National Audit Office MALTA

Report by the Auditor General

Public Accounts

Annual Audit Report

Public Accounts 2020

Report by the Auditor General
December 2021

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Foreword

The issuance of the Annual Report on Public Accounts is a statutory requirement for the National Audit Office, in terms of the Auditor General and National Audit Office Act, 1997 (Cap. 396). As its name implies, this Report is to be presented to the House of Representatives every year.

This Report once again incorporates a considerable number of audit assignments carried out by the Financial and Compliance Section, practically as from last quarter of 2020. In this regard, we would like to convey our appreciation to the cooperation extended to our audit teams by the majority of our auditees across the public sector, even though for fairness' sake this is not applicable to all the audits performed. Unfortunately, in a minority of cases, amounting to approximately one third of all audits carried out, a limitation of scope has had to be included, essentially since not all required information was submitted by the auditee involved. This hindered the scope of the respective audits, something which goes against the expected level of transparency and accountability - two basic requirements of good practice.

Reference is made to the following infographic which, amongst other interesting information, highlights the most common issues encountered during our audits.

More importantly, each and every audit assignment featuring in this publication also presents a number of recommendations put forward by our audit teams in order to address such issues in a timely and adequate manner. This is in line with our Office's main objective, ultimately to enhance the level of good governance across the public sector.

Charles Deguara
Auditor General

December 2021

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Audits with Limitation of Scope

Main weaknesses encountered during the audits included:

- Information for audit purposes not submitted, hindering the scope of the respective audits.
- Inadequate audit trail.
- Lack of internal controls and segregation of duties.
- Bypassing standing procurement regulations.
- Substantial amounts due to Government remaining uncollectable.
- Insufficient provision for uncollectable amounts.
- Weaknesses in payments of overtime and allowances.
- Unsatisfactory asset management.

List of Abbreviations

ACM	Arts Council Malta
AFM	Armed Forces of Malta
AĦT	Aġenzija għall-Ħarsien tat-Tfal
ARMS	Automated Revenue Management Services Ltd
ARR	Arrears of Revenue Return
BCA	Building and Construction Agency
BoQ	Bill of Quantity
CCTV	Closed Circuit Television
CdB	Common Database
CEO	Chief Executive Officer
CFMS	Corporate Financial Management Solution
CFO	Chief Financial Officer
CfR	Commissioner for Revenue
CMD	Cleansing and Maintenance Division
CPD	Civil Protection Department
CPSU	Central Procurement and Supplies Unit
CSA	Correctional Services Agency
CSD	Central Securities Depository
DAS	Departmental Accounting System
DCS	Directorate Corporate Services
DMD	Debt Management Directorate
DQSE	Directorate for Quality and Standards in Education
DSS	Department of Social Security
ELC	Environmental Landscapes Consortium Limited
EPC	Energy Performance Certificate
FM	Festivals Malta
FMS	Foundation for Medical Services
FSS	Final Settlement System
FSWS	Foundation for Social Welfