



Cook Islands Audit Office

Special Review Reports:

- 1. Special Review into Payments made from the Ministry of Cultural Development to the former Head of Ministry, Sonny Williams.**
- 2. Audit review into the tender for the purchase and removal of the Ministry of Education (MOE) Building in Nikao.**



PARLIAMENT OF THE COOK ISLANDS

PARLIAMENT PAPER NO.116

Hon. Mapu Taia O.B.E
Speaker of Parliament
Parliament of the Cook Islands
Nikao, Rarotonga
Cook Islands

Sir,

I have the honour to present the following Special Review Reports:

1. Special Review into Payments made from the Ministry of Cultural Development to the former Head of Ministry, Sonny Williams.
2. Audit review into the tender for the purchase and removal of the Ministry of Education (MOE) Building in Nikao.

Hon. Sir Dr Terepai Maoate, KBE
Deputy Prime Minister
Minister Responsible for the
Office of Public Expenditure Review Committee and Audit.



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13 September 2008

Hon. Sir Dr Terepai Maoate, KBE
Deputy Prime Minister
Minister Responsible for the
Office of Public Expenditure Review Committee and Audit

Honourable Deputy Prime Minister,

Pursuant to Section 33 of the Public Expenditure Review Committee and Audit Act 1995-96, I have the honour to present the following Special Review Reports:

1. Special Review into Payments made from the Ministry of Cultural Development to the former Head of Ministry, Sonny Williams.
2. Audit review into the tender for the purchase and removal of the Ministry of Education (MOE) Building in Nikao.

Following its delivery and presentation to Parliament, the report will be placed on the Cook Islands Audit Office's website (<http://www.auditoffice.gov.ck/>).

Paul R.S. Allsworth
Director of Audit

OFFICE OF PUBLIC EXPENDITURE REVIEW COMMITTEE AND AUDIT

SPECIAL REVIEW INTO PAYMENTS MADE FROM THE MINISTRY OF CULTURAL DEVELOPMENT TO THE FORMER HEAD OF MINISTRY, SONNY WILLIAMS.

AUDIT SUMMARY

Please find attached the report on the review into payments made from the Ministry of Cultural Development to the former Head of Ministry, Mr. Sonny Williams personal credit card account.

During the financial audits for the Ministry of Cultural Development for the years ended 30 June 2005 and 30 June 2006, the Audit Office identified four payments totalling \$35,000.00 which had been deposited into the personal credit card of the former Head of Ministry, Mr. Sonny Williams. These payments were to assist in the Pacific Arts Festival in Palau (2004) and a UNESCO meeting in Paris (2005). Audit found that there was no supporting documentation attached to verify whether the funds had been used for bona fide Ministry of Cultural Development travel expenses.

The Audit Office has a responsibility under Section 27(c) of the Public Expenditure Review Committee and Audit (PERCA) Act 1995-1996 to “*review and confirm the discharge of financial management obligations including maintenance of accounting records to ensure that heads of departments have complied with their financial obligations.*”

Accordingly, the Director of Audit approved that a Special Review be undertaken to consider the accountability and reporting of the four payments referred to.

AUDIT FINDINGS

- Determine whether the four payments advanced and made to Sonny Williams that were deposited into his personal credit card were for bona fide expenses of the Ministry of Cultural Development;**

Audits review identified four payments made from the Ministry of Cultural Development to the former Head of Ministry, Mr. Sonny Williams personal credit card during the 1 July 2004 to 30 June 2006 financial period as shown below:

Date	Cheque	Amount	Description
8 July 2004	1513	\$10,000.00	Pacific Arts Festival, Palau
19 July 2004	1605	\$15,005.00	Pacific Arts Festival, Palau
6 October 2005	2573	\$5,005.00	UNESCO meeting in Paris
7 October 2005	2594	\$5,035.00	UNESCO meeting in Paris
TOTAL		<u>\$35,045.00</u>	

Audit confirmed from discussions with Mr. Williams and other former staff members of MOCD that;

- Cheques #1513 and #1605 totalling \$25,005.00 were to assist with costs associated with the Cook Islands delegation to the Pacific Festival of Arts in Palau which was led by Mr. Williams himself.

2. Cheques #2573 and #2594 totalling \$10,040.00 were for accommodation, food and other incidentals during Mr. Williams trip to Paris for the UNESCO General Conference.

Audit notes that although the reasons for the four payments deposited into Mr. Williams personal credit card were found to be for legitimate MOCD purposes, however, due to the lack of sufficient supporting documentation available from the Ministry of Cultural Development files for the financial years ended 30 June 2005 and 30 June 2006, we were unable to confirm whether or not the funds were in fact used for the purposes they were intended for.

2. **Ascertain whether the \$35,045.00 lodged to Sonny Williams personal credit card during the two year period from 1 July 2004 to 30 June 2006 can be fully accounted for as bona fide and legitimate expenditure.**

As part of our review Audit requested Mr. Williams provide copies of his personal credit card statements for the periods 16 June 2004 to 15 July 2004 and 16 April 2005 to 15 November 2005. Although no original invoices/receipts were provided, Audit gave Mr. Williams the benefit of the doubt when determining if payments made on behalf of MOCD from the credit card statements provided were bona fide expenditure.

From the credit card statements provided by Mr. Williams Audit was able to confirm payments/withdrawals of \$21,483.48 associated with the Palau trip and credit card payments/withdrawals totalling \$3,882.76 during the trip to Paris.

Total amount unaccounted for from the Palau trip was **\$3,316.52** and a balance of **\$6,107.24** remained unaccounted for with regards to the trip to Paris.

3. **Ascertain whether any ‘under-spending’ on the respective ‘travel advances’ was returned, and deposited into the Ministry’s bank account.**

Audit reviewed the Ministry of Cultural Developments general ledger and bank statements for the financial years ended 30 June 2005, 30 June 2006 and 30 June 2007 and was unable to identify any returned or lodged under-spending from the above four payments made to Mr. Williams personal credit card account during that period.

Mr. Williams himself confirmed to Audit that no funds had been returned to the Ministry of Cultural Development by him in regards to the two trips to Palau and Paris as mentioned above.

4. **Consider whether the Cook Islands Government Financial Policies and Procedures are being adhered to by the Ministry of Cultural Development;**

Audit found that during the period 1 July 2004 to 30 June 2006 the Cook Island Government Financial Policies and Procedures Manual did not cover the use of official government credit cards or for that matter the practise of transferring funds into staff’s personal credit cards so that they can incur expenditure on behalf of that Ministry.

5. Determine whether any further payments of this nature, aside from the above four identified, were made to Sonny Williams during his term as HOM of the Ministry of Cultural Development.

A review of the Ministry of Cultural Developments general ledger and bank statements for the period 1 July 2004 to 31 January 2006 confirmed that there were no other payments made from MOCD to Mr. Williams personal credit card account. Audit notes that Mr. Williams resigned as Head of the Ministry of Cultural Development in January 2006.

6. Attend to any other related matters of significance as may be identified during the review.

Purchase of DVDs and camera by Mr. Williams

In an interview with Audit on the 12 December 2007, Mr. Williams advised Audit that he had returned from the Pacific Arts Festival in Palau in 2004 with about \$10,000.00 left from the \$25,000.00 which had been deposited into his personal credit card account. He however noted that this was “offset” by the fact that he had purchased \$10,000.00 worth of DVDs while in the United States that year using his own credit card to pay for it.

He also advised Audit that whilst in Auckland during the trip to Palau he had purchased a video camera and still camera with all the accessories in duty free for about \$5,000.00 so that he could record the entire Pacific Arts Festival. According to Mr. Williams he later gifted the camera set to the Aitutaki Television, another Crown entity.

Audit notes that when asked, Mr. Williams was unable to provide copies of either the invoice or receipts to support either purchases mentioned above, however Audit found by reviewing the credit card statements provided to us two payments totalling \$2,396.50 made on the 19 July 2004 in the Auckland Airport duty free shop as well as a payment of \$7,000.00 on the 1 October 2004 to Stebbing Recordings Ltd for the purchase of VHS tapes.

