in his report? The previous government entered into a scheme to hide financial transactions from the House and the general public in the run up to the 2009 general elections. The audit office was made aware of this from 2009. The amount was certainly not immaterial, it was C\$10,000,000! (See Exhibit 3-5)

- b) The 2005-2009 government employed a project manager for the high schools who was hired as a civil servant yet he lived overseas and was paid like a very expensive consultant? In 20 months he was paid salary of approximately \$557,000 and travel expenses of approximately \$47,000 for a total of \$604,000! We discovered this upon taking office. None of this was mentioned in the report. Was this not at the least a very suspicious arrangement? Did they deem this to be good practice and represent value for money? I know quite a few civil servants who would love to have made over \$500,000 in 20 months!! (See Exhibit 6)

Mr. Chairman as a senior member of the noble profession to which I am also a part you know that in carrying out an audit you must always interview any party who might have information material to the subject matter. **How could the Auditor General conduct this audit and not interview me as the former minister nor Mary Rodrigues the chief officer during my time as minister?** To make matters worse when I was told that this audit was being conducted by Christen Suckoo I asked why I was not being interviewed. The response was alarming. **I was told that the audit office said they needed to first speak to the current Minister of Education.** Mr. Chairman and auditor must be independent and determine how to conduct his audit and chose his witnesses. **I can say that in my four years in office I never had any auditor ask my opinion on what witnesses they should interview. If they had I would have chased them out of my office because I would have known it was inappropriate.** To make matters worse Mr. Suckoo was then instructed to write to me and send a draft of the report for my comment. Mr. Chairman I am stickler for procedure. **I refused to participate in this corruption of the audit process.** Mr. Suckoo is not an auditor! He should not have been put in this position! I was not going to expose Mr. Suckoo (unwittingly) to participate in such an escapade.

Mr. Chairman I thank you and the Committee for this opportunity to appear before you and set the record straight. (You have followed proper process and interviewed the most important parties namely myself and the former chief officer). I hope that my statement will assist in your Committee's issuing a balanced report that reflects the truth. I would be happy to answer any questions that you may have.