REPORT OF THE PARLIAMENTARY STANDING COMMITTEE OF THE PUBLIC ACCOUNTS ON:

COMPLIANCE WITH PROCUREMENT RULES, FINANCIAL INSTRUCTIONS, GOVERNANCE AND VALUE FOR MONEY OF COVID-19 TRAVEL AUTHORISATION PROCUREMENT AND OPERATION

TO HIS HONOUR THE SPEAKER AND THE MEMBERS OF THE HONOURABLE HOUSE OF ASSEMBLY:

The Parliamentary Standing Committee on the Public Accounts has the honour of submitting the following Report:

1 Executive Summary

The Public Accounts Committee has investigated the Government's procurement and operation of the COVID-19 Travel Authorization (TA) system with resPartner (resPartner Ltd., operating the ResQwest brand). This investigation was instigated based on the Auditor General's March 2023 report "Government of Bermuda's Response to COVID-19: Travel Authorization", research, and interviews with relevant stakeholders. The prior Public Accounts Committee report on the Government's COVID-19 response of January 2023, "Report of the Parliamentary Standing Committee on the Public Accounts on: Auditor General's Public Interest Reports on the Bermuda Government's Response to COVID-19", was also reviewed.

As highlighted by the Auditor's report and further confirmed by interviews, there were material failures in following Government's procurement regulations and Financial Instructions (FI), including the relevant emergency provisions.

Interviewees provided conflicting views on whether any waivers to the Financial Instructions (FI) were granted, and no evidence of any such waivers could be provided.

TA fees from travelers were paid to a private company (resPartner), rather than directly into the Government's consolidated fund, in contravention of the Constitution. Even considering the initial emergency conditions, and operational issues preventing these direct payments, funds were still received directly by resPartner for 14 months after the underlying issues were resolved.

The initial TA contract with resPartner was not approved in a timely manner. That left the TA portal and process operating without a contract for over four months, exposing the Government to significant operational and financial risk.

Government Ministers interjected themselves into procurement processes by signing contracts, contrary to the Code of Practice for Project Management and Procurement, which states that contracts must be signed by Accounting Officers (Section 32). This caused confusion and resulted in significant extra costs incurred by the taxpayers.

In initial interviews, a small number of senior public officers indicated a lack of concern about the failure to adhere to financial rules and regulations. Subsequent interviews acknowledged the importance of following the procedures as a "lesson learned", although there are further opportunities to further embed this in the culture and training of the public service.

Failures by the Government to follow its own processes and best practices in a clear and timely manner, including negotiations, led to a worse financial outcome for the Government in subsequent TA contracts.

Large amounts of personal data for Bermudians and travelers to Bermuda was collected by resPartner on behalf of the Government of Bermuda and ultimately provided to the Government. While resPartner indicates this data was deleted from resPartner systems, Government still retains a significant amount of the personal data and was unable to determine if it was accessed by hackers during the September 2023 cyberattack.

Stakeholders did not provide a consistent and clear explanation of how Government should coordinate and manage a cross-Government response in the case of a major health emergency, including how operational details should be coordinated and tracked. While plans exist for mobilizing the healthcare aspect (e.g. Public Health Emergency Response Plan, or PHERP), there does not seem to be a robust contingency plan in place should a COVID-like health emergency reoccur. For example, there is no border entry or testing system ready to deploy, and there are no requirements finalized nor preapproved vendors for such systems.

2 Introduction

This report summarizes the Public Account Committee's (the Committee's) findings regarding the handling of the COVID-19 Travel Authorization (TA) procurement and implementation from 2020 to 2023. The Committee's investigation follows on from the Auditor General's March 2023 report

"Government of Bermuda's Response to COVID-19: Travel Authorization" and includes the Committee's own research and interviews with relevant stakeholders from 2022 through 2026.

The report completes work started by prior instances of the Committee, with delays in the investigation due to technical and procedural issues around inviting witnesses, and the 2025 General Election.

Due to COVID-19, 2020 was a difficult year for Bermuda. Many members of the public service and private sector worked hard to keep Bermudians safe and enable Bermuda to reopen for travel through the implementation of the COVID-19 Travel Authorization (TA). The TA process allowed Bermuda to ensure visitors to Bermuda and returning residents were free of COVID-19, thereby allowing Bermuda to reopen for travel and critical tourism and business visitors.

The conclusion of the Committee is that while ultimately the TA process did achieve some key successes, there were also failures that need to be noted and not repeated. In some ways the TA process achieved its goals despite Government actions, not because of them. Failures in multiple procurement processes and procedures left the country at risk to not have a working TA system; caused the taxpayers to receive poor value for money; and put the private and sensitive data of travelers at risk. In addition, the country does not currently seem to be prepared should another similar health crisis occur that would require meaningful health controls at the border (e.g. recent outbreaks of Ebola and Hantavirus).

Your PAC held a number of meetings on this subject during 'in camera' meetings and also received extensive information and input from the Auditor General. Meetings involving discussion and examination on this subject were held on the following dates:

- 13 Oct 2022
- 20 Oct 2022
- 28 Oct 2022
- 10 Nov 2022
- 13 April 2023
- 11 May 2023
- 25 May 2023
- 9 June 2023
- 22 June 2023
- 6 July 2023
- 9 April 2024
- 12 November 2024
- 5 December 2024
- 7 January 2025
- 29 April 2025
- 9 June 2025
- 17 June 2025
- 1 July 2025
- 11 September 2025
- 15 September 2025
- 16 September 2025
- 27 November 2025
- 6 February 2026
- 19 February 2026
- 16 April 2026
- 13 May 2026
- 18 May 2026
- 1 June 2026
- 16 June 2026
- 29 June 2026
- 7 July 2026
- 9 July 2026
- 13 July 2026

3 Witnesses

The list below identifies the persons who appeared before this Committee and prior Committees at 'in camera' meetings and provided assistance and information to the Committee:-

- Denis Pitcher, owner, resPartner Ltd.
- Heather Thomas, Auditor General
- Agnes Te, Audit Manager, Office of the Auditor General
- Priscilla Ogambo, Audit Principal, Office of the Auditor General
- Dr. Jennifer Attride-Stirling, Former Chief Strategy Officer Ministry of Health
- Shivon Washington, Former Acting Permanent Secretary, Ministry of Health
- Cheryl Lister, Former Acting Financial Secretary
- Crystal Burgess, Consultant, Ministry of Finance
- Dionne Morrison-Shakir, Accountant General
- Marc Telemaque, Cabinet Secretary
- Elaine Blair-Christopher, Director of Office of Project Management and Procurement
- Edward Fox, Senior Project Manager, Office of Project Management and Procurement
- Aaron Smith, principal, BPMS/InnoFund
- Jamie Thain, principal, BPMS/InnoFund
- Keechia Tuckett, Permanent Secretary, Ministry of Health
- Cherie Whitter, Head of the Public Service

4 Timeline

Based on interviews and the Auditor's report, the Committee has identified the following timeline of events related to the procurement and implementation of the TA system. We refer the reader to that report for additional detail.

For background, there are three contracts with resPartner:

#	Purpose	Effective ('start') Date	Approval / Signing Date	Original Completion ('end') Date	Extended End Date
1	COVID testing and lab portal	15 March 2020	19 Jan 2021	31 March 2021	31 May 2022
2	TA portal	23 June 2020	10 Nov 2020	31 March 2021	15 June 2022
3	Combined TA and testing portal	16 June 2022	13 June 2022	31 March 2023	n/a

Timeline:

15-Mar-20	Contract #1 for lab testing effective date (backdated)
20-Mar-20	Airport closes to commercial flights
11-Jun-20	Government announces reopening of airport and testing regime
20-Jun-20	Demo and discussion from resPartner
23-Jun-20	Cabinet Sub-Committee approves TA policy
23-Jun-20	Contract #2 for TA portal effective date (backdated), completion date of 31 March 2021, can be extended in writing. Contract not signed until November 2020
24-Jun-20	resPartner requests Government info (policies, systems) for sending fees
01-Jul-20	COVID-19 TA comes into effect ($75 per passenger including testing)
27-Jul-20	Retroactive single-source waiver for TA Contract #2 sought by Ministry of Health; not approved by OPMP as Code of Practice not followed (Sec 6.3)
24-Aug-20	Premier signs contract with BPMS for system duplicating the existing TA system functionality, also provides $2.5m guarantee (which was eventually paid out) (5-year contract incepting 1 Sep 2020)
10-Nov-20	Cabinet retroactively approves TA Contract #2
Nov 2020	First payments to resPartner
30-Nov-20	Technical capacity to use Government bank accounts for credit card payments is in place but not used. (JAS says Jan 2021, "calculated choice" to proceed on TA fees to resPartner
19-Jan-21	Cabinet retroactively approve Contract #1 for lab testing (was effective from 15 March 2020)
31-Mar-21	Contracts #1 and #2 original end date.
21-Apr-21	Cabinet Secretary updates and signs BPMS contract incepting 8 March 2021
02-Feb-22	TA fees from credit cards start to be processed into Government accounts
31-May-22	Contract #1 with extensions ends
13-Jun-22	Contract #3 signed
15-Jun-22	Contract #2 with extensions ends
16-Jun-22	Contract #3 commences, ends on 31 March 2023 (Auditor: "operates on month-to-month basis")
04-Nov-22	Government announces end of TA program; resPartner contacts Government about handling of personal data
14-Nov-22	TA Program ended (announced on 4 Nov)
23-Nov-22	resPartner follows up with Government on handling of personal data
31-Mar-23	Contract #3 ends

17-Feb-23	Permission granted by the Government to resPartner to delete some data (backups, files, TA documents)
11-Apr-23	Personal data from TA system supplied to Government by resPartner

5 Procurement Procedures

The Auditor's report describes the various procurement procedures that would apply and were not followed, including applicable emergency procedures. These come from the Code of Practice for Project Management and Procurement ("the Code").

It is important to note that in the early stages the COVID-19 crisis clearly qualified as a situation that entailed the use of emergency procedures and variances from regular rules and regulations. However, even accounting for this there were failures to follow the Code by senior Public Officers and delays in consideration of the contracts by Cabinet after the acute phase of COVID had passed.

Specifically, the Code (both the 2018 and updated 2020 version) provides a clear emergency procedure for seeking waivers, as described in the following extracts (the Appendix contains the full extract of Section 6):

Section 6.1: "In exceptional circumstance, the Authorised Office may ask the Director [of Project Management and Procurement] to waive certain requirements of the Code... All requests must be made in writing..."

Section 6.2: "Waivers must not be granted retroactively except in emergency situations as described in paragraph 6.3."

Section 6.3: "In emergency circumstances, the Permanent Secretary for the relevant Ministry may seek oral permission from the Director... to waive certain requirements of this Code. ... In such cases where oral permissions has been granted, the procedure to obtain a waiver in writing must be followed within five (5) business days after oral permission has been granted."

Put simply, all that was required in the case of the COVID-19 contracts was to get verbal permission and follow-up in writing within 5 business days. It is the view of the Committee that this emergency procedure is reasonable and fit for purpose and should have been followed.

In addition, as pointed out by senior Public Officers, Cabinet is the senior executive authority in Government and can approve contracts notwithstanding the lack of waivers from the Office of Project Management and Procurement. Given this, contracts for critical services during COVID-19 could have and should have been signed in a timely manner.

5.1 Contract #1: COVID-19 Testing and Lab Portal

According to the Auditor's report and interviews, the Code was not followed at all for Contract #1. This contract became effective from 15 March 2020 but was not approved by Cabinet and signed until 19 January 2021, almost ten months later.

Based on interviews, part of the delay in signing the contract was due to getting the insurance mandated by the contract. Due to COVID, this was particularly difficult. In addition, the contract specified that insurance be provided with "occurrence" coverage, a more robust kind of insurance

coverage that allows claims to be made retroactively. While "occurrence" coverage provides more protection for the insured (in this case, the Bermuda Government), it can be difficult to get and is not required by the Procurement code. Ultimately insurance was acquired in July without occurrence coverage, when Government waived the requirement. Given the delay waiting for insurance, and the critical nature of the Testing and Lab Portal for Bermuda, Government should have been more flexible in negotiating this insurance requirement in the interest of confirming the Lab Portal contract.

However, Contract #1 was still not approved and signed until a further six months after acquiring insurance. In total, resPartner was operating the testing and lab portal without a contract for ten months. Given the critical role of this system to Bermuda's COVID response, Government's failure to put a contract in place for such a long period of time put Bermuda at risk.

For example, a business might have walked away without a legal agreement, given that resPartner was not paid until the contract was signed in November. If that had happened, Government would have been unable to operate the testing portal, tests would not have been scheduled, and COVID-19 might have spread more widely on the island.

Cabinet did not review and approve the contract for the Testing and lab Portal in a timely manner. As this portal was a critical component of Bermuda's COVID-19 response, Cabinet's delay put Bermuda and her people at risk.

5.2 Contract #2: Travel Authorization Portal

For Contract #2, discussion between resPartner and the Government around the TA portal started in mid-June 2020, and the COVID-19 Cabinet Sub-Committee approved on 23 June that the airport would reopen on 1 July. The website was launched on 30 June.

The Ministry of Health sought a retroactive single-source waiver for Contract #2 on 27 July 2020. This waiver was not approved by the (then) Acting Director OPMP, as Section 6.3 of the Code had not been followed. For example, no waiver had been requested ahead of time nor followed up in writing within five working days.

Ultimately Contract #2 was approved by Cabinet on 10 November 2020, backdated with an effective data of 23 June 2020. As a result, the TA portal was operating without a contract for four and a half months.

The same concerns apply for Contract #2 as for Contract #1. Given that emergency procurement procedures are straightforward, they should have been followed. And even accepting that the urgency of COVID-19 justified the initial lapse in procedures, it is inexplicable that Cabinet delayed approving the contract for the TA for such a long period of time. The TA portal was a critical part of Bermuda's COVID-19 response, enabling the island and her economy to reopen to business and tourism visitors.

5.3 Contract #3: Combined TA and Testing Portal

Contract #3 picked up after the end of Contracts #1 and #2, and combined both the testing and lab aspects, and the TA system aspects into one commercial agreement.

Contract #3 was signed on 13 June 2022 and commenced on 16 June 2022. It is important to note that the appropriate single-source waivers were requested and approved according to the Code.

Contract #1 for testing was originally set to end on 31 March 2021 and was able to be extended on a month-to-month basis for up to a year. It ultimately ended on 31 May 2022.

Contract #2 for the TA was also originally set to end on 31 March 2021 but was able to be extended on a month-to-month basis for up to a year. It ultimately ended on 15 June 2022.

Unlike Contracts #1 and #2, Contract #3 was negotiated and signed in a timely manner. There was no material gaps in contract cover between Contracts #1 and #2 and the following Contract #3.

6 Payments

Section 94 of the Bermuda Constitution states that "All revenues or other moneys raised or received by or for the purposes of the Government ... shall be paid into and form a Consolidated Fund." (Full excerpt in Appendix).

As highlighted in the Auditor's report, resPartner received funds on behalf of the Government from July 2020 through February 2022, or almost twenty months. Delays from July through November 2020 (6 months) were due to issues with the Government's banking partners that prevented credit card payments being made into Government accounts. During this period, given that no contracts were signed with resPartner and given the need for urgent deployment of the TA system, Government chose expediency and allowed Government funds to be paid directly to resPartner.

However, by 30 November 2020 the technical capability existed for TA fee credit card payments to be made directly to Government accounts and the TA Contract #2 had been approved by Cabinet. Therefore, the TA fees were unnecessarily received by resPartner for an additional 14 months after that date. Given that receiving payments and fees is a necessary function of the Government, and that there are four banks on the island that could have assisted, Government should have been able to directly receive credit card payments in the first instance. It is disappointing that this situation was not corrected in a timely manner by escalating the issue to the relevant senior personnel such as the Financial Secretary or Minister of Finance. There was no good reason for this additional delay, given that the urgent phase of COVID response had passed; and that a material breach of the Constitution and Financial Instructions was occurring.

A senior public officer stated that continuing to operate using the resPartner accounts was "a calculated risk". No specific issue was identified that required this "risk" to be taken, and we did not find any evidence of accountability for the public officer for violating the Constitution. There is no mechanism in the Constitution, Financial Instructions, or procurement code that allows public officers to choose to take this risk.