Following further review by Audit into the matter as well as discussions with Mr. Williams and staff at MOCD, Mr. Williams was given the benefit of the doubt and both payments were accepted by Audit as being made on behalf on MOCD and are therefore legitimate in nature.

VAT claimed on \$35,045.00

Audits review of the Ministry of Cultural Developments voucher for the four payments deposited into Mr. Williams personal credit card account found that MOCD had claimed Value Added Tax totalling \$3,893.88 on all four payments made.

Audit notes that as the funds were intended for use outside of the Cook Islands therefore V at had been incorrectly claimed in respect to these payments. The net effect of this error was an understatement on VAT payable to Revenue Management of \$3,893.88.

CONCLUSION

Audit therefore concludes that based on all supporting documentations made available to us for the purpose of this review a total of **\$9,423.76** of the \$35,045.00 paid to Mr. Sonny Williams personal credit card account by the Ministry of Cultural Development during the period 1 July 2004 to 30 June 2006 **remains unaccounted for** and needs to be paid and reimbursed.

It is recommended that unless Mr. Williams is able to provide further evidence to support the legitimacy or validity of the remaining \$9,423.76 outstanding, the amount should be paid back to the Ministry of Culture by Mr. Williams as soon as possible.

Audit notes that this may require the current Ministry of Culture management meet with Mr. Williams to discuss and agree on a suitable method of payment that is satisfactory to both parties.

Given the level of unaccounted public funds advanced to Mr. Williams, the Audit Office has sought legal advice from Crown Law on this matter.

MAIN REPORT

BACKGROUND

During the financial audit for the Ministry of Cultural Development for the year ended 30 June 2006, the Audit Office identified two payments of \$5,000.00 each lodged to the former Head of Ministry, Mr. Sonny Williams's personal credit card account.

Evidence was collated, and the general ledger confirmed both of these payments were coded to 'travel' (MYOB Account 6-2024). The respective payment vouchers stated:

*"Funds to be deposited into Sonny's credit card a/c." and
"Deposit of funds to cover expenses during travel to Paris for a UNESCO meeting."*

The Audit Office found that there was no supporting documentation attached to the vouchers to confirm the funds had been used, as stated, for the purpose of business related travel. That is, \$10,000 had been lodged to the personal credit card of Sonny Williams with no supporting documentation attached to verify whether the funds had been used for bona fide Ministry of Cultural Development travel expenses.

Audit further observed that the prior periods financial audit had also identified two payments related to travel (Palau), in that instance totalling \$25,000.00 that had been paid directly to the former Head of Ministry's credit card account, again with insufficient supporting documentation.

The Audit Office has a responsibility under Section 27(c) of the Public Expenditure Review Committee and Audit (PERCA) Act 1995-1996 to "*review and confirm the discharge of financial management obligations including maintenance of accounting records to ensure that heads of departments have complied with their financial obligations.*"

Accordingly, the Director of Audit requested that a Special Review be undertaken to consider the four payments referred to, namely:

Date	Cheque	Amount	Description
8 July 2004	1513	\$10,000.00	Pacific Arts Festival, Palau
19 July 2004	1605	\$15,005.00	Pacific Arts Festival, Palau
6 October 2005	2573	\$5,005.00	UNESCO meeting in Paris
7 October 2005	2594	\$5,035.00	UNESCO meeting in Paris
Total		\$35,045.00	

SPECIAL REVIEW OBJECTIVES

The objectives of this Special Review were to:

1. Determine whether the four payments made to Sonny Williams personal credit card were for bona fide expenses of the Ministry of Cultural Development;
2. Ascertain whether the \$35,045.00 deposited into Sonny Williams personal credit card during the two year period from 1 July 2004 to 30 June 2006 can be fully accounted for as bona fide Ministry expenditure;

3. Ascertain whether any ‘under-spending’ on the respective ‘travel advances’ was returned, and lodged, to the Ministry’s bank account;
4. Consider whether the Cook Islands Government Financial Policies and Procedures are being adhered to by the Ministry of Cultural Development;
5. Determine whether any further payments of this nature, aside from the above four identified, were made to Sonny Williams during his term as HOM of the Ministry of Cultural Development; and
6. Attend to any other related matters of significance as may be identified during the review.

SPECIAL REVIEW SCOPE

The scope of this review covered the financial periods for the years ended 30 June 2005 and 30 June 2006.

Preliminary testing focused on the four payments identified above, of which two occurred in July 2004 and two occurred in October 2005.

SPECIAL REVIEW APPROACH

The following steps formed part of this special review:

- a. Obtained the four original source documents, ie. payment vouchers and attachments to confirm that the payments were unsubstantiated;
- b. Performed a review of the General Ledger (1-1100 Cheque Account) to determine whether any further payments of this nature had been made to Sonny Williams during the two year period to 30 June 2006;
- c. Requested copies of key documents from Westpac Banking Corporation including the actual cheques issued by MOCD, overseas transfer instructions authorised by MOCD, credit card deposit vouchers lodged by MOCD, etc.
- d. Ensured all payments were fully traced to original bank (Ministry of Cultural Development) and credit card (Sonny Williams) statements;
- e. Requested copies of any reports, feedback, etc completed by Mr. Williams upon return from the ‘said travel’ being Palau (July 2004) and Paris (October 2005) from the former HOM, Minister of MOCD and PSC.
- f. Contacted key third parties to try and ascertain what the actual costs for the Palau and Paris trips (if any) were to the Ministry.
- g. Reviewed Sonny Williams personnel file retained with PSC to establish whether any provision for travel costs/expenditure was specified and to review any reports filed;
- h. Met with the former Finance Manager and Finance Officer of the Ministry and obtained as much information as possible in respect to why these payments were certified and actioned;

- i. Met with Sonny Williams to confirm our findings and request any further information he may hold personally.
- j. Documented findings obtained from consideration and analysis of the information gained by completing the above review steps; and
- k. Formulated recommendations to assist the Crown in addressing any unfavourable matters identified as part of this Special Review.

SPECIAL REVIEW FINDINGS

Review findings, analysis and subsequent recommendations follow in order of the individual objectives identified earlier in this report.

1. Determine whether the above four payments made to Sonny Williams personal credit card were for bona fide expenses of the Ministry of Cultural Development;

\$25,005.00 paid in July 2004 for travel to Palau

- 1.1. In July 2004 the Cook Islands Government sent a delegation to represent the country at the Pacific Arts Festival held in Palau. The team, led by the former Secretary for the Ministry of Cultural Development was mostly made up of dancers from the Aitutaki dance team which had won the 2003 Maeva Nui Celebrations.
- 1.2. The Ministry of Cultural Development had been approved \$180,000.00 in their 30 June 2005 financial year end budget to fund the above trip. Audits review of the Ministry of Cultural Developments general ledger for the financial year ended 30 June 2005 confirmed that on the 2 July 2004, \$126,014.00 (cheque #1500) was paid to Island Hopper travels to cover the cost of airfares for the Cook Islands delegation to the Pacific Arts Festival in Palau that year.
- 1.3. During the financial audit of the Ministry of Cultural Development for the year ended 30 June 2005, Audit identified two payments totalling \$25,005.00 made to the personal credit card account of the former Head of Ministry, Mr. Sonny Williams. The payments were as follows;

	Date	Cheque	Amount	Description
1)	8 July 2004	1513	\$10,000.00	Pacific Arts Festival
2)	19 July 2004	1605	\$15,005.00	Pacific Arts Festival
	Total		<u>\$25,005.00</u>	
- 1.4. In a letter to the editor for the Cook Islands News printed on the 19 February 2008, Mr. Williams noted that the \$25,000.00 advance to his personal credit card account was to allow him to *“take care of the team, meet necessary purchases for the festival and also address any emergencies during the trip.”*
- 1.5. During an interview with the former Finance Manager for MOCD, Marianna Bryson, Audit was told that the reason two separate payments were made to Mr. Williams personal credit card account instead of one totalling \$25,000.00 was due to the fact that they had originally thought

\$10,000.00 would be sufficient. However this was not the case and so Mr. Williams had requested the extra \$15,000.00 due to unforeseen emergencies experienced during the trip.

