

"FLA... Regulating with purpose."

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14 February 2022

Ms. Jeanette A. Calder,
Executive Director
Jamaica Accountability Meter Portal,
Suite #3,
7 Lady Musgrave Road,
Kingston 5.

Dear Ms. Calder

Re: JAMP Request – Access to Information Act, 2002

Reference is made to your request dated December 4, 2021, requesting information on the matters stated below:

1. Auditor General's Department's 2019/2020 Annual Report that *"The FLA paid five former employees a total of approximately \$8.4 million in termination benefits in excess of the amounts due under their employment contracts and in breach of the Ministry of Finance Circular No. 15 dated May 8, 2012 – Fixed Term Contract Officers Policy Guidelines."* The report also indicated that *"Management was reminded that those charged with the governance of the FLA are required to act in accordance with the guidelines issued by the Minister responsible for the public service in all matters relating to emoluments payable to staff in keeping with Section 20 of the Public Bodies Management and Accountability Act."*

We also note your request for documentation relative to (i) and (ii) above to substantiate:

1. *The portion of the excess benefits that have now been recovered*
2. *Who has been held to account for the breach of Section 20 of the PBMAA and how have they been held to account.*

We advise that there was no excess benefit paid to any employee whose services were terminated by the Firearm Licensing Authority. The persons whose services were terminated entered into a

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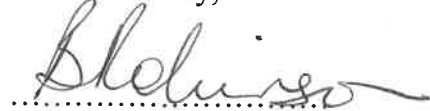
Re: JAMP Request – Access to Information Act, 2002

separate agreement (mutual benefit) with the FLA in keeping with Clause 9 of the Fixed Term Contract Policy (Please see Fixed Term Contract document attached). None of the persons received any amount in excess of what was due under their contract. In fact, the FLA paid out less than what was due (Please see attachment validating this information).

It is the manner in which the Auditor General characterized the payment that has caused misunderstanding. The phrase “termination benefits” – is a terminology that is misleading because she disagreed with how management handled the separations.

Given the foregoing, there was no breach of Section 20 of the PBMAA as outlined above, and therefore no one can be held accountable.

Yours sincerely,



Ms. Beverley Robinson (Ms)
Director, Corporate Planning and Client Relations

Enc.

February 14, 2022

SUMMARY					
Employee Name	Months Remaining to End of Contract	Total payment made under Separation Agreements	Total Emolument Under Contract	Variance	Comments
Employee 1	16	4,218,331.40	5,103,287.33	884,955.93	Savings made as a result of separation agreement
Employee 2	10	828,440.06	1,173,000.90	344,560.84	Savings made as a result of separation agreement
Employee 3	20	2,082,498.10	2,163,651.46	81,153.36	Savings made as a result of separation agreement
Employee 4	19	685,771.80	4,457,010.59	3,771,238.79	Savings made as a result of separation agreement
TOTAL		7,815,041.36	12,896,950.28	5,081,908.92	* Total saving as a result of the use of separation agreements by management

* Total overall savings is the difference of the payments made under separation agreements , minus the total emoluments under contract amounts.

CIRCULAR NO. 15

REF. NO. 11131^{VIII}

MINISTRY OF FINANCE AND PLANNING
PUBLIC SERVICE ESTABLISHMENT DIVISION
30 NATIONAL HEROES CIRCLE
P.O. BOX 512
KINGSTON
JAMAICA

May 8, 2012

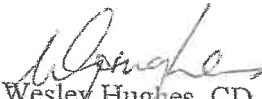
Permanent Secretaries
Heads of Departments

Fixed-Term Contract Officers Policy Guidelines

The guidelines outlined in the attached document have been put together in order to establish consistency in the treatment of employees engaged on fixed-term contracts.

These guidelines are revisions of those issued in this Ministry's Circular No. 11 dated September, 1997.

Please ensure that the directives herein are followed and that all concerned are made aware of them. Where clarification is required the Public Service Establishment Division (Compensation Unit) should be contacted for advice.


Wesley Hughes, CD
Financial Secretary

attach.

3. EMOLUMENTS

- (i) When a Contract Officer is related to a post on the Establishment and is being paid the exact (point to point) salary and allowances in accordance with the classification and pay of the post, the general revisions which are approved from time to time should be automatically extended to the Contract Officer in accordance with the conversion rules as stated in the Staff Orders;
- (ii) Contract Officers who are engaged in accordance with 3 (i) above are eligible for increments and seniority allowances in keeping with the approved terms and conditions for such payments;
- (iii) For a Contract Officer who is not related to a post on the Establishment or is not being paid the same salary and allowances accorded to an established classification level, pay revision should be in accordance with the terms of the contract or subject to the revision on the anniversary date of the contract in keeping with or subject to the prevailing Government wages policy.
- (iv) Automatic salary revision **does not apply** to:
 - (a) a Contract Officer whose position is not related to a post on the Establishment, unless such contract provides for periodic reviews;
 - (b) a Contract Officer whose position is related to a post on the Establishment but who is paid salary above the level applicable to the position, or whose salary is not at a corresponding point within the salary scale, i.e. the salary falls outside any given point.

4. LEAVE

- (i) Contract periods should be inclusive of vacation leave; however, a Contract Officer must be continuously employed for the qualifying period of twelve (12) calendar months to be eligible for vacation leave.

the Contract Officer terminates the contract by resignation or otherwise, gratuity is not payable.

- (v) Payment of gratuity is subject to a satisfactory performance evaluation.

6. TAX AND OTHER STATUTORY PAYMENTS

- (i) All salaries, allowances and perquisites are subject to statutory payments in accordance with the Acts and regulations relating to Income Tax, Education Tax, the National Insurance Scheme and the National Housing Trust or any other regulation in force from time to time.
- (ii) Eligibility for tax concessions or duty waivers must not be included in any contract.

7. COPYRIGHT

All contracts must include a clause which clearly states that the Government will own the copyright to all works/documents (including digital work), inventions and properties (including intellectual property) relative to the duties and assignments of the Contract Officer.

8. TERMINATION

- (i) *Termination "without cause"*

A contract may be terminated prior to the agreed expiration date by either party giving notice, or by the Employer paying the Contract Officer salary in lieu of notice. Notice period should be in accordance with the following rules:

One (1) year contracts	-	two (2) weeks notice
Two (2) year contracts	-	one (1) month notice
Contracts of three (3) or more years	-	three (3) months notice

-
- (ii) Where such amendments are to facilitate the promotion or re-assignment of Contract Officers or the reclassification of the post, on condition that the other terms and conditions of the existing contract remain unchanged, gratuity is payable based on a combination of the original and amended salaries earned during the full period of the engagement.

10. OTHER PROVISIONS

- (i) Persons employed on fixed term contracts continuously for ten years and more in posts listed on the Civil Service Establishment Order and are over the age of sixty (60) years will be eligible for enrolment on the Government Pensioners Health Scheme upon final and satisfactory termination of employment in the Public Service. Such persons will be responsible for paying the individual's portion of the health insurance premium.
- (ii) Contract Officers employed in posts on the Establishment, and whose contract period is no less than three (3) years are eligible for motor vehicle loans subject to the terms and conditions approved for such loans to Contract Officers. Only Contract Officers whose posts attract the requisite travelling allowance are eligible for motor car loans.
- (iii) Permission must be sought from the Ministry/Office with responsibility for the Public Service for any material deviation in the contract terms of a Contract Officer.