



Cayman Islands

**SPECIAL REPORT OF
THE AUDITOR GENERAL**

ON

***THE REVIEW OF EXPENDITURES FOR
OPERATIONS TEMPURA AND CEALT***

**Office of the Auditor General
Cayman Islands
October 2009**

**REVIEW OF EXPENDITURES FOR
OPERATIONS TEMPURA AND CEALT
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REVIEW OF EXPENDITURES FOR OPERATIONS TEMPURA AND CEALT

Executive Summary

1.01 In September 2007, H.E. The Governor, on the advice of the Law Enforcement Advisor in the Foreign Commonwealth Office and the Police Commissioner at the time commenced a special police investigation into a complaint of a corrupt relationship between the Deputy Police Commissioner and the editor of a local newspaper.

1.02 To conduct the investigation, H.E. The Governor engaged the services of the London Metropolitan Police Force. The investigation was covert for a period of approximately six months and when it became public knowledge, it was known as Operation Tempura. In March 2008, another investigation known as Operation Cealt was made public that had been operating covertly for approximately nine months prior to the announcement.

1.03 The investigation started as a small initiative that was administered out of the Governor's Office due to its very unusual nature. As the investigation progressed, a Strategic Oversight Group was formed in November 2007.

1.04 During the ensuing months, concerns were raised about the lack of expenditure information being made public by the Government. As a result, I commenced a value-for-money review of the costs of Operation Tempura in January 2009 to provide information to the Legislative Assembly and the public.

1.05 Our audit work focused on the costs of Operation Tempura and Cealt and whether value-for-money had been obtained for the sums expended. We did not conduct any audit work relating to the operational decisions of the investigations including the decisions, for example, on how many police officers should be involved or the nature of the work they performed.

1.06 We found that the costs of Operation Tempura and a related investigation called Operation Cealt have incurred expenditures of \$5.7 Million to the end of January 2009 and I've estimated that it will cost another \$1.1 Million for a total estimated cost of \$6.8 Million to the end of June 2009. Furthermore, these two investigations are expected to operate into early 2010 with the potential for significant consequential costs associated with pending lawsuits against the Cayman Islands Government resulting from actions taken by the investigation team.

1.07 We concluded that the administration of the expenditures relating to Operations Tempura and Cealt lacked the necessary oversight and project



management processes to ensure there was value-for-money for the expenditures incurred.

1.08 The lack of appropriate project management processes led to the poor management of contracts associated with both investigations. For example, the Government paid one contractor more than \$585,000 on a contract that had an upper limit of approximately \$203,000. In addition, this same contractor continues to be paid even though there has been no contract in place since the end of December 2008.

1.09 We also found a lack of management processes for the administration of contracts to individuals including the contract relating to the Senior Investigating Officer. While we have not commented on the value-for-money obtained for these contracts, we believe it is up to government to be accountable for the decisions made and the amounts expended. In my opinion, the administrative practices for managing the contracts to individuals were inadequate for ensuring value-for-money for expenditures relating to these investigations.

1.10 We have made recommendations relating to the deficiencies we found in the administration of the expenditures relating to Operations Tempura and Cealt that we would like the government to implement and that, in my opinion, would lead to obtaining better value-for-money for these types of operations in the future.

1.11 We cleared our audit report with numerous officials both within Operations Tempura and Cealt as well as senior government officials who were involved in the oversight of the operation. Our report incorporates their concerns and suggestions. A comprehensive response from senior government officials is included under Management Response at the end of this document. This response indicated that they did not agree with the majority of our recommendations that are located throughout the report.

Dan Duguay

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October 7, 2009



Background

2.01 In September 2007, HE The Governor Stuart Jack accepted a recommendation from Larry Covington, the Law Enforcement Advisor in the Foreign Commonwealth Office and then Police Commissioner Stuart Kernohan to conduct a special investigation into a complaint of a corrupt relationship between Deputy Police Commissioner Anthony Ennis and the editor of the Cayman Net News, Desmond Seales.

2.02 A team of London Metropolitan Police officers were brought to the Cayman Islands by approval of the Governor's Office and operated covertly to investigate the complaint. Initially, there was only a team of two officers that conducted a "scoping study". The team was led by Martin Bridger, the Senior Investigating Officer. The name given to this operation was Operation Tempura. The Governor also appointed a Strategic Oversight Group in November 2007 headed by the Chief Secretary. From September to November 2007, we were informed that the Senior Investigating Officer was reporting directly to the Police Commissioner.

2.03 During the early part of the investigation, there were matters of concern which came to light in respect of the Police Commissioner, the Deputy Commissioner and a Detective Chief Superintendent that led to their being removed from active duty and put on required leave with pay by the Governor in March 2008. The three officers were placed under formal investigation in May 2008. This led to the appointment of an acting Police Commissioner.

2.04 In March 2008, the investigation was made public and has continued to operate through to the date of this report. Shortly after the investigation was made public, the Senior Investigating Officer retired from the London Metropolitan Police (May 2008) and was engaged by the Cayman Islands Government as a consultant. The Senior Investigating Officer informed the audit team that it was his intention to retire when he commenced the assignment in September 2007. He said he made his intentions clear to the Governor that he would seek other employment in the United Kingdom, but was encouraged to stay on as a consultant in the role of Senior Investigating Officer.