7 Personal and Sensitive Data

The Ministry of Health could not provide a definite answer on how many records were retained from the resPartner data. Some data folders were unable to be searched due to access controls. In addition, various Ministry of Health stakeholders were given the opportunity to download data for their specific purposes prior to deletion, but the Ministry could not determine who downloaded what data at the time.

For example, the accounts department used data extracts to confirm the number of people tested and the number of vaccine records created in the system.

The Ministry could not identify how many people are listed in the records but noted that some data sets have over 200,000 entries, and individuals may be listed multiple times. This data includes residents as well as visitors, including cruise ship passengers.

The records contain different types of information. In some excerpts, only names, gender, data of birth, and test results were retained while others contain most or all of the original information including phone numbers, email addresses, race, employer and occupation.

The Ministry could not confirm whether any of this data had been accessed by the cyberattack on the Government of Bermuda.

Both resPartner and the Ministry of Health provided verbal assurance that resPartner had deleted all of the personal data from the resPartner systems, but no written certificate or confirmation could be provided.

8 Future Readiness

At this time, there is no system available to be used for managing testing, vaccinations, or border control linked to testing or vaccination status in case of a Public Health Emergency such as COVID. In addition, there are no pre-approved partners or vendors to implement a system in case of emergency, nor are there finalized requirements to guide the procurement and implementation of such a system.

resPartner and BPMS are two existing vendors with detailed experience of working with Government on scheduling and border control systems, who initially brought significant goodwill to the relationship with Government. However, due to how the contracts and relationships were managed with these vendors, including lack of payment, these vendors have indicated they are not likely to work with the Government again.

Government lost a valuable opportunity after COVID to bring the learnings and capabilities from resPartner and BPMS in-house to be ready for the future. Significant knowledge and know-how with respect to border control and testing systems has been lost, and Government does not currently have that capability. If a pandemic like COVID were to recur, Bermuda would need to rebuild these systems from scratch.

9 Recommendations

We make the following recommendations:

R1: Establish detailed and standardized procedures for procurement in emergency situations, including requirements for acquiring and documenting approvals, and retaining evidence of such approvals.

R2: Ensure that a testing and border control system is ready to deploy in case of an emergency.

R3: Continue to improve education and training of public officers in contract, procurement and Financial Instructions, and augment and evidence with evaluations and monitoring, such as on-line courses and test modules and checks by internal audit.

R4: Provide training and education for Ministers and legislators in contract, procurement, and financial procedures so that Ministers provide clear direction on policy issues, civil servants can

carry out their operational tasks according to best practices and appropriate guidelines without confusion, and legislators can provide suitable public accountability.

R5: Increase accountability for public officers who do not adhere to Financial Instructions and required contract, and procurement procedures. For example, connecting pay grade increases to demonstrate adherence to the relevant contract, procurement, and Financial Instructions.

R6: Establish a clear framework for coordinating and tracking cross-Government emergency response, above and beyond the pure health-related issues managed by the Chief Medical Officer. This includes procurement and implementation of physical and digital infrastructure, and emergency decision-making guidance. Approaches might include augmenting any ad-hoc Cabinet Sub-Committees with operational and project management support and expanding the Emergency Measures Organization (EMO) to provide operational and project management support for a broader range of emergencies.

R7: Provide clear guidelines for the use of, retention of, and destruction of the personal travel and health data Government received from resPartner, as if PIPA (Personal Information and Protection Act 2016) had been in effect at that time, notwithstanding the actual PIPA commencement date, and ensure ongoing compliance with PIPA going forward for this and all other relevant data.

10 Conclusion

COVID was a complex situation with many overlapping concerns across society and Government departments. One theme from the interviews with some public servants was that the preservation of life overrode all other concerns, and performance should be judged only on that criteria. Preservation of life should be the most important criteria and was achieved. However, we identified areas where established Financial Instructions and risk mitigation protocols were not followed and no evidence was provided that this was necessary.