\$10,000.00 paid in October 2005 for travel to Paris

- 1.6. During the financial audit for the Ministry of Cultural Development for the year ended 30 June 2006, the Audit Office identified two payments of \$5,000.00 each lodged to the former Head of Ministry, Mr. Sonny William's personal credit card account as follows;

	Date	Cheque	Amount	Description
1)	6 October 2005	2573	\$5,005.00	UNESCO meeting in Paris
2)	7 October 2005	2594	\$5,035.00	UNESCO meeting in Paris
	Total		<hr/> \$10,040.00	

- 1.7. When asked about the above two payments Mr. Williams noted that they were to assist with covering cost associated with the 2005 UNESCO General Conference which he attended in October 2005 on behalf of the National Commission for UNESCO.
- 1.8. In an email from Tapaeru Herrman of the Ministry of Foreign Affairs, Audit was informed that UNESCO had provided funding to cover an economy class return airfare to and from Paris for Mr. Williams to attend the conference but that it was Government's responsibility to cover Mr. Williams accommodation and incidentals.
- 1.9. When asked why two separate cheques of \$5,000.00 were lodged to Mr. Williams personal credit card instead of one payment of \$10,000.00, the former finance officer for MOCD, Pehau Browne, advised Audit that on 6 October 2005 a cash advance of \$5,000.00 (cheque# 2573) had originally been paid into Mr. Williams credit card account for his trip to Paris.
- 1.10. However on the 7 October 2005 Mr. Williams had called up the MOCD office from New Zealand and informed them that the amount had not yet been deposited into his credit card account and he was therefore unable to use his credit card. As a result a further \$5,000.00 (cheque# 2594) was telegraphically transferred to Mr. Williams credit card account.
- 1.11. Therefore a single payment of \$5,000.00 was only ever intended for this trip; however, an additional amount was transferred by MOCD as it appeared the first payment had not been received in time prior to travel. Audit confirmed that both amounts of \$5,000.00, a total of \$10,000.00, had been deposited into Mr. Williams personal credit card account in October 2005. Audit notes that no funds were ever repaid for the double payment of \$5,000.00 received by the former HOM, let alone the accountability of the initial \$5,000.00 for accommodation and incidentals.

2. Ascertain whether the \$35,045.00 deposited into Sonny Williams personal credit card during the two year period from 1 July 2004 to 30 June 2006 can be fully accounted for as ministry expenditure.

- 2.1 By reviewing copies of the actual cheques, overseas transfer instructions, credit card deposit vouchers and bank statements provided by Westpac Bank and MOCD, Audit was able to trace all four payments from the Ministry of Cultural Developments operational bank account to Mr. Sonny Williams personal credit card account.
- 2.2 However, due to the lack of sufficient supporting documentation attached to the four payments vouchers provided by MOCD we were unable to confirm whether or not the four payments totalling \$35,000.00 lodged to Mr. William's personal credit card account were in fact used for the purpose they were intended for.

Missing Supporting Documentation

- 2.3 When queried about the whereabouts of these supporting documentation Mr. Williams advised Audit that all his personal supporting documents (receipts, etc) and credit card statements were left in the Secretary's personal files at the Ministry when he had resigned.
- 2.4 Efforts by Audit and the current Finance and Administration staff of MOCD to locate these files were unsuccessful.
- 2.5 Audit notes its concern that these supporting documentations were not attached with the payments vouchers as was the case with the \$200.00 cash withdrawal identified below (paragraphs 5.2.8, 5.2.9) when Mr. Williams had returned from both trips.
- 2.6 Although Audit acknowledges that Mr. Williams had every right to keep a separate file for all his personal credit card payments we note that because the documents in question (invoices, receipts, etc) were in regards to payments made on behalf of MOCD, they should have been attached to the appropriate MOCD payment voucher and filed with all other MOCD payments.

Request for Personal Credit Card Statements from S. Williams

- 2.7 In a fax dated 10 December 2007, Audit requested from Mr. Williams *any supporting documentation* he had in respect to the above four payments. Of particular interest to us was:
1. Personal credit card statements confirming disbursements of the \$35,000.00 for MOCD expenditure, and;
 2. Original invoices/receipts to support payments made on behalf of MOCD.
- 2.8 On 4 March 2008, Mr. Williams provided Audit by way of email, copies of his personal credit card statements for the following period:
- 16 June 2004 to 15 July 2004 and;
 - 16 April 2005 to 15 November 2005
- 2.9 Although no original invoices/receipts were provided, Audit gave Mr. Williams the benefit of the doubt when determining if payments made on behalf of MOCD per the credit card statements were bona fide expenditure.

2.10 That is all expenditure recorded on the credit card statement whilst abroad was accepted by Audit as legitimate MOCD expenses.

\$25,000.00 paid in July 2004 for travel to Palau

2.11 Audit found that the initial credit card statements provided by Mr. Williams with regards to the two payments totalling \$25,005.00 for the Pacific Arts Festival in Palau was incomplete as we were only able to confirm the deposit of cheque #1513 of \$10,000.00 on the 12 July 2004 and one cash withdrawal of \$200.00 on the 14 July 2004 made in Rarotonga prior to the groups departure.

2.12 Audit observed that all supporting documentations for the \$200.00 cash withdrawal were attached to the payment voucher for the cheque #1513 of \$10,000.00. Audit is therefore at odds to explain why Mr. Williams put so much effort into making sure that all receipts and invoices for the above \$200.00 cash withdrawal were properly filed and yet nothing was done to ensure that upon returning from Palau, all supporting documents to substantiate payments made from the \$25,005.00 lodged to his credit card were filed with the appropriate payment vouchers and therefore made available for Audit purposes.

2.13 Because of the incompleteness of the credit card statements provided at Audits original request, on the 5 March 2008 Audit sent an email to Mr. Williams requesting copies of his personal credit card statements for the period 16 July 2004 to the 15 October 2004.

2.14 During a meeting with Mr. Williams on the 23 June 2008 Audit was informed that he had not yet received the requested credit card statements from Westpac New Zealand. Following the meeting Audit sent a letter requesting copies of the credit card statements to Westpac New Zealand. Copies of Mr. Williams credit card statements for the period 16 July 2004 to the 15 October 2004 were received by Audit on the 28 July 2008.

2.15 Audits review of the received statements confirmed the deposit of cheque#1605 of \$15,005.00 (\$5 credit card fee) on the 21 July 2004. Audit also noted withdrawals totalling \$21,483.48 made during the period 17 July 2004 to the 17 October of which Mr. Williams was given the benefit of the doubt and the payments were accepted by Audit as being bona fide expenditure incurred on behalf of MOCD.

2.16 Audit was therefore **unable to account for \$3,316.52** lodged to Mr. Williams personal credit card account for the Pacific Arts Festival in Palau as shown below;

Payments lodged to S Williams credit card	25,005.00
less: Credit Card Bank Deposit Fee	5.00
Withdrawals confirmed by Audit	200.00
Withdrawals per credit card statements	21,483.48
Total unaccounted for	<u><u>\$3,316.52</u></u>

\$10,000.00 paid in October 2005 for travel to Paris

- 2.17 Audit also reviewed Mr. Williams credit card statements for the period 16 April to 15 November 2005 and confirmed two deposits of \$5,000.00 (cheque #2573 for \$5,005.00 less service fee of \$5.00) and \$4,990.00 (cheque #2594 for \$5,035.00 less service and transfer fee of \$40.00) totalling \$9,990.00.
- 2.18 Also identified were withdrawals totalling \$3,882.76. Audit notes that although Mr. Williams was unable to provide copies of invoices and receipts to support the above amount, he was given the benefit of the doubt and the payments were accepted by Audit as being bona fide expenditure incurred on behalf of MOCD.
- 2.19 Audit therefore notes that a balance of **\$6,107.24 remained unaccounted** for with regards to the \$10,040.00 lodged to Mr. Williams personal credit card account for the UNESCO General Conference.