2.05 We were informed by the Senior Investigating Officer that in March 2008, after the senior police officers were put on required leave, members of the public voluntarily started coming forward to report additional allegations of wrongdoing by police officers. In June 2008, a second phase of the operation commenced to record confidential information from persons alleging wrongdoing. While the objectives of the second phase have been made public, the means by which the investigation team was conducting this work was not publicized until March 2009. A consultant firm called BGP Training and Consultancy was engaged in June 2008 to record the complaints.



2.06 The first phase of the investigation led to the arrests of several individuals including presiding judge, His Lordship Alexander Henderson, JP, Lyndon Martin, former Police Inspector Burmon Scott and Deputy Commissioner Rudolph Dixon. The arrest of Judge Henderson led to civil proceedings and settlement in February 2009 which required the Government to pay him \$1,275,000 in damages and legal costs resulting from his unlawful arrest.

2.07 In March 2009, James Smith, Acting Commissioner of the Cayman Islands Police Service, announced that a new investigation was commencing to look into the allegations of police misconduct that were uncovered during phase 1 of Operation Tempura. Called Operation Cealt, the responsibility for project management of this investigation lies with the Royal Cayman Islands Police Service. While formally announced in March 2009, as noted earlier, work actually started on this investigation in March 2008. (See exhibit 1 for a summary of events)

2.08 Since February 2008, both investigation teams have been housed in a secure office facility on Grand Cayman. The investigations that started operations in September 2007 with two Metropolitan Police Officers have fluctuated in size over the course of the investigation. At times, there have been as many as eight members of the Metropolitan police force on duty. With the contract to BGP Training and Consultancy in September 2008 who have had as many as seven individuals assigned to the project, contracting three former Metropolitan Police officers including the Senior Investigating Officer, lawyers supporting the team, and a project administration officer, there have been as many 19 individuals working directly for the project plus several others working part-time in the Government ministries providing administrative support.

2.09 The nature of the Operations Tempura and Cealt are unique. The audit team was informed that there has never been a police corruption investigation of this magnitude which involved the ouster of the complete higher command of the Royal Cayman Islands Police Service.

Exhibit 1: Operations Tempura and Cealt Significant Dates

September 2007	Covert operation approved by Governor and 2 Metropolitan Police officers arrive to conduct a “scoping study”
October 2007 to March 2008	Covert operation continues with 4 to 5 Metropolitan Police officers and support from CI government officials
March 2008	Operation goes overt and operation team grows to 8
May 2008	The Senior Investigating Officer retires from Metropolitan Police and is contracted to lead operation
June 2008	BGP Training and Consultancy contracted to conduct debrief services related to complaints brought forth in first part of investigation
February 2009	Civil case brought by Judge Henderson concludes
March 2009	Acting Police Commissioner Smith announces Operation Cealt



About the audit:

Objectives:

3.01 The objectives of the audit were:

1. Provide the Legislative Assembly with a full accounting of the historic and a best estimate of future costs, both direct and consequential, associated with Operation Tempura and any associated investigations,
2. Determine whether the management systems and practices in place provide those in an oversight position with reasonable assurance that the investigation is well managed administratively and being properly accounted for,
3. Determine whether legislative authorities have been followed for the acquisition of resources, and
4. Assess whether the government is managing the initiative with due regard for economy.

3.02 The costing exercise by our Office was done up to the end of January 2009 and included all external costs and costs incurred internally to the government. Starting in February 2009, Acting Police Commissioner James Smith took responsibility for the remaining budget. The costing also included any consequences of the investigation such as court costs assessed against the government.

3.03 The nature of the costs of this investigation has not been fully reported by the government and it is my belief that the public should have this information. The Government is only required to provide summary information to the Legislative Assembly in order for it to obtain the necessary funding, which it did. When I first discussed conducting this audit with government officials in the fall of 2008, there were different expenditure amounts being reported by the government and by various media. That led me to believe that there were issues with respect to the ability of the government to report accurate costs of this project and to initiate this audit.

3.04 As well, where it could be reasonably expected, we reviewed the project management and administrative processes used by the project team and assessed whether value-for-money was achieved. While we acknowledge that a project of this type is unique in certain respects, we still expected it to be managed using well established project management practices.

3.05 We did not assess the operations of the review team and the police work involved. We limited our audit to the administrative processes supporting the team and the nature of the decisions made to incur costs. Therefore, during the course of our audit, we asked that information regarding operational strategies and police matters be redacted and not included in the information we were provided.



3.06 When starting the audit, I made the point to all the individuals involved that my Office had no intention of making any comments on the activities of Operation Tempura or the recently announced Operation Cealt. My Office has neither the mandate nor the skills to determine if the investigations have operated effectively or whether their lines of enquiries were reasonable.

3.07 However, my Office is appropriately qualified to determine the amount of funds that have been spent on the investigation and whether those funds have been spent with due regard for economy and with the rules relating to government expenditures. I believe this report does so and I hope that it will be helpful in assisting the Legislative Assembly, and the people of the Cayman Islands, in assessing the investigative activities that have been underway since September 2007 and that have had such an impact on the Cayman Islands.

Criteria:

3.08 The criteria developed for this audit were:

1. We expect that the Government would be carrying out activities for awarding contracts and acquiring other resources (requirements, procurement, solicitation, and award) in accordance with the government polices and regulations.
2. We expect that the Government would be administering contracts and other acquired resources properly in compliance with appropriate legislation, regulations, policies, directives, and guidelines.
3. We expect the government has sufficient information systems in place to gather and report on the costs of initiatives such as Operation Tempura.

Approach:

3.09 Our audit relied on information from several sources including:

- Interviews of individuals in the Governor's Office and government organizations
- Interviews of individuals who are part of the investigation team
- Review of documents
- Review of government financial records



Clearance:

3.10 Due to the number of individual portfolios and individuals involved in the oversight and management, we cleared our report through several individuals in the Government and outside the Government. Clearance of our value-for-money reports entail providing a draft of the report to the individuals and requesting comments on the factual nature of the report. This is a process that is used for all value-for-money audit reports.

3.11 We sent initial drafts of our report on May 8, 2009 to the following individuals:

- HE Stuart Jack, Governor
- Donovan Ebanks, Deputy Chief Secretary, Portfolio of Internal and External Affairs
- Cheryl Richards, Solicitor General/Chief Officer
- Matthew Tibbetts, Chief Financial Officer, Portfolio of the Civil Service
- Alan Drury / Steve Moore, Information Officer, Governor's Office
- James Smith / David Baines, Police Commissioner
- Martin Bridger, Senior Investigating Officer, Operation Tempura

3.12 In addition, it is our practice to clear sections of the report with individuals or organizations that are named in the report.

3.13 We did not receive comments from Mr. Ebanks or Mr. Tibbetts on the initial draft of the report.

3.14 We sent second drafts of the report for comments and responses to our recommendations to the same individuals as above except that Mr. Baines had replaced Mr. Smith and the Senior Investigating Officer was asked for comments only as they related to the sections of the report that pertained to him.

3.15 On the second draft, we received comments from all the individuals above.

3.16 Mr. Peter Gough, a consultant to the Portfolio of Internal and External Affairs, co-ordinated the Government's response. We requested responses to each of our recommendations with an action plan for how the government would implement them if accepted. The Government provided a comprehensive response that we have included at the end of our report.

The Costs of Operation Tempura and Cealt

Disclosure of cost by the Government lacking

4.01 Given the interest in this investigation by the public, I found it disconcerting that there has been little official disclosure to the public regarding its costs. In the fall of 2008 there was a lot of speculation but no information being provided by the government on cost. When information on costs was provided it wasn't totally clear whether the information was complete. More recently in March 2009 the Legislative Assembly was informed of the costs associated with a funding request and this was made public.

4.02 As a result, I made it a priority of my Office to publicly report these costs to the best of our ability. As part of my review, I obtained the Government's accounting records and met with all the participants in the investigation as well as officials in the Cayman Islands Government who have been responsible for its management and accounting.

4.03 As we have noted in my financial audits and other special audits in the past, we found that the Government did not have in place the appropriate means to account and report on Operation Tempura. This is typical for government initiatives that cross ministerial and department lines. However, I commend officials in the Portfolio of the Civil Service and Portfolio of Internal and External Affairs who made an effort to assemble what they believed to be the costs as a starting point for our review. As well, I appreciated the assistance of the Senior Investigating Officer and other members of the London Metropolitan Police in assembling the information necessary to produce this report.

I have had to estimate the total costs because information is not available

4.04 Assembling the costs associated with Operation Tempura was complicated by the fact the project did not have a "home" in the Government. The administrative support for the Investigation initially started with the Royal Cayman Islands Police Service, moved to the Governor's Office when Mr. Kernohan and Mr. Jones were being investigated, then to the Portfolio of the Civil Service which in turn handed it off to the Portfolio of Internal and External Affairs and then, recently it has been returned to the Royal Cayman Islands Police Service.

4.05 We have determined that the total cost of the investigation from the time it started in September 2007 to the end of January 2009 was \$5.7 million and that the total forecast costs of the investigation, including Operation Cealt is \$6.8 million. (See Exhibit 2 below)

Some expenditure information has not been provided to me

4.06 While the Government has broken down the costs for funding purposes into two investigations, we have determined that there was no reasonable way to separate the costs incurred to January 2009. For example, many of the same individuals are involved in the two operations and there is no accurate way to keep track of their time. That applies to other costs as well, including travel and accommodation.



4.07 We did not receive any information from Government officials or by way of direct request to the Metropolitan Police Force (MPS) relating to their costs for the period October 2008 to January 2009. The arrangement to acquire the services of the Metropolitan Police Force was made by the Governor's Office in September 2007 and was arranged through the British Foreign and Commonwealth Office (FCO). The services were acquired without any competitive process which would require consideration of different options. We were informed that "the MPS is the first point of call by the FCO since they have a unique international policing role in many areas and therefore have the most expertise". There is no formal agreement or contract regarding the deployment of the MPS resources and, through an e-mail arrangement with John Yates, Assistant Commissioner, the services were acquired on a full cost recovery basis. We were informed by Mr. Yates this is "normal procedure" for these kinds of situations. This means that the Cayman Islands Government reimburses the MPS a set daily rate for an individual based on rank, plus a daily allowance of C\$100, accommodation and travel costs for periodic visits to and from Great Britain when the individual encounters lengthy stays.

