



## **UTILITY REGULATION AND COMPETITION OFFICE**

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**Report to those charged with governance on the 2016/17 audit**

**02 MAY 2018**

*To help the public service  
spend wisely*

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# REPORT TO THOSE CHARGED WITH GOVERNANCE

## INTRODUCTION

1. We have completed our audit of the 31 December 2017 financial statements of the Utility Regulation and Competition Office ("the Office"). International Standards on Auditing (ISAs) require that we communicate certain matters to those charged with governance of the Office in sufficient time to enable appropriate action. The matters we are required to communicate under ISAs include:
  - auditors responsibilities in relation to the audit
  - the overall scope and approach to the audit, including any expected limitations, or additional requirements
  - relationships that may bear on our independence, and the integrity and objectivity of our staff
  - expected modifications to the audit report
  - significant findings from our audit
2. This report sets out for the consideration of those charged with governance those matters arising from the audit of the financial statements for 2016/17 that we consider are worthy of drawing to your attention, so that you can consider them before the financial statements are approved and signed.
3. This report has been prepared for the sole use of those charged with governance and we accept no responsibility for its use by a third party. Under the Freedom of Information Law (2015) it is the policy of the Office of the Auditor General to release all final reports proactively through our website: [www.auditorgeneral.gov.ky](http://www.auditorgeneral.gov.ky).

## AUDITOR'S RESPONSIBILITIES IN RELATION TO THE AUDIT

### AUDITOR'S RESPONSIBILITY UNDER INTERNATIONAL STANDARDS ON AUDITING

4. ISAs require that we plan and perform the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement. An audit of financial statements is not designed to identify all matters that may be relevant to those charged with governance. Accordingly, the audit does not ordinarily identify all such matters and this report



includes only those matters of interest which came to our attention as a result of the performance of our audit.

#### **RESPONSIBILITIES OF MANAGEMENT AND THOSE CHARGED WITH GOVERNANCE:**

5. Management's responsibilities are detailed in the engagement letter to which this engagement was subject. The audit of the financial statements does not relieve management or those charged with governance of their responsibilities.

#### **OTHER INFORMATION IN DOCUMENTS CONTAINING AUDITED FINANCIAL STATEMENTS:**

6. We have not read any other information contained in the Utility Regulation and Competition Office's annual report to consider whether such information is materially inconsistent with information appearing in the financial statements or with our knowledge of the operations of the Office. We have not reviewed any other documents containing the Office's audited financial statements.

#### **CONDUCT, APPROACH AND OVERALL SCOPE OF THE AUDIT**

7. Information on the integrity and objectivity of the Office of the Auditor General and audit staff, and the nature and scope of the audit, were outlined in the Engagement Letter presented to the Board on 12 March 2018, and follow the requirements of the ISAs. We are not aware of any impairment to our independence as auditors.

#### **AUDIT REPORT, ADJUSTMENTS AND MANAGEMENT REPRESENTATIONS**

8. We issued an unmodified audit opinion on the financial statements.
9. A summary of misstatements corrected by management is attached in Appendix 1. The total net adjustments amounted to \$126,238. A summary of misstatements uncorrected by management is attached in Appendix 2. The total net adjustments amounted to \$21,317.
10. As part of the completion of our audit we seek written representations from management on aspects of the accounts and judgements and estimates made. We have requested that management provide us with representations in respect of our financial statement audit.

## SIGNIFICANT FINDINGS FROM THE AUDIT

### SIGNIFICANT ACCOUNTING PRACTICES

11. We are responsible for providing our views about qualitative aspects of the Office's significant accounting practices, including accounting policies, accounting estimates and financial statement disclosures. Generally accepted accounting principles provide for the Office to make accounting estimates and judgments about accounting policies and financial statement disclosures. We are not aware of any areas where the significant accounting practices have changed from previous year or are not consistent with general industry practice. In addition we are not aware of any new or controversial accounting practices reflected in the Office's financial statements.
12. Details of any significant findings from the audit are included in Appendix 3 along with management's response.

### MANAGEMENT'S JUDGMENTS AND ACCOUNTING ESTIMATES:

13. There were no matters which required management to make significant judgments or which required significant estimates except for the defined benefit liability.