Payments lodged to S Williams credit card	10,040.00
less: Credit Card Bank Deposit Fee	10.00
Bank transfer fee	30.00
Withdrawals recorded on credit card statements	3,882.76
Total unaccounted for	<u><u>\$6,107.24</u></u>

- 2.20 In view of the above Audit also requested for copies of Mr. Williams personal credit card statements for the period 16 November 2005 to 15 December 2005 in the email sent to Mr. Williams on the 5 March 2008. As at the date of this report the requested statements have yet to be presented to Audit by Mr. Williams.
- 2.21 Audit emphasises that all internal accounting documentation from MOCD was made available to audit including payment vouchers, bank statements, general ledger printouts, etc and the only missing documentation was the invoices/receipts to confirm how Mr. Williams had spent the funds.
- 3. Ascertain whether any ‘under-spending’ on the respective ‘travel advances’ was returned, and lodged, to the Ministry’s bank account.**
- 3.1 As part of our review Audit conducted interviews with both the former finance manager and former finance officer for MOCD. When asked as to whether any under-spending on the respective payments to Mr. Williams personal credit card account was returned to the MOCD, both individuals noted that as far as they could recall no such returns were ever made.
- 3.2 Audit also reviewed the Ministry of Cultural Developments general ledger and bank statements for the financial years ended 30 June 2005, 30 June 2006 and 30 June 2007 and was unable to identify any returned or lodged under-spending from the above four payment made to Mr. Williams personal credit card account during that period.
- 3.3 Audit raised this matter with Mr. Williams and was advised that no funds had ever been returned to MOCD by himself.

4. Consider whether the Cook Islands Government Financial Policies and Procedures are being adhered to by the Ministry of Cultural Development;

Credit Card Policy

4.1. Audit notes that although the practise of transferring funds into staff's personal credit cards so that they can incur expenditure on behalf of that Ministry is in breach of current Cook Islands Government Financial Policies and Procedures Manual Part D Section 16, because the current policy had not been put in place until December 2006, therefore the four payments totalling \$35,000.00 lodged to Mr. Williams personal credit card was not in breach of the CIGFPPM at the time the transactions occurred.

Payments made to Head of Ministry

4.2 Part D Section 2 of the Cook Islands Government Financial Policies and Procedures Manual states that;

“Any payments made to the Head of Ministry must be countersigned by the Senior Finance Officer and where possible another manager. A copy of this approved invoice must be kept on a separate file and be made available to Audit.”

4.3. Upon reviewing payment vouchers for the four payments made to Mr. Williams personal credit card account, Audit found that cheques # 1605, 2573 and 2594 were certified by the Finance Officer for MOCD, Pehau Browne. Cheque#1605 had not been signed as being approved by anyone and cheque#2573 and 2594 were both signed as approved by Mr. Williams himself.

	Payment \$10,000	Payment \$15,005	Payment \$5,005	Payment \$5,035
Voucher Number	027-04/05	119-04/05	279-05/06	300-05/06
Voucher Date	8 July 2004	19 July 2004	6 October 2005	7 October 2005
Voucher Payee	Sonny Williams	Sonny Williams	Sonny Williams	Westpac Bank
Voucher Prepared By	Pehau Browne	Pehau Browne	Pehau Browne	Pehau Browne
Voucher Certified By	Marianna Bryson	Pehau Browne	Pehau Browne	Pehau Browne
Voucher Authorized By	Sonny Williams	not signed	Sonny Williams	Sonny Williams
Voucher Received By	Sonny Williams	not signed	not signed	Pehau Browne

5. Determine whether any further payments of this nature, aside from the above four identified, were made to Sonny Williams during his term as HOM of the Ministry of Cultural Development.

5.1 Audit found that Mr. Sonny Williams had resigned as the Head of the Ministry of Cultural Development in January 2006. In view of this Audit reviewed the Ministry of Cultural Developments general ledger for the period 1 July 2004 to 31 January 2006 to determine if any other payments of a similar nature to the above four (totalling \$35,000.00) were made to Mr. Williams personal credit card account during this period.

5.2 Audit was unable to identify any such payments made to Mr. Williams or any other MOCD staff members' personal credit card account based on the entries posted in MOCDs general ledgers.

6. Attend to any other related matters of significance as may be identified during the review.

Purchase of DVDs by Mr. Williams

- 6.1 In an interview with Audit on the 12 December 2007, Mr. Williams advised Audit that he had returned from the Pacific Arts Festival in Palau in 2004 with “about \$10,000.00” left from the \$25,000.00 which had been lodged to his personal credit card account. He however noted that this was “offset” by the fact that he had purchased \$10,000.00 worth of DVDs while in the United States that year using his own credit card to pay for it. Mr. Williams was however unable to provide copies of either the invoice, receipt or even his credit card statements to support such a purchase.
- 6.2 Audit reviewed the Ministry of Cultural Developments Stock take report for the financial year ended 30 June 2005 to determine if the DVDs mentioned by Mr. Williams were properly accounted for as inventory in MOCDs financial records for the year. Audit found from the stock take report that MOCD did not have any DVDs listed as part of its inventory as at 30 June 2005.
- 6.3 In fact when Audit queried staff within MOCD who are responsible for administering the Ministries stock we were informed that MOCD had only started selling DVDs in 2005.
- 6.4 However Audit was also informed by Ministry staff in charge of inventory that blank video tapes and DVDs were not included as part of the MOCD stock listing. That is the Ministries inventory listing only includes video tapes and DVDs that have shows recorded on them.

Payment to Stebbing Recordings

- 6.5 A review of Mr. Williams Credit Card statements for the month of October 2004 however confirmed that a payment of \$7,000.00 was made to Stebbing Recording Centre Limited in New Zealand on the 1 October 2004.
- 6.6 Audit obtained a copy of the respective invoices associated with the payment and confirmed that it was a deposit for the purchase of VHS tapes and not DVDs.
- 6.7 When queried about the payment Mr. Williams conceded that he may have been confused about the \$10,000.00 purchase of DVDs and in fact he had been referring to the above \$7,000.00 payment for VHS tapes.
- 6.8 From previous discussions held with staff of MOCD Audit was aware that Stebbing Recordings was in fact the company used by the ministry to purchase its blank DVDs and VHS tapes for recording.
- 6.9 In view of the above findings Audit has given Mr. Williams the benefit of the doubt in regards to the \$7,000.00 payment being for MOCD expenses.

Purchase of digital camera by Mr. Williams gifted to Aitutaki television

- 6.10 In the same interview on the 12 December 2007, Mr. Williams advised Audit that whilst in Auckland during the trip to Palau in July 2004 he had purchased a video camera and still camera with all the accessories in duty free for about \$5,000.00 so that he could record the entire Pacific Arts Festival trip.

- 6.11 As with the DVDs, Mr. Williams was unable to provide any supporting documents to substantiate this purchase.
- 6.12 He however noted that the cameras were used by the Aitutaki TV crew to film the Festival and were taken to Aitutaki for editing purposes at the end of the trip. Mr. Williams went on to state that he “*gifted the whole lot to the Aitutaki Television*”.
- 6.13 In light of the above Audit therefore wrote to the General Manager of the Aitutaki Power Supply, (who is currently in charge of the Aitutaki Television Station) to request information regarding Mr. Williams statements. In his reply letter dated the 31 January 2008, the General Manager of the Aitutaki Power Supply noted that “*he had no recollection of any such equipment to date*”.
- 6.14 On a recent trip to Aitutaki, Audit interviewed former staff members of the Aitutaki Television station and were informed that the camera equipment in question had been lost during the handover of the Aitutaki Television station from the Island council to the Aitutaki Power Supply.
- 6.15 Audit also review of Mr. Williams credit card statements for the period 16 July 2004 to the 15 October 2004 noted the following payments made whilst in Auckland Airport on the way to Palau.

Date	Details	Amount
19-Jul-04	Regency Duty Free	\$399.00
19-Jul-04	Dfs Ak Airport Land 82 Mangere NZL	\$1,997.50
	Total	<u><u>\$2,396.50</u></u>

- 6.16 During discussions with Mr. Williams Audit was told that the above purchase had been for the video camera mentioned above.
- 6.17 Although Mr. Williams was unable to provide Audit with any supporting documentation to support the above claim he was given the benefit of the doubt and the payments were accepted by Audit as being bona fide expenditure incurred on behalf of MOCD

Vat claimed on payments

- 6.12 Audits review of the Ministry of Cultural Developments vouchers for the four payments lodged to Mr. Williams personal credit card account found that MOCD had claimed Vat of 12.5% on all payments as shown below.

Date	Cheque	Amount	Vat	Total
8 July 2004	1513	\$8,888.89	\$1,111.11	\$10,000.00
19 July 2004	1605	\$13,337.78	\$1,667.22	\$15,005.00
6 October 2005	2573	\$4,448.89	\$556.11	\$5,005.00
7 October 2005	2594	\$4,475.56	\$559.44	\$5,035.00
	Total	<u><u>\$31,151.12</u></u>	<u><u>\$3,893.88</u></u>	<u><u>\$35,045.00</u></u>

6.13 Audit notes that as the funds were intended for use outside of the Cook Islands therefore V at had been incorrectly applied to them. The net effect of this error was an understatement on V at payable to Revenue Management of \$3,893.88.

7. Recommendations.

Mr. Sonny Williams

7.1 It is recommended that unless Mr. Williams is able to provide further evidence to support the legitimacy or validity of the remaining \$9,423.76 outstanding the amount should be paid back to the Ministry of Culture by Mr. Williams as soon as possible.

Secretary of MOCD

7.2 Audit notes that the above recommendation may require the current Ministry of Culture management meet with Mr. Williams to discuss and agree on a suitable method of payment that is satisfactory to both parties.

7.3 Audit recommends that in future the Ministry abstain from using staff personal credit cards to pay for MOCD expenses. Although we acknowledge the practicality of having someone use their credit card instead of carrying large amounts of cash when they travel, we note from past audit reports that there have been considerable weaknesses identified with this method of payment, especially with regards to the difficulty faced in determining which payments from the credit card are personal and which are business.

Finance Manager for MOCD

7.4 Audit also recommends that the finance manager for MOCD ensure that the V A T overstatement of \$3,893.88 is properly accounted for within the Ministries financial accounts.

CONCLUSION

Audit therefore concludes that based on all supporting documentation made available to us for the purpose of this review a total of **\$9,423.76** of the \$35,045.00 paid to Mr. Sonny Williams personal credit card account by the Ministry of Cultural Development during the period 1 July 2004 to 30 June 2006 **remain unaccounted for** as shown below.

	<u>Palau</u>	<u>Paris</u>	<u>Total</u>
Payments lodged to S Williams credit card	25,005.00	10,040.00	35,045.00
less: Credit Card Bank Deposit Fee	5.00	10.00	15.00
Bank transfer fee		30.00	30.00
Withdrawals confirmed to Mr. Williams credit card statements	21,683.48	3,882.76	25,566.24
Total unaccounted for	\$3,316.52	\$6,107.24	\$9,423.76

Audit notes that although Mr. Williams was unable to provide copies of invoices and receipts to support payments identified in the credit card statements which were provided to Audit, he was given the benefit of the doubt and the payments were accepted by Audit as being bona fide expenditure incurred on behalf of MOCD.

That is, although we were unable to substantiate to sufficient supporting documentation that the \$25,566.24 captured on Mr. Williams credit card statements were in fact bona fide expenses of the Ministry of Cultural Development, we have accepted these as valid payments. Therefore we were only **unable to account for \$9,423.76 of the \$35,045.00** paid to Mr. Williams.

In view of the extremely significant amount of unaccounted funds, Audit has requested the Crown Law Office provide a legal opinion on the matter of non-accountability of public funds by Mr. Williams.

In closing, we would like to take this opportunity to thank those who have assisted the Audit Office during the course of this review.

RESPONSE TO THE SPECIAL REVIEW INTO PAYMENTS MADE FROM THE MINISTRY OF CULTURAL DEVELOPMENT TO THE FORMER HEAD OF MINISTRY, SONNY WILLIAMS.

The final audit report relating to the Review Special Review into Payments made from the Ministry of Cultural Development to the former Head of Ministry, Sonny Williams was issued on the **4 September 2008** to the following:

- Hon. Sir. Terepai Maoate, KBE, Deputy Prime Minister, Minister of Finance and PERCA
- Hon. Wilkie Rasmussen, Minister of Culture
- Hon. Tangata Vavia, Minister for Public Service
- Makiuti Tongia, Head of Ministry of Cultural Development
- Sholan Ivaiti, Financial Secretary, Ministry of Finance & Economic Management
- Tingika Elikana, Acting Solicitor General, Crown Law
- Charles Little, Chairman, Public Expenditure Review Committee
- Sonny Williams, former Head of Ministry of Cultural Development
- Navy Epati, Public Service Commissioner

Recommendations within the report were addressed to the following individuals for comment:

- Sonny Williams, former Head of Ministry of Cultural Development
- Makiuti Tongia, Head of Ministry of Cultural Development

Please find attached a letter from Mr. Sonny Williams dated 9 September 2008 in response to the above audit review. Also attached is a copy of an email received by our office from Makiuti Tongia the Head of the Ministry of Cultural Development in regards to recommendations within the above report.

9 September 2008

Paul Allsworth
Director
Cook Is. Audit Office

Re. Special Review Report, Dated 4 September 2008.

Kia Orana Paul,

Regarding the above report, I would like to commend your office in the way the special review was carried out and also your overall direction on this matter.

I would like to raise a few points of interest which I believe would assist other readers of this report in terms of background into this matter. These are as follows;

1. Much of my statements made during interviews and meetings with your staff and via email have been validated by credit card statements and other supporting documents obtained by your office during its special review and also by my own efforts albeit limited by comparison.
2. Although I started the process of trying to obtain credit card statement, success was very limited and took weeks, even months. Hence your decision to offer the services of your staff for this purposes proved much more successful.
3. I am advised by your officer in charge of this special review (Mr Elikana) that he was still waiting for more statements from the Credit Card Company (CCC) on the Paris Unesco trip at the time of issuing the report. I would like to request here and recommend for Mr Elikana to continue with sourcing these vital documents from CCC since he has now established a good working relationship with staff at CCC. So far, what he has obtained from CCC has been very useful for the review and of course greatly beneficial on my behalf in reducing the amount of funds concerned from \$35,000 to now about \$9,000. However more information from CCC would provide us all a more accurate and dare I say a much reduced amount for reconciliation.
4. Contributing factors – it has always been my stance that two people contributed much to this whole matter;
 - a. My new Minister at the time (late 2004 to mid 2005) and his disruption of the normal operations of the Ministry caused all sorts of system failures in the Ministry. He marginalised me from decision-making and budgeting processes, he caused factions within the Ministry where a good number of senior staff were following his direct orders daily and basically ignoring mine. During our quite time in Jan/Feb, we do all our financial corrections and budget reconciliations for the Supplementary budget around that time. Unfortunately I spent Jan/Feb and up to June 2005 fighting for my career survival against my then Minister, instead of reconciling outstanding matters like the Palau trip.
 - b. On my resignation in Jan 2006, I was supposed to work with my immediate successor for the mandatory 2 weeks after officially

vacating the office. However on the my last official day in the office , my successor instructed staff to remove much of the official documents, information and public records from my former office and some of these were also destroyed. I have always stated that the supporting documents were there which has been supported by the staff at the time. He wanted to basically wipe all records and reference to me and hence we weren't able to do the 2 weeks orientation.

- c. When I consider the events and personalities at the time I cannot help but regret the interference of my then Minister, and the drastic management style of my immediate successor. Both of these two persons never lasted more than 6 months in their respective positions, however they have contributed greatly to the problems of the Ministry and mine too during their short time there

Finally, it would be fair to say that over the years during my tenure as Secretary of Culture, we have always worked closely with your office and have strived to correct things, implement recommendations from your reports and even put in place processes and procedures ourselves. I'm sure you will agree that these issues under review are much different from the norm in terms of my record and history of the Ministry under my watch.

In conclusion, overall it has become clear that there has been no case for deliberate misappropriation of funds or indeed fraud on my part and those of my staff at the time. I put it down to a most unfortunate series of events as a result of very bad governing and management styles.

On this I strongly recommend that Audit's training sessions with HOMs, Island Secretarys, Senior Managers and Members of Parliament be strengthened and indeed be made mandatory.

I look forward to your reply to my recommendation herein and also to discussions with the current HOM of Culture to settling this matter.

Kia Manuia,



Sonny Williams

From: Makiuti Tongia
Sent: Thursday, 11 September 2008 3:02 p.m.
To: Cedric Toru
Cc: Cook Islands Audit Office
Subject: audit special review report: Sonny Williams

kia orana Cedric,

I have read the Audit report above and concur that we need to meet with Mr Williams to discuss and agree on a suitable method of payment that is satisfactory to MOCD and Mr Williams. Please arrange for a meeting with Mr Williams as soon as you are able to.

Makiuti Tongia

AUDIT REVIEW INTO THE TENDER FOR THE PURCHASE AND REMOVAL OF THE MINISTRY OF EDUCATION (MOE) BUILDING IN NIKAO.

AUDIT SUMMARY

Please find enclosed the audit report relating to the review into the tender for the purchase and removal MOE building in Nikao. The Cook Islands Investment Corporation (CIIC) tendered the purchase and removal of the Ministry of Education (MOE) building in Nikao to make way for the construction of the new Indoor Sports Complex. The tender was awarded to Taio Construction, a company owned by the Chairman of the CIIC Board, Mr. Tapi Taio.

The Audit Office received a complaint from a member of the public on the 10th July 2008 regarding the tender for the purchase and removal of the MOE building in Nikao. The basis of the complaint alleged that the Chairman of the CIIC Board, Mr. Tapi Taio took materials from the demolished MOE Building for his own personal use. The complainant further alleged that these materials were not tendered out to the public for resale and did not follow a transparent process.

The Audit Office has a responsibility under Section 27(g) and 32 of the PERCA Act 1995-1996 to pursue any concern that arises in respect of the management of public resources which in its opinion justifies further investigation and to report its findings accordingly.

MAJOR AUDIT FINDINGS

1. Did CIIC tender the contract for the purchase and removal of the MOE building in Nikao?

Audit confirmed that Cook Islands Investment Corporation (CIIC) tendered the contract for the purchase and removal of the MOE building in Nikao. The tender was advertised in the Cook Islands News on the 4, 7, 11 and 14 of February 2008. The advertisement clearly outlined the specifications of the tender, that is, to purchase and to remove the MOE building from Nikao. Tender applications were made available from the CIIC Office from Tuesday, 5 February 2008. Tenders close at 3.00 pm on Monday, 18 February 2008.

2. How many tenders were received?

On the 19th February 2008, the tender box was opened at the Audit Office in the presence of CIIC and Audit staff. Audit confirmed that there was only one tender in the tender box and no other tenders were received.

Audit confirmed that Mr. Josh Taio of Taio Construction submitted the only tender received. The amount tendered by Taio Construction for the contract was **\$8,000.00**. Although Audit found that there was an expression of interest from Multi Contractors Ltd, our inquiries with CIIC and Multi Contractors confirmed that they did not submit a formal tender for the contract.

3. Tender specifications, scope of work and conditions of the contract.

Audit confirmed that the tender documents clearly specified the offer for the purchase and removal of the MOE building. The scope of work also requires the Purchaser to carry out the following tasks:

- Disconnect all utilities connected to the building, including but not limited to water, electricity and sewage lines;

- Remove all buildings as shown on the site plan, including all fixtures and fittings and all lean to structures from its foundation whether in part or in full and relocate to its intended site;
- Remove and dispose of all concrete piles, footings, posts, foundations, and walls (if any) fixed to the ground, including all building debris remaining on the site.

It is noted that the tender form was also specific that the Purchaser must pay to the CIIC the purchase price in cash in one sum within 3 days of notification in writing by CIIC of the successful tender.

We confirmed that Taio Construction paid a total sum of \$10,000.00 to CIIC on the 21 February 2008, 2 days after the tender box was officially opened. Audit queried with the CEO of CIIC, John Tini as to why Taio Construction paid **\$10,000.00** instead of the **\$8,000.00**, which was the amount, tendered for the contract. Mr. Tini advised Audit that given there was only one tender, he wanted to maximise the return from the sale of this asset.

4. Who was responsible for administering, evaluating and awarding the tender?

The Finance Manager of CIIC, Mii Dyer, was responsible for administering and compiling the tender documents, The CEO, John Tini was responsible for evaluating and awarding the tender to Taio Construction, which was the only tender. According to Mr. Tini, the fact that there was only one tender received, there was no need to form a tender evaluation team as per the Cook Islands Government Financial Policies and Procedures Manual (CIGFPPM) requirements. Instead, he evaluated the tender and awarded the tender to Taio Construction in his capacity as CEO of CIIC.

Given the circumstances surrounding the tender process, Audit is satisfied that the CEO of CIIC took the appropriate measures and followed the proper process in awarding the tender to Taio Construction. We did not find any evidence to suggest that the CEO was bias in his decision to award the tender to Taio Construction. Credit should be given to the CEO of CIIC for his initiative to negotiate and to obtain a higher rate of return from the sale of this asset instead of just accepting the tender price submitted by Taio Construction.

5. Did the Chairman of the CIIC Board, Mr. Tapi Taio, have a conflict of interest in this matter and did he participate in the decision to award the tender to his Company?

We confirmed that the Chairman of the CIIC Board did not participate in any decision to award the tender to his company Taio Construction. The Chairman was overseas when his son submitted the tender. The decision to award the tender to Taio Construction was made by the CEO of CIIC. We did not find any evidence to suggest that the Chairman had any influence on the decision nor was he involved in the decision to award the tender to Taio Construction.

The fact that only one tender was received by CIIC, Audit is satisfied that the decision made by the CEO to award the tender to the sole applicant, Taio Construction, was fair and without favouritism. Audit also conclude that although Mr. Tapi Taio is the Chairman of the CIIC Board, he did not have a direct conflict of interest in this matter as he did not participate in the decision to award the tender to Taio Construction.

6. Did the CIIC follow proper procedures as stipulated in the CIGFPPM in awarding the tender to Taio Construction?

Part D, Section 3 of the CIGFPPM, sets out the public tendering process that any Ministry or Crown Funded Agency should follow where the agency intends to tender asset sales. Section 3.2 requires the Ministry or the Agency to provide technical design and specifications for the tender. Audit's findings confirmed that the tender documents provided clear specifications of work and the scope of works to be provided by the tender. Audit is satisfied that this requirement was met by CIIC.

Section 3.3 also requires the Ministry or the Agency to establish a 'Tender Team' to manage the tender process and to evaluate the tenders. It is also noted that CIIC did not establish a tender team, however, provided its justifications for not doing so. Audit assessed the explanations provided by CIIC and found them to be reasonable and logical.

On this basis, we are satisfied that CIIC followed the proper tendering process and met the CIGFPPM requirements, except for the departure in Section 3.3. However, Audit found the justifications for this departure to be reasonable and logical. Audit did not find element of malpractice or conflict of interest as alleged by the complainant.

7. The beneficiaries of the MOE building

Our interview with the Chairman of CIIC, Mr. Tapi Taio confirmed that the MOE building was divided into four portions when it was erected from Nikao. The Chairman emphasised that he did not take the whole building for himself, which he had rightfully purchased. Members of the public requested if they could have portions of the building for their use.

The Chairman agreed to give away portions of the building free of charge as goodwill to individuals who were in need. Tapi Taio advised us that he gave one of the portions of the building to one of his employees, Tui Nelio whose house was burnt. The Hon. Minister Ngamau Munokoa also asked Tapi Taio if she could have a portion of the building so that these materials can help repair and restore home(s) that were damaged by a freak storm in Nikao. This was also confirmed by the CEO of Minister's Office, Arthur Taripo.

The Chairman kept one of the two remaining portions and the other portion was given to his brother Tere Taio and the MP for Ruaau, Mr. Smiley Heather. According to Tapi Taio, he removed the portions of the building at his own cost using his machinery and labourers.

Mr. Tapi Taio mentioned that he was extremely disappointed with the allegations made against him and yet most of the building materials were given to people in need even though it was to his loss.

CONCLUSION

In conclusion, we confirmed that the tender for the purchase and removal of the MOE building in Nikao was advertised by CIIC in the Cook Islands News Paper over a period of 10 days. It is Audit's opinion that CIIC conducted this tender in a transparent, contestable and accountable manner.

Although the tender was awarded to Josh Taio of Taio Construction Ltd, a company owned by the Chairman of CIIC Board, Mr. Tapi Taio, Audit found that the Chairman did not influence or participate in the decision to award the tender to Taio Construction. The situation identified in this case is not that unusual.

There is no reason why the son of the Chairman should be prevented from tendering. However, what is important are that steps are taken to ensure that any conflict is recognized and that appropriate mitigation action is taken.

In fact, the decision was solely made by the CEO of CIIC on the grounds that only one tender was received from Josh Taio, the son of the Chairman. On this basis, Audit conclude that the Chairman did not have a conflict of interest in this matter and did not find any element of biasness or malpractice on the part of CIIC to favour Josh Taio of Taio Construction Ltd's tender.

Audit is satisfied that the decision made by CIIC was fair, reasonable and justified given that there was only one tender and there was no evidence to suggest that the Chairman of CIIC Board influence the decision of CIIC.

MAIN REPORT

Introduction

In January 2008, the Cook Islands Investment Corporation (CIIC) decided to remove the Ministry of Education (MOE) building in Nikao to make way for the construction of the new Indoor Sports Complex. On the 4,7,11, and 14 of February 2008, CIIC advertised in the Cook Islands News, the tender for the purchase of the MOE building in Nikao. The tender specifications include the complete removal of the building. Tenders close at 3.00 pm on Monday, 18 February 2008. On the 19 February 2008, the tender box was opened in the presence of Audit Staff. Only one tender was received and that was from Josh Taio on behalf of Taio Construction.

The Audit Office received a complaint from a member of the public on the 1st July 2008 regarding the tender process for the removal of the MOE building in Nikao. The basis of the complaint alleged that the Chairman of the CIIC Board, Mr. Tapi Taio took materials from the demolished MOE Building for his own personal use. The complainant further alleged that these materials were not tendered out to the public for resale and did not follow a transparent process.

The fact that the tender was awarded by CIIC to Taio Construction, a company owned by the Chairman of the CIIC Board, Mr. Tapi Taio, it is within the public interest to ensure that the tender process is transparent, contestable and follows proper accountability practices. Accordingly, the Director of Audit, Paul Allsworth, initiated an audit review into this matter and to report its findings accordingly.

2. AUDIT OBJECTIVES

- 2.1 To determine whether or not CIIC tendered the contract for the purchase and demolition of the MOE building.
- 2.2 To determine how many tenders were received.
- 2.3 To review the tender arrangements and specifications.
- 2.4 To ascertain whether the evaluation of the tenders was conducted in a proper, fair and transparent manner and without favouritism.
- 2.5 To ascertain whether or not CIIC followed the proper tender procedures as per CIGFPPM requirements.
- 2.6 To determine whether the Chairman of the CIIC Board, Mr. Tapi Taio had a conflict of interest in this matter given that he was also the owner of Taio Construction and whether he participated in the decision to award the tender to Taio Construction.

3. AUDIT SCOPE

The scope for this review is limited to the financial period 1 July 2007 to 30 June 2008. The following documents were reviewed:

- 3.1 Tender submissions from various construction companies for MOE buildings demolition.
- 3.2 Tender conditions of contract issued by CIIC
- 3.3 CIIC board Minutes for the financial period 1 July 2008 – 30 June 2009

- 3.4 News Paper articles for the month February 2008 and July 2008
- 3.5 Correspondence
- 3.6 Interview notes with Mr. Tapi Taio, and Mr. Josh Taio.
- 3.7 Interview notes with the CEO of the CIIC, Mr. John Tini.
- 3.8 Interview notes with Mr. Tui Nelio
- 3.9 Cook Islands Government Financial Policies and Procedures Manual (CIGFPPM). MFEM Act 1995-96.
- 3.10 Correspondence from the CEO of Hon. Ngamau Munoko's Office, Arthur Taripo,

4. AUDIT FINDINGS

4.1 Did CIIC tender the contract for the purchase and removal of the MOE building in Nikao?

- 4.1.1 Audit confirmed that CIIC tendered the contract for the purchase and removal of the MOE building in Nikao. The tender was advertised in the Cook Islands News on the 4, 7, 11 and 14 of February 2008.
- 4.1.2 The tender advertised was for the purchase of the MOE building in Nikao. Tender specifications include the complete removal of the building, and all lean-to structures, roofing iron, timber, bolts and nails that may be attached thereto, including debris.
- 4.1.3 The advertised tender in the Cook Islands News clearly specified that all tenders must be submitted to the Administration manager of CIIC. Tender applications were made available from the CIIC Office from Tuesday, 5 February 2008. Tenders close at 3.00 pm on Monday, 18 February 2008.

4.2 How many tenders were received?

- 4.2.1 All tender documents pertaining to the purchase and removal of the MOE building were submitted to CIIC and kept in the tender box at the CIIC office. The key to the tender box was held and kept by the Audit Office during the course of the tender period. On the 19th February 2008, the tender box was opened at the Audit Office in the presence of CIIC and Audit staff. Audit confirmed that there was only one tender in the tender box and no other tenders were received.
- 4.2.2 Audit confirmed that the only tender received was submitted by Josh Taio on behalf of Taio Construction. The amount tendered by Taio Construction for the contract was **\$8,000.00**.
- 4.2.3 From the documents reviewed, we noted that Multi Contractors Ltd registered their expression of interest to tender for the contract for the purchase and removal of the MOE building.
- 4.2.4 Further inquiries with Anne Taoro of CIIC confirmed that although Multi Contractors registered their expression of interest, CIIC did not receive a proper tender for the contract from Multi Contractors Ltd. Audit contacted the Director of Multi Contractors Ltd, Mr. Paul Mangakahia, to verify CIIC statements. He confirmed CIIC statements to be a true representation in that he did not submit a tender.

4.3 Tender specifications, scope of work and conditions of the contract

- 4.3.1 Audit confirmed that the tender/contract documents clearly specified the offer for the purchase of the MOE building. This was also evident in section B2, subsection 2 of the tender document, where it stipulates that the purchaser has possession of the site for the sole purpose of carrying out the contracts.
- 4.3.2 The scope of work also requires the Purchaser to carry out the following tasks:
- Disconnect all utilities connected to the building, including but not limited to water, electricity and sewage lines;
 - Remove all buildings as shown on the site plan, including all fixtures and fittings and all lean to structures from its foundation whether in part or in full and relocate to its intended site;
 - Remove and dispose of all concrete piles, footings, posts, foundations, and walls (if any) fixed to the ground, including all building debris remaining on the site.
- 4.3.3 The tender form was also specific that the Purchaser must pay to the CIIC the purchase price in cash in one sum within 3 days of notification in writing by the Corporation of the successful tender.
- 4.3.4 We confirmed that a total sum of **\$10,000.00** was paid by Taio Construction to CIIC on the 21 February 2008, 2 days after the tender box was officially opened on the 19 February 2008. Audit is satisfied that the successful tender Taio Construction (the purchaser) met this requirement.
- 4.3.5 Audit queried with the CEO of CIIC, John Tini as to why Taio Construction paid \$10,000.00 instead of the \$8,000.00 which was the amount tendered for the contract. Mr. Tini advised Audit that given there was only one tender, he wanted to maximise the return from the sale of this asset.

4.4 Who was responsible for administering, evaluating and awarding the tender?

- 4.4.1 Audit confirmed that the Finance Manager of CIIC, Mii Dyer was responsible for administering and managing the tender process. This includes advertising the tender, documenting and keeping all correspondences pertaining to the tender.
- 4.4.2 The CEO of CIIC, John Tini was responsible for evaluating the only tender and awarding the tender to Taio Construction. According to Mr. Tini, the fact that there was only one tender received, there was no need to form a tender evaluation team as per CIGFPPM requirements. Instead, he evaluated the tender and awarded the tender to Taio Construction in his capacity as CEO of CIIC.
- 4.4.3 Although the CEO did not adhere to the requirements of CIGFPPM by failing to establish a tender evaluation team, the circumstances surrounding this tender and the explanations provided by the CEO were found to be reasonable and logical. On this basis, Audit is satisfied that the decision made by the CEO in the awarding the tender to Taio Construction is justified.
- 4.4.4 Credit should be given to the CEO of CIIC for his initiative to negotiate and to obtain a higher rate of return from the sale of this asset instead of just accepting the tender price submitted by Taio Construction.

4.5 Did the Chairman of the CIIC Board, Mr. Tapi Taio, have a conflict of interest in this matter and did he participate in the decision to award the tender to his Company?

4.5.1 We confirmed that the Chairman of the CIIC Board did not participate in any decision to award the tender to his company Taio Construction. When the Taio Construction tender was submitted by his son Josh Taio, the Chairman was in New Zealand. We did not find any evidence to suggest that the Chairman influence the decision nor was he involved in the decision to award the tender to his company Taio Construction. In fact, the decision to award the tender to Taio Construction was made by the CEO of CIIC, John Tini.

4.5.2 The fact that only one tender was received by CIIC, Audit is satisfied that the decision made by CIIC to award the tender to Taio Construction was fair and without favouritism. The findings of the review also confirmed that although the tender was awarded to a company owned by the Chairman of CIIC, Mr. Taio, the Chairman did not have a conflict of interest in the matter as he did not participate and was not involved in the decision to award the tender to his company. Audit is satisfied that the decision made by CIIC was fair and without favouritism.

4.6 Did the CIIC follow proper procedures as stipulated in the CIGFPPM in awarding the tender to Taio Construction?

4.6.1 Part D, section 3 of the CIGFPPM, sets out the public tendering process that any Ministry or Crown Funded Agency should follow where the Ministry intends to tender asset sales. The purpose of this procedures is to eliminate or minimise the threat of:

- The misuse and misappropriation of Government resources or misapplication of public property,
- Conflict of interest,
- Theft, fraud or corruption,
- Other actions which may breach the public's trust.

4.6.2 Section 3.2 requires the Ministry or the Agency to provide technical design and specifications for the tender. Audit's findings confirmed that the tender documents provided clear specifications of work and the scope of works to be provided by the tender. Audit is satisfied that this requirement was met by CIIC.

4.6.3 Section 3.3 also requires the Ministry or the Agency to establish a 'Tender Team' to manage the tender process and to evaluate the tenders.

4.6.4 We noted that CIIC did not establish a tender team and have provided its justifications for not doing so. Audit assessed the explanations provided by CIIC and is satisfied that the explanations provided are reasonable and satisfactory.

4.6.5 On this basis, we are satisfied that CIIC followed the proper tendering process and met the CIGFPPM requirements, except for the departure in Section 3.3. However, Audit found the justifications for this departure to be reasonable and logical. Audit did not find element of malpractice or conflict of interest as alleged by the complainant.

4.7 The beneficiaries of the MOE building.

- 4.7.1 When Audit interviewed Tapi Taio regarding allegations made against him regarding the MOE building, the Chairman was disappointed with the allegations made against him but welcomed the Audit investigation. However the Chairman wanted to highlight to Audit and the general public regarding the use of the MOE building and those that benefited from the building.
- 4.7.2 According to Tapi Taio, the building was divided in four portions when it was removed from the site in Nikao. The Chairman emphasised that he did not take the whole building for himself, which he had rightfully purchased. Members of the public requested to the Chairman if they could have portions of the building for their use.
- 4.7.3 The Chairman agreed to give away portions of the building free of charge as goodwill to individuals who were in need. Tapi Taio advised us that he gave one of the portions of the building to one of his employees, Tui Nelio whose house was burnt. The Hon. Minister Ngamau Munokoia also asked Tapi Taio if she could have a portion of the building so that these materials can help repair and restore home(s) that were damaged by a freak storm in Nikao. This was also confirmed by the CEO of Minister's Office, Arthur Taripo.
- 4.7.4 The Chairman kept one of the two remaining portions and the other portion was given to his brother Tere Taio and the MP for Ruaau, Mr. Smiley Heather. According to Tapi Taio, he removed the portions of the building at his own cost using his machinery and labourers. Mr. Tapi Taio mentioned that he was extremely disappointed with the allegations made against him and yet most of the building materials were given to people in need even though it was to his loss.

5 AUDIT RECOMMENDATIONS

The following recommendations are made to the CEO and the Finance Manager of CIIC:

The CEO should:

- 5.1 Ensure that a tender evaluation team is established with a 'term of reference' to develop, document and manage the tender process. This must occur as soon as practicable after the decision has been made by the Crown Agency to engage in the tender process. This procedure should also apply at all times during any tender process even if only one tender is received. This practice will not only ensure that the CIGFPPM requirements are met, but also, strengthen the integrity and the veracity of the decision making process.
- 5.2 Ensure each team member must declare any conflict of interest – any information that he/she feels that may affect his/her involvement with the tender team must be disclosed.
- 5.3 Have a formal conflict of interest policy(s) in place before hand so that everyone knows what the appropriate practices should be. The risk with these sort of situations is that regardless of whether if everything is done by the book, there will be elements of the community that will feel something untoward has happened. It is a risk that people in the public sector have to take, but if the procedures and policies are properly followed they will be on much stronger ground.
- 5.4 Formally advise the successful tender in writing of the decision reached by the evaluation team. This letter should form part of the tender documentation kept on file.

- 5.5 Ensure that all tender documents and correspondence are properly documented, kept and maintained by the Finance Manager.

The Finance Manager should:

- 5.6 Ensure that all correspondence and tender documents are properly documented, kept and maintained. These documents must be made available for auditing purposes.

6 CONCLUSION

In summary, the findings of this review confirmed that CIIC tendered and advertised the contract for the purchase of the MOE building to the general public. The tender was managed by CIIC. Only one tender was received by CIIC that was submitted by Taio Construction, a company owned by the Chairman of the CIIC Board, Tapi Taio. The tender was awarded to Taio Construction.

Audit is satisfied that the decision made by CIIC was fair, reasonable and justified given that there was only one tender and there was no evidence to suggest that the Chairman, Tapi Taio, was involved and influenced the decision made by CIIC.

On this basis, Audit conclude that the Chairman did not have a conflict of interest in this matter and did not find any element of biasness or malpractice on the part of CIIC to favour Taio Construction's tender.

I would like to thank those who have assisted the Audit Office during the course of this review.

RESPONSE TO THE AUDIT REVIEW INTO THE TENDER FOR THE PURCHASE AND REMOVAL OF THE MINISTRY OF EDUCATION (MOE) BUILDING IN NIKAO.

The final audit report relating to the Audit review into the tender for the purchase and removal of the Ministry of Education (MOE) Building in Nikao was issued on the **28 August 2008** to the following:

- Hon. Sir. Terepai Maoate, KBE, Deputy Prime Minister, Minister of Finance and PERCA
- Hon. Jim Marurai, Prime Minister
- Hon. Tangata Vavia, Minister of CIIC
- John Tini, CEO, CIIC
- Tapi Taio, Chairman, CIIC Board
- Sholan Ivaiti, Financial Secretary, MFEM
- Charles Little, Chairman of PERC

Recommendations within the report were addressed to the following individuals for comment:

- John Tini, CEO, CIIC

Please find attached a letter from Mr. John Tini, CEO of CIIC dated 12 September 2008.



COOK ISLANDS INVESTMENT CORPORATION

Government of the Cook Islands

Friday, 12 September 2008

Director of Audit
Paul Allsworth
Audit Division
Avarua
RAROTONGA.

Kia Orana Paul,

RE: AUDIT REPORT

Thank you for the copy of the audit report provided.

I comment that we are happy with the audit report in principle and would like to note the following:

- (i) The CIIC does have a Tender Committee which consists of: The CEO, The Manager for Property and Administration Manager. However, in the event that there was only one tender received, the CEO decided to make a discretionary decision to award to the only tender applicant.
- (ii) For correction Mii Dyer is the Administration Manager not the Finance Manager.
- (iii) We have noted your recommendation.

Yours sincerely,

COOK ISLANDS INVESTMENT CORPORATION.

**JOHN TINIJNR.
CHIEF EXECUTIVE OFFICER.**