4.08 We also requested, but did not receive, information from Computer Services regarding their costs to support the project. This organization should have been able to provide me with this information from their billing system. Their inability to provide me with this information concerns me and should concern the reader of this report. I will be investigating this matter in future audits.

4.09 In order to provide the Legislative Assembly with more accurate information regarding the true costs of Operation Tempura, we have estimated the costs based on our discussions with Government officials. Again, this information should be collected and included by the Government in reporting on the costs of Operation Tempura.

4.10 In addition, we have been provided information that estimates the cost of investigations through to June 2009. These costs were reviewed for reasonableness only. However, in providing those estimates to the Cabinet in March 2009, there were no amounts included for such expenditures as legal expenses, vehicle costs or personnel costs incurred by officials within the government supporting the project.

4.11 Finally there is the likelihood that there will be additional legal challenges in late 2009 into 2010 relating to the actions of the investigation team. Two more law suits have already been filed at the time of writing this report. Like the civil matter brought by Judge Henderson, some of these future legal challenges will review the conduct of the investigation team and whether its activities were appropriate. The total costs associated with the initial decision by the Governor's Office to proceed with an investigation in September 2007 will not be known for possibly another year or more.

The Legislative Assembly has not approved all the funding necessary to complete the investigation

4.12 To date, the Cayman Islands Legislative Assembly has approved funding for Operations Tempura and Cealt in the amount of \$6,088,355 or approximately \$800,000 less than we estimate the Government will have spent as of June 30, 2009. The main reason for the difference in amounts is expenditures by the government in areas other than those controlled by the Portfolio of Internal and External Affairs and that have not been specifically identified with this investigation. A good example is internal legal expenses.

4.13 To the best of our ability, using the information provided and explanations from officials in the various departments involved, we were able to break down the costs of Operations Tempura and Cealt as outlined in Exhibit 2:

Exhibit 2: Costs of Operations Tempura and Cealt

	Sept 07 to Jan 09	Estimated to June 09	Total
Investigation Team			
- Policing contracts	\$530,572	\$673,000	\$2,528,061
- Met Police	722,609		
- BGP	541,619		
- Other contract personnel	60,261		
Labour costs within CIG	142,000	50,000	192,000
Travel	780,957	145,000	925,957
Housing and accommodation for investigation team	443,235	130,000	573,235
Vehicle costs	109,247	25,000	134,247
Office accommodation	197,320	48,000	245,320
Legal expenses	928,673	40,000	968,673
Henderson settlement	1,275,000	N/A	1,275,000
Total	\$5,731,493	\$1,111,000	\$6,842,493



Observations

Lack of project oversight and cost management

5.01 As part of the audit, we reviewed how the Government managed the costs associated with Operation Tempura. We expected to find that the Government had set up reasonable project management processes and oversight to ensure that ongoing information was provided so that the Government could determine whether costs were being managed with due regard for economy.

5.02 As noted earlier in this report, the responsibility for the day to day administration of the project for such matters as contracting, payment of invoices and accounting for expenditures moved from the Governor's Office, then to the Portfolio of the Civil Service, to the Portfolio of Internal and External Affairs and, more recently, to the Police. I believe that the lack of a "home" for the project management contributed to many of the observations I discuss later in this report.

5.03 When the project first started as a covert operation, the project was run from the Governor's Office with Police Commissioner Kernohan in charge of the investigation. In November 2007, a "Strategic Oversight Group" was created..

5.04 We expected to find clearly defined and approved terms of reference for the Strategic Oversight Group that included reference for oversight of the investigation's financial management and ensuring value-for-money. We were provided with a one page document that purported to be terms of reference for the Strategic Oversight Group and minutes of a meeting in November 2007 that indicate the terms of reference were "circulated and agreed". However, our audit determined that two of the six attendees at the meeting disputed that the Committee had discussed or adopted terms of reference. Our audit also indicated that the other four members recall having seen the terms of reference and that they were approved at the noted meeting.

5.05 We understand this confusion may have resulted from the fact that participants were not allowed to keep a copy of the terms of reference document due to the operational security of the investigation. While we appreciate the need for security for the operational components of the investigation, the terms of reference for the Strategic Oversight Group could have been framed in such a manner that no operational details were revealed.

5.06 Because of the confusion about the lack of formal terms of reference, we were unable to determine with absolute certainty what the responsibilities of the Strategic Oversight Group were. We were informed, however, that the committee never intended to include oversight of financial management and ensuring value-for-money as areas of its responsibility. While we could not determine with certainty the responsibilities of the Strategic Oversight Group, at the same time, we could not find any other organization or committee in the government that was responsible for oversight of financial management and ensuring value-for-money for these investigations. As a result, we conclude that



there was no clear oversight of financial management and ensuring value-for-money for the two investigations.

5.07 At the outset, this committee was chaired by the Chief Secretary, and was attended by various individuals, including H.E. The Governor on occasion, Special Legal Counsel (appointed by H.E.), and the Senior Investigating Officer. As of December 2008, the RCIPS Acting Commissioner of Police has taken over as chairperson of what is now called the Special Investigation Advisory Committee and, for the first time, the Attorney General's Chambers is represented.

5.08 As an oversight group, we expected to find regular reporting of costs and discussion around financial management of the project. The topic of financial management and ensuring value-for-money was effectively absent from the proceedings we reviewed and only arose on rare occasions. In addition, from our review of the minutes, we found that the Strategic Oversight Group provided only general direction without any structured way to follow-up on the administrative actions it recommended.

5.09 We expected to find clearly defined contracting and payment authorities for the project. While we found the cheques signed to be properly "approved" by the various departments involved, the approvals were based on recommendations for payment to be made from the Senior Investigating Officer, a non-Cayman Islands Government employee. First hand understanding of the expenditures and authorization for payment should have been carried out by a Cayman Islands Government official. This is normally done by assigning someone as a project manager. Therefore, we found the practices followed by the Government to be lacking the necessary controls expected for this type of project.

5.10 As noted in my summary of the costs associated with Operation Tempura, there were no financial reports prepared on a regular basis to monitor the costs. We expected that there would be regularized reporting of costs against the approved spending for the investigation and against more detailed operating budgets. These did not exist.

5.11 In addition, as already made public by the Government, we found that expenditures were incurred before appropriate legislative authority was in place. There are, however, provisions in the Public Finance Management Law permitting this to occur.

5.12 In my opinion, the investigation lacked the necessary administrative oversight, including the financial management controls and procedures normally expected for a project of this type. I believe that proper administrative oversight and cost management would have avoided some of our other observations we found in this report.



5.13 Recommendation: Project oversight committees for projects such as Operation Tempura, should have clear terms of reference related to ensuring proper cost management and due regard for value-for-money.

5.14 Recommendation: The Government should put in place proper project management procedures, controls and responsibilities to ensure proper administrative oversight and cost management of projects like Operation Tempura and Cealt. This would include, for example, proper accounting for the costs incurred and reporting those costs on a regular basis for decision making purposes.



Lack of process in place to ensure due regard for economy

6.01 The investigation required the acquisition of various types of resources, including, for example, properly trained police investigators, office support staff, and accommodation for individuals staying on the island and travel arrangements.

6.02 As one of the objectives of this audit and part of my role as Auditor General, we assessed whether there was due regard for value-for-money when the Government obtained the necessary resources to conduct Operation Tempura.

6.03 We did not make any attempt to determine whether the number, type and mix of police officers, lawyers, and other professional assigned to the team was appropriate. As mentioned earlier, it is not our role to determine whether the investigation was conducted effectively and it would require judgements beyond our capacity to make such an assessment.

6.04 We found several decisions or lack of decisions affected the costs throughout the life of the investigation. As noted above, these decisions were made without the benefit of a formal project management structure. For example, the need to fly police officers in more expensive airline seats and the frequency of their travel were not issues dealt with by any administrative officer in the Government. As well, there was no one making decisions on the type of accommodations for police officers and what constituted best value-for-money for the Cayman Islands Government.

6.05 We found there were several instances where services could have likely been obtained at a lower cost than that obtained by the investigation team. For some of those expenditures, it may be unfair in hindsight to question some of the decisions made due to the uncertainty surrounding the activities of the investigation. However, there were many others that we believe would have been made differently had there been adequate project management, better project costing and proper oversight.



Lack of accounting for the different phases of the investigation

7.01 As described above, the investigation has gone through a number of “phases”. The first phase was a covert operation which lasted from September 2007 to March 2008. The second being overt operations from March 2008 to date. The third phase, now named Operation Cealt is dealing with allegations of wrongdoing not directly linked to the original scope of Operation Tempura. While Operation Cealt was officially announced in March 2009, the work relating to this investigation started in March 2008 after there were allegations of police wrongdoing and later a call for the public to come forward and provide formal statements in this regard.

7.02 We noted that documentation supporting funding requests to the Cabinet also breaks down amounts between the costs of the different phases of the investigation. However, when we looked at the record keeping of the government and payment of expenditures, we found that there was no tracking of the expenditures by phase.

7.03 Recommendation: In order to report accurately back to the Cabinet on the costs of the various phases of the investigation as described in the funding authorities, the Government should review the expenditures and account for how much was spent in each phase.



BGP Training and Consultancy paid \$382,700 more than contract value

8.01 On September 3, 2008, the Cayman Islands Government entered into an agreement with a firm called BGP Training and Consultancy, located in Surrey, England and headed by Mr. Alan Cammidge. Even though the contract was not signed until September, my review indicated that BGP personnel started work in June 2008. The purpose described in the contract was to provide de-brief services, taking the project into another phase of the investigation. A contract with BGP was determined necessary when the investigation team realized it needed expertise and capacity to conduct the briefings of individuals coming forward as a result Operation Tempura entering its second phase, an investigation into other alleged instances of police wrongdoing.

8.02 The contract was obtained without tender. While this is contrary to the Financial Regulations that requires tenders for all contracted services greater than \$50,000, permission to use a single source supplier was granted by the Chairman of the Central Tenders Committee. We were told that the firm and its principals were known to the Senior Investigating Officer and Mr. John Yates, the Assistant Commissioner of the Metropolitan Police, and that they had the necessary skills and expertise to conduct the work. Mr. Yates was an advisor to the Governor who, early in the project, was asked to provide ongoing counsel with respect to the operations of the investigation team. He has continued that role to the time of writing this report.

8.03 It was explained to us by several officials that this firm offers unique services that could not be obtained anywhere else. We ascertained that BGP Training and Consultancy was established in 2007.