### GOING CONCERN DOUBTS:

14. As a result of our audit, we did not become aware of any material uncertainties related to events and conditions that may cast significant doubt on the Office's ability to continue as a going concern.

### SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROL:

15. We identified a number of significant matters relating to internal controls as part of our audit. These include:
  - No approved training policy in place.
  - No approved traveling policy in place.
  - No tendering process for external contracts.
  - No board approval for purchase of motor vehicle for the Executive Director, Energy and utilities even though his employment contract stated that he is entitled to a motor vehicle. All purchases greater than or equal to \$25,000 should be approved by the Board as per the minutes from the Board meeting held on January 16, 2017.

- No formal business cases for travel expenses.
- No approved telephone policy in place.
- No approved motor vehicle policy in place for usage of company cars.
- An employee did not sign his employment contract as he is not in agreement with the repatriation fees. The amount stated in the Of Reg contract is less than the amount that was included in his previous contract.

16. Details are included in Appendix 3 along with management's response.

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**FRAUD OR ILLEGAL ACTS:**

17. Applicable auditing standards recognize that the primary responsibility for the prevention and detection of fraud and compliance with applicable laws and regulations rests with both those charged with governance of the entity and with management. It is important that management, with the oversight of those charged with governance; place a strong emphasis on fraud prevention, and fraud deterrence. They are also responsible for establishing and maintaining controls pertaining to the entity's objective of preparing financial statements that are presented fairly, in all material respects, in accordance with the applicable financial reporting framework and managing risks that may give rise to material misstatements in those financial statements. In exercising oversight responsibility, those charged with governance should consider the potential for management override of controls or other inappropriate influence over the financial reporting process.

18. As auditors, in planning and performing the audit, we are required to reduce audit risk to an acceptably low level, including the risk of undetected misstatements in the financial statements due to fraud. However, we cannot obtain absolute assurance that material misstatements in the financial statements will be detected because of such factors as the use of judgment, the use of testing, the inherent limitations of internal control and the fact that much of the audit evidence available to the auditor is persuasive rather than conclusive in nature.

19. No fraud or illegal acts came to our attention as a result of our audit.

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**SIGNIFICANT DIFFICULTIES ENCOUNTERED DURING THE COURSE OF OUR AUDIT:**

20. No serious difficulties were encountered in the performance of our audit.

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**DISAGREEMENTS WITH MANAGEMENT:**

21. We have had no disagreements with management resulting from our audit.

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ANY OTHER SIGNIFICANT MATTERS

22. None noted

**ACKNOWLEDGEMENTS**

23. We would like to express our thanks to the staff of the Utility Regulation and Competition Office for their help and assistance during the audit of this year's financial statements. This will enable us to provide an audit report within the agreed timetable.
24. If you would like to discuss the results of our audit or any other matters in further detail please feel free to call me at (345) 244-3201.

Yours sincerely,



Sue Winspear, CPFA  
Auditor General

## APPENDIX 1 – SUMMARY OF ADJUSTED DIFFERENCES

Date	Account No	Name	Debit	Credit
31/12/2017	20500	Accrued expenses	16,762	
31/12/2017	50011	Payroll expenses		16,762
		To record overstated accrued vacation		
31/12/2017	15056	Motor vehicle	9,951	
31/12/2017	15065	Plant and equipment	74,784	
31/12/2017	15057	Motor vehicle		3,179
31/12/2017	15057	Accumulated depreciation		
		Motor vehicle	14,085	
31/12/2017	15067	Plant and equipment		4,777
31/12/2017	15067	Plant and equipment		2,700
31/12/2017	39000	Retained earnings		9,951
31/12/2017	39000	Retained earnings		74,784
31/12/2017	39000	Retained earnings		14,085
31/12/2017	60000	Depreciation expense	3,179	
31/12/2017	60000	Depreciation expense		4,777
31/12/2017	60000	Depreciation expense		2,700
		To record opening PPE amounts for Petroleum Inspectorate		
<b>Total</b>			<b><u>126,238</u></b>	<b><u>126,238</u></b>



