

CT 2249/2002

Contracts Circular N° 39/2002
Department of Contracts
Notre Dame Ravelin
Floriania

To Heads of Department
and Parastatal Bodies

6th September 2002

**Re: Co-operation with the Office of the Attorney General and the
Department of Contracts on legal matters**

The Office of the Attorney General has repeatedly drawn my Department's attention to the need for a more active and detailed involvement of Departments and Parastatal Bodies whenever Court cases involving the latter are instituted by tenderers/contractors or when the Director General Contracts has himself to take legal action against tenderers/contractors to protect the public interest.

It is not considered ethical or fair on the part of Departments/Parastatal Bodies to expect that the onerous burden involved in either the institution of Court cases or in defending Government's interests in Court, be borne solely, or practically so, by legal officers in the Attorney General's Office and by officials in the Department of Contracts. It has been noticed that very often some Departments/Parastatal Bodies even fail to be suitably represented during Court sittings with the result that the Director General Contracts or his representative have to give evidence on matters where detailed knowledge is essential, which knowledge can best be made available to the Court by representatives of the client Departments/Parastatal Bodies. Such lack of active involvement is also evidenced in the preparation of replies to judicial protests, to requests for the issue of prohibitory injunctions against Government and so on. To make matters even worse some Divisions/Departments/Parastatal Bodies who have *ad hoc* legal advisers fail to insist on the latter to take the initiative in liaising closely with the Office of the Attorney General in the preparation of legal documents or to be present at Court hearings.

I have been requested by the Office of the Attorney General to point out that such continued lack of co-operation and involvement may create difficulties in the successful and timely tackling of legal problems related to public contracts and that responsibility for such eventualities will have to be borne by those officials, legal or otherwise, in Departments/Parastatal Bodies who fail to play their loyal part in the proceedings.

You are kindly requested to bring this circular to the attention of your legal advisers and procurement officers.

J V Spiteri
Director General (Contracts)

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