8.04 As part of our audit, we reviewed the decision to contract services from BGP Training and Consultancy without tendering or without reviewing other service providers who would have been in a position to conduct the work. We found at least one other company that provides similar services as BGP Training and Consultancy and were made aware that there are other companies who do similar work. However, we did not find any evidence to support the Government's decision to award this contract that would normally be done with a competitive process. The Financial Regulations require that all contracts with a value of \$50,000 or higher be offered for public tender and that all contracts greater than \$250,000 be referred to the Central Tenders Committee to ensure a fully competitive process for the acquisition of services. There is provision, however, for contracts greater than \$250,000 to not be offered for public tender. That requires the Government to document why the services could not be obtained from another vendor and how it is obtaining the services with due regard for value-for-money.

8.05 While we understand the Government's need to keep the details of the contract with BGP secret for operational reasons, we expected that the rules for contracting would be followed. This would have entailed documenting the reasons for signing a contract with BGP and why the investigation team believed the firm had unique expertise and was obtaining the services with due regard for value-for-money. This was not done.



BGP is being paid for services to the Cayman Islands Government with no contract in place

8.06 The total value of the contract for services was not to exceed £140,000 GBP (approximately \$203,000 CI) for the period July to December 2008. In addition to these costs the Cayman Islands Government was required to pay all additional expenses for flights, accommodation, per diem, rental vehicles and provide office premises to conduct the work. Work started in June 2008 according to the billings and the contract was signed on September 2, 2008. The company continued to provide services to the Cayman Islands Government after December 2008 with no contract in place.

8.07 As at January 31, 2009, the total amount paid to BGP Training and Consultancy for consultancy services totalled £443,950 GBP (\$585,700 CI). If just the billings to December 2008 are included, the amount paid was £361,350 GBP (\$524,000 CI). This amounts to payments in excess of the maximum contract value of £303,950 GBP (or approximately \$440,700 CI). We were informed that BGP conducted more work than originally contemplated. However, while the nature of the work was specified, the quantity of work is not specified in the contract. Therefore, we are not in a position to assess whether the Cayman Islands Government received value-for-money relating to this contract.

8.08 We were informed that it was impossible at the outset of the contract for the parties to know with any certainty the amount of work that might be involved when conducting an open-ended investigation such as Operation Cealt. While we understand the situation Government officials were dealing with at the time the contract was signed, we are concerned that the original contract had not been amended once it became apparent that additional services were needed because of the expanding scope of operations. In addition, we are concerned that there has been no contract in place with BGP Training and Consultancy since the end of December 2008.

8.09 Invoices for BGP Training and Consultancy were authorized by the Senior Investigating Officer, a consultant, and approved for payment by Mr. Donovan Ebanks, Chief Officer for the Portfolio of Internal and External Affairs. We understand from our discussions that both these individuals had knowledge that the expenditures were being made in excess of the contracted amount, and later, without a contract in place.

8.10 In our opinion, the lack of proper contract administration for BGP Training and Consultancy precluded the Government from ensuring that resources were obtained with due regard for value-for-money. In addition, we found that Government contracting rules have been effectively disregarded.

8.11 Recommendation: Government officials should amend contracts as soon as it is determined that the terms and conditions of the original contract are no longer valid.

8.12 Recommendation: The Government should follow its own contracting rules for services provided by BGP Training and Consultancy and promptly enter into a contract specifying the value and nature of work to be provided.



Individual contracts did not follow government contracting rules

9.01 In May 2008, the Cayman Islands Government entered into contracts with Mr. Martin Bridger and three other investigators to provide consulting services as Senior Investigating Officer and investigative support for Operation Tempura.

9.02 As with the BGP contract, we found no evidence that these contracts were tendered in accordance with the competitive process required by the Financial Regulations or documentation for why it should be tendered without going to a bidding process. This would have entailed documenting the reasons for signing a contract with the individuals involved and why the investigation team believed the individuals had unique expertise and that the Government was obtaining the services with due regard for value-for-money. As with the BGP contract, this was not done.

9.03 The salient details of the contracts with these individuals are included in Exhibit 3 below:

Exhibit 3: Details of police officer contracts

Contractor	Dates of contract(s)	Per diem	Total fees paid	Total amount paid
			CI\$	CI\$
Senior Investigating Officer	May 2008 to January 2009	£787 GBP (normal working days) £700 GBP (other days worked)	\$247,000	\$428,634 ¹
Investigator 1	June 2008 to January 2009	£447 GBP (normal working days) £360 GBP (other days worked)	82,000	123,000
Investigator 2	June 2008 to January 2009	£407 GBP (normal working days) £320 GBP (other days worked)	75,000	107,000
Investigator 3	June 2008 to September 2008	£447 GBP (normal working days) £360 GBP (other days worked)	44,000	87,000

9.04 These individuals represented a key capacity of the investigation team during the period they were employed. Only the Senior Investigating Officer was previously a participating member of the Metropolitan Police Force and a member of the investigation team prior to their contracts being signed.

¹ Includes amounts paid as a Metropolitan Police officer from September 2007 to May 2008



9.05 Commencing May 22, 2008, and ending November 21, 2008, the Senior Investigating Officer was contracted at a rate of £787 GBP (approximately \$1,141 CI) per day plus expenses for living such as accommodation, cell phone and the use of a vehicle. The contract was renewed in November 2008 and again on March 23, 2009 retroactive to February 1, 2009.