## APPENDIX 2 – SUMMARY OF UNADJUSTED DIFFERENCES

Date	Account No	Name	Debit	Credit
31/12/2017	54507	Legal Services	5,425	
31/12/2017	20500	Accrued expenses To post unrecorded legal fees as per the Waide DaCosta confirmation response		5,425
31/12/2017	58101	Pension expense	15,892	
31/12/2017	21750	Defined benefit liability To post pension contribution for Sonji Myles that was not included in the actuarial valuation report		15,892
<b>Total</b>			<b><u>21,317</u></b>	<b><u>21,317</u></b>

### APPENDIX 3 - INTERNAL CONTROL MATTERS & SIGNIFICANT FINDINGS

Observation	Risk/Implication and Recommendation	Management Response	Implementation Date
<b>1. No approved telephone policies in place</b> <ul style="list-style-type: none"> <li>During the audit we noted that there were no formal cellular phone policies in place that clearly states guidelines on how cellular phones assigned to employees should be used.</li> </ul>	<b>Implication</b> A lack of formal telephone policies could result in the abuse of funds and misappropriation of assets. This could have a negative impact on the Office.  <b>Recommendation</b> The Office should ensure that a cellular phone policy is in place that gives clear guidelines on how phones assigned to employees should be managed.	<b>Observation and agreed.</b> A Cellular Telephone Policy has been prepared, is being taken through the approval process and will be implemented during the current financial year, in accordance with the recommendation.	October 2018
<b>2. No approved traveling policies in place</b> <ul style="list-style-type: none"> <li>During the audit we noted that there were no formal travel policy in place that clearly states how the expenditure for traveling should be managed.</li> </ul>	<b>Implication</b> A lack of formal travel policies could result in the abuse of funds. This could have a negative impact on the Office.  <b>Recommendation</b> The Office should ensure that a policy is in	<b>Observation and recommended.</b> A formal Travel Policy has been prepared, is being taken through the approval process and will be implemented during the current financial year, in accordance with the	October 2018

		place that clearly states how the expenditure on traveling should be managed.	recommendation.	
<b>3. No formal business case</b>	<b>Implication</b>	<p>The lack of a formal business case or value for money assessment does not allow the Office or an independent party to properly assess how:</p> <ul style="list-style-type: none"> <li>• The proposed travel initiative will have value and relative priority compared to an alternative initiative;</li> <li>• The Office's dedicated resources are working on the highest value of opportunities;</li> <li>• Objectives and expected benefits were aligned with the Office's goals; and</li> <li>• The public is receiving the best value for money.</li> </ul> <p><b>Recommendation</b></p> <p>The Office should consider should consider for expenses such as official travel the</p>	<p><b>Observation and recommendation</b></p> <p>We will institutionalise the process to prepare formal business cases for travel to ensure that all travel are justified and provide value for money, as per your recommendation.</p>	September 2018

	<ul style="list-style-type: none"> <li>• development of concise business case.</li> </ul>	
	<ul style="list-style-type: none"> <li>• justification for the need to travel or incur expenses;</li> <li>• alternative options considered in reaching objectives, such as teleconferencing or the in-house development/contracting of business development skills vs cost of outsourcing to vendors;</li> <li>• links to a business objective;</li> <li>• documentation which clearly documents how value for money was achieved in the entire process; and</li> <li>• post mortem analysis (covering actual vs. budgeted costs, future considerations and how were the objectives achieved).</li> </ul>	<p><b>Observation and recommendation noted and agreed.</b></p> <p>A lack of formal training policies could result in the abuse of funds. This could have a negative impact on the Office.</p> <p><b>Recommendation</b></p> <p>The Office should ensure that a policy is in place that clearly states how the expenditure on training should be managed. In addition the policy should clearly states guidelines on the type of training programs to be administered</p>
<b>4. No approved training policies in place</b>	<p><b>Implication</b></p> <ul style="list-style-type: none"> <li>• During the audit we noted that there were no formal training policies in place that clearly states what the conditions are for training employees in addition to the nature of the training programs.</li> </ul>	<p>October 2018</p> <p>A formal Training Policy has been prepared is being taken through the approval process and will be implemented during the current financial year, in accordance with the recommendation.</p>