Approval delays left Bermuda's critical testing portal and TA system in a contractual limbo and could have left the island without either of these systems functioning except for goodwill by the vendors, which was avoidable. And now that time has passed, based on information requested from the Ministry of Health, Government has neither the capabilities of the original systems, nor all of the required information to have them rebuilt. When Government engages outside partners to create business-critical systems like the TA portal, Government should be able to maintain and operate them in-house or ensure the systems can continue to be maintained and operated on behalf of the Government though appropriate contractual arrangements.

The lack of clarity and control of the personal and sensitive data received by Government from resPartner is extremely concerning and should be remediated immediately.

Finally, while we recommend further training and education in financial instructions and procurement procedures, it's important to note that these were breached by senior public officers, who should have been well-acquainted with the required procedures already. These lapses were acts by individuals who did not follow the rules and laws and carried on for the sake of expediency, even when the crisis moment was well past. In addition, suitable emergency procedures were available but not always followed. The Committee recommends that Government continues to develop a culture of high standards in the public service so that Government's financial and procurement

operations work fully as designed, including in emergency situations. Lapses in professional conduct must not be accepted, and all policies and laws must be followed, even in extraordinary situations.

The Committee recognizes that COVID was a challenging time for the country and is grateful to everyone who cooperated as Bermuda worked through the pandemic. We are particularly grateful to all who assisted in providing views and information for this report. We also thank the Parliamentary and Committee staff for their hard work and assistance in carrying out this investigation and preparing this report.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dr. Douglas S.J. De Couto, J.P., M.P. – Chair

Mr. Vance M.E. Campbell, J.P., M.P.

Hon. Curtis L. Dickinson, J.P., M.P.

Ms. Renée D.L. Ming, J.P., M.P.

Mr. Scott A. Simmons, J.P., M.P.

Mr. Benjamin A. Smith, M.P.

Mr. Neville S. Tyrrell, J.P., M.P.

Dated: 13th July 2026

11 Appendix

11.1 Extracts from Code of Practice for Project Management and Procurement

32.8 Contracts valued between $100,000 and $999,999 must be signed by the Accounting Officer and the contractor, except where paragraph 32.10 or 32.11 applies.

32.9 Contracts with a value of at least $1,000,000 must be signed by the Accounting Officer and the contractor.

32.10 If one Government department acts as an agent for another Government department, the contract must be signed by the Client Department and the contractor.

32.11 If a contract affects property owned or leased by the Government, the contract must be countersigned by the Permanent Secretary for the Ministry responsible for oversight of Government property and leases. If the Permanent Secretary decides not to sign the contract, then the decision and the reasons to support it must be given to the Accounting Officer of the public authority in writing and maintained on the procurement file.

6 Waivers of Code of Practice Requirements

6.1 In exceptional circumstances, the Authorised Officer may ask the Director to waive certain requirements of this Code. The Director may consult with the Accountant General or the Financial Secretary before granting any waiver. If the Director is not available, the Permanent Secretary responsible for OPMP may grant the waiver. All requests for a waiver must be made in writing on the prescribed waiver form or in such other manner as prescribed by the Director.

6.2 Waivers must not be granted retroactively except in emergency situations as described in paragraph 6.3.

6.3 In emergency circumstances, the Permanent Secretary for the relevant Ministry may seek oral permission from the Director or a designee to waive certain requirements of this Code. An emergency exists where there is an immediate risk to the public, public officers or property to an extent where any part of a Government service is or will be disrupted without immediate action being taken. In such cases, where oral permission has been granted, the procedure to obtain a waiver in writing must be followed within five (5) business days after oral permission has been granted. If the Director determines that any requirements of this Code have been waived by an Accounting Officer without adhering to the procedures outlined in paragraphs 6.1, 6.2 and 6.3, then it will be considered a breach of this Code, and a report will be made to the Secretary to the Cabinet who must decide whether disciplinary action or report to another agency may be appropriate.

6.4 OPMP must maintain a record of waivers granted under this section and must submit quarterly reports of the record to the Cabinet.

11. 2 Appendix: Extract from Section 94 of Bermuda Constitution

94 All revenues or other moneys raised or received by or for the purposes of the Government (not being revenues or other moneys that are payable by or under any law into some other fund established for any specific purpose or that may, by or under any law, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form a Consolidated Fund.