9.06 According to the contract, the Senior Investigating Officer was paid £700 GBP per day for extra days worked beyond a regular 5 work week. The total amount paid for extra days worked was £22,400 (approximately \$27,500 CI).

9.07 The Senior Investigating Officer arrived in Cayman Islands at the beginning of the covert phase of the investigation as a member of the Metropolitan Police Force. He was paid from September 2007 to May 2008 by them and the costs of his salary and benefits billed directly to the Cayman Islands Government. However, during the period September 2007 to May 2008, the Senior Investigating Officer worked extra days for which he was entitled to take time off in lieu. The Cayman Islands Government paid the Senior Investigating Officer an additional \$41,387 CI for these extra days worked as an employee of the Metropolitan Police Force. We were informed that this payment was negotiated with the Senior Investigating Officer and instead of taking the time off in lieu of the extra days worked; the Senior Investigating Officer continued his role as Senior Investigating Officer without a break.

9.08 In total, the Senior Investigating Officer has been paid a total of \$246,753 CI in fees by the Cayman Islands Government as a consultant from May 2008 to the end of January 2009. On average, the Senior Investigating Officer was paid approximately \$27,400 CI per month in professional fees. In addition, the Cayman Islands Government reimbursed the Metropolitan Police Force a total of \$73,242 CI as a Metropolitan Police Officer before becoming a contractor. His total expenses reimbursed (travel, accommodation, vehicle, phone, etc), both as a Metropolitan Police force officer and as a contractor amounted to \$108,639 CI. Adding up all the expenditures relating to the Senior Investigating Officer, the total amount paid from September 2007 to the end of January 2009 was \$428,634 CI.

9.09 While we have not evaluated whether or not value-for-money was obtained by paying the Senior Investigating Officer this amount of fees, we believe it is important information to be made public and for discussion by the Legislative Assembly and the public.



Metropolitan Police not paid

10.01 At the outset of the investigation, the Governor's Office contracted the London Metropolitan Police to conduct the investigative procedures. As noted earlier in this report, there was no contract tendered for this work, however in reviewing the circumstances surrounding this decision, we had no concerns in this regard.

10.02 At the time of conducting our audit, the Metropolitan Police Force had not been paid for their services. They had billed for their services from September 2007 to March 2008 in June 2008. However, subsequently they have been paid.

10.03 According to officials in the Portfolio of Internal and External Affairs, there was insufficient information attached to the billing to determine if the billing was for the appropriate amount.

10.04 The Metropolitan Police have not billed the Cayman Islands Government for the work it has performed for the period April 2008 to January 2009. We requested information independently relating to the billable amount for this period and as of the date of this report, we had only received billing information for the period ending September 2008. This required us to estimate the billable amount for the Metropolitan Police for costing purposes in this report.

10.05 Recommendation: The Government should settle their accounts as promptly as possible and determine the billable amount for the period April 2008 to January 2009 in order to provide accurate costing information to the Legislative Assembly for future funding requests.



Conclusion:

11.01 I concluded that there were significant deficiencies in the administrative management of the police investigation projects Operation Tempura and Operation Cealt and the accounting for their related costs. In my opinion, there were inadequate oversight and project management processes in place to ensure appropriate management of contracts, proper expenditure monitoring, reporting of expenditures to the Cabinet, and providing the means to ensure due regard for value-for-money in the acquisition of resources.

11.02 Our recommendations for management of future investigations of this nature should be implemented immediately.



Management Response:

1. General Comments

The main criticism of the Government in the Auditor General's Report is based on the premise that the investigation into police corruption should have been handled like a normal government project using well defined project management techniques. The Government does not agree that this was a normal project and furthermore it is felt that the use of these techniques would be inappropriate for this type of police corruption investigation.

Projects normally have a beginning, middle and an end, where there is a detailed specification of what is to be achieved with a detailed budget established before the project commences and timely reporting of progress and costs against the project plan and budget.

This investigation was unique to the Cayman Islands and developed in such an unpredictable way that it was not possible to treat it like a normal project.

In the beginning, the Foreign and Commonwealths Police Advisor for the Overseas Territories advised the Governor to engage the Metropolitan Police to carry out a specific investigation which was limited in scope and duration. However, other information was uncovered that resulted in the Governor, Police Advisor and the Commissioner of Police, Head of Governors Office recusing them selves from the oversight of this investigation and the top management of the RCIPS were totally depleted by being placed on required leave and sick leave. So in a short space of time, personnel involved in the oversight and management of the investigation were excluded. In project terms this is equivalent to the project sponsor, the project management team and the project manager leaving the project. Nevertheless, as evidence throughout this management response, fiscal oversight was maintained

The report does not provide the reader with this type of background or context, what started out as a small well defined investigation developed into a full blown covert police corruption enquiry the like of which has never been seen in the Cayman Islands.

In covert operations normal rules of open tendering, competitive bids and seeking best value are difficult to follow. In some cases following the rules may endanger the lives of undercover officers, informants or the public at large, in addition the whole investigation could have been compromised. It is naïve to expect normal business processes to be followed to the letter in this type of corruption investigation.