	to employees.		
<b>5. No tendering process for external contracts. Section 37 of the Public Management and Finance Law (2017 Revision).</b>	<p><b>Implication</b></p> <p>Failure to properly tender contracts or procure vendor services exposes the Office to a number of issues:</p> <ul style="list-style-type: none"> <li>During the audit it was noted that there was no formal tendering process for external contracts.</li> </ul> <p>(1) The inability to properly determine that the distribution of public funds via competition for the use of public money is open, fair and free from potential bribery and nepotism.</p> <p>(2) Failure to ensure that no parties have an unfair advantage if separate, prior, closed-door negotiations for a contract.</p> <p>(3) Inability to properly conclude that they are obtaining the best value for money has been achieved.</p> <p>(4) Potential issues of undisclosed conflict of interest.</p>	<p><b>Observation and recommendation noted and agreed.</b></p> <p>The Office has taken steps since May 2018 to be compliant with the Procurement Law 2018. A procurement Coordinator has been named and the Entity Procurement Committee has been setup under the Office to ensure that the tendering process is followed at all times in accordance relevant laws. This is a work in progress, but the procedures are being implemented urgently.</p>	Immediately

	<p>(5) Employees can distort the requirements of contracts by claiming that the specifications call for a single source supplier, or non-competitive procurements. This allows single tender action to be followed and competitive tendering to be disregarded. Single source procurement justifications may also be used to eliminate competition and steer contracts to a particular supplier. In some instances, potential fraud can be committed solely by the contractor based on poorly written specifications.</p> <p><b>Recommendation</b></p> <p>The Office should ensure that they adhere to the formal tendering process when engaging external parties that complies with the Public Management and Finance Law (2017 Revision).</p>	<p>Purchases such as these in excess of \$25,000 will be consistent with the Procurement Rules. The Procurement</p>	Immediately
<b>6. No Board approval for the purchasing of a motor vehicle for the Executive Director,</b>	<p><b>Implication</b></p> <p>Failure to do this can lead to the misuse/abuse of funds, which can have a negative impact on</p>		

<p><b>Energy and Utilities.</b></p> <p>All purchases exceeding \$25,000 should be approved by the Board.</p> <ul style="list-style-type: none"> <li>During the audit it was noted that that purchase of a motor vehicle for Gregg Anderson was not approved by the board before the purchase.</li> </ul>	<p>the Office.</p> <p><b>Recommendation</b></p> <p>It is recommended that the policy implemented by the Board is adhered to for all purchases that exceed \$25,000.</p>	<p>Law and Board Policies will be adhered to.</p>
<p><b>7. 1. No approved motor vehicle policies in place</b></p> <ul style="list-style-type: none"> <li>During the audit we noted that there were no formal motor vehicle policies in place that clearly states guidelines on how motor vehicles assigned to employees should be used.</li> </ul>	<p><b>Implication</b></p> <p>A lack of formal motor vehicle policies could result in the abuse of funds and misappropriation of assets. This could have a negative impact on the Office.</p> <p><b>Recommendation</b></p> <p>The Office should ensure that a motor vehicle policy is in place that gives clear guidelines on how motor vehicles assigned to employees should be managed.</p>	<p><b>Observation and recommendation noted and agreed.</b></p> <p>In the 2018 financial year</p> <p>A formal Motor Vehicle Policy is being prepared, will be taken through the approval process and will be implemented during the current financial year.</p> <p><b>Implication</b></p> <p>Observation and recommendation noted and agreed.</p>
<p><b>8. Employed contract not signed by</b></p>	<p><b>Implication</b></p>	<p><b>Observation and recommendation noted and agreed.</b></p>

<b>employee</b> <ul style="list-style-type: none"> <li>During the audit we noted that the Deputy Executive Director, Energy and Utilities did not sign his employment contract because he is not in agreement with the repatriation fees.</li> </ul>	<p>Employment contracts that are not signed by employees could have legal implications, as a contract is a binding agreement that is enforceable by law. An employment contract that is not signed also indicates that the parties are not in agreement with the details of the contract.</p> <p><b>Recommendation</b></p> <p>It is recommended that all employment contracts should be signed by all employees and management as this will serve as proof that both parties are in agreement with the terms and conditions of the employment contract.</p>	<p>The one outstanding employee contract has been signed.</p>	<p>Completed</p>
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