2. Costs and Reporting

The report deals with costs in a way that could mislead the public and do not take into account normal government reporting practices. The Cayman Islands Government, as part of their financial management system, do not provide costs of police investigations to the public as a general rule, as many agencies may be involved and their costs are contained within separate budgets. For example an investigation that involves the Customs Department, Police and the Legal Department the costs are covered from three different Portfolio/Ministry budgets. In this particular operation the costs are spread across the Portfolio of Legal Affairs, Cabinet Office and the Portfolio of Internal and External Affairs, the majority of the expenditure falls under the latter. However other amounts for computer services, legal advice and prosecutorial service falls under the budgets of other agencies and are separately accounted for.

With regard to the Portfolio of Internal and External Affairs, Cabinet approved a budget of **\$6.14 million** for the 2007/8 and 2008/9, under the “exceptional circumstances” clause of the Public Finance and Management Law and these funds were subsequently approved by the Legislative Assembly as a supplementary appropriation. During this process Finance Committee openly discussed the financial details of the investigation. The Government does not accept the conclusion in the report that it did not report in the appropriate manner.

The Audit Report provides estimates of the expenditure, as time has elapsed in the production of this report, actual expenditures are now available The Portfolio of Internal and External Affairs have actually spent **\$5.84 million**, which is **\$300,000** less that the budget appropriation.

The statement in the report that the *“Legislative Assembly has not approved all the funding necessary to complete the investigation”* is true however, this is not because the Government has not sought approval but because of timing of the financial year, the project will continue into the new 2009/10 financial year.

3. Value for Money

The report was slated to focus on “value for money”, however the report only focuses on costs not value. No comparisons have been made with other police corruption investigations. If this had been done it would have shown that these types of police corruption investigations are expensive and even more so when you have to fly in expert resources from the United Kingdom.

There is an assumption in the report that because a project management approach was not adopted then “value for money” was compromised or not achieved; there is very little evidence in the report to substantiate this claim.



4. Cost Mitigation

The Government was concerned with the rising cost of transportation and took the decision to replace all rental cars with unmarked police vehicles, when the operation became overt and police vehicles were available.

The report highlights the fact that Metropolitan Police Officers were flown back to the United Kingdom at premium economy and at regular intervals. These conditions of engagement are standard for the Metropolitan Police. However, as the investigation progressed contractors replaced the Met Officers at much lower daily rates, and the travel allowance was discontinued and other allowances reduced. This indicates that the Government was concerned with value for money.

The Government does not accept the criticism that they were not concerned about the costs of this investigation or value for money, as the examples above show they were. However it has to be accepted that running a covert operation using an outside agency, namely the Metropolitan Police, will cost more than a normal policing operation.

5. BGP

The report does not provide sufficient background or provide the context for the hiring of these contractors. After the senior police command was removed a number of people came forward making unsubstantiated allegations against police officers. To record these allegations in a secure and covert way the Government was advised by the Metropolitan Police to engage BGP who had the necessary expertise and independence to carry out this sensitive work, we were satisfied, from the advice received that they were the only accredited company in the United Kingdom to carry out this type of work. Approval was gained from the Central Tenders Committee for this company to be engaged without going through the normal government tendering process. If, as the report suggested that an open tendering process should have been undertaken, it could have undermined the entire operation.

The original contract for this company was to act as debriefers for the persons coming forward, the amount of work involved was estimated at 40 such sessions the actual work was triple of what had been estimated, although the contract was not amended to reflect the additional workload, the same terms and conditions were applied. Because of the covert nature of the operation, BGP charged other costs on a “cost recovery basis” Monthly reports and invoices were authorized by the operational management of Tempura and then scrutinised and paid by the Portfolio of Internal and External Affairs.

To reduce costs, BGP employees replaced returning Metropolitan Police Officers and at a substantially lower daily rate, in addition the Daily Allowance was reduced from \$100 to \$20.



The Government does not accept that normal contracting rules should apply in this case as this could have jeopardized the investigation. The Government does accept that an amended contract should have been entered into; however there was a strict authorization procedure in place for all invoices that were paid for the extra work.

The Government does not accept that the BGP contract did not represent value for money.

6. Strategic Oversight Group

This group was established by the Governor to assist in the general oversight of the investigation. They were not set up to manage or direct the investigation from an operational or financial perspective. It was set up as an advisory body to the investigatory team that was strategic in nature and focused on advice on political, constitutional and community issues. It also provided a forum where risks, media, resourcing and legal issues could be discussed.

The new group that has been established to oversee the ongoing investigation is chaired by the Commissioner of Police and does have financial oversight as part of its Terms of Reference.

7. Metropolitan Police not paid.

The Metropolitan Police were slow in sending regular bills; in addition the Portfolio of Internal and External Affairs were not satisfied that the billing was accurate, because the amount of information provided was not adequate. It is accepted that Government should settle their accounts promptly but only after they are satisfied that they are accurate. The delay in payment did result in substantial savings for the Government due to the change in the exchange rate.

8. Lack of accounting for the different phases of the investigation

At the outset of this investigation there were no distinct phases, as Operation Tempura progressed and people came forward this then turned into Operation Cealt, some of the same people worked on both operations and did not keep separate records of their time. As a more distinct phase emerged, records were kept and budgets were prepared for each operation. The funding for both operations were brought together for legislative approval, but were kept separate from the normal police operations. The Government does not view the non separation of budgets as improper or compromises normal reporting procedures or in any way undermines value for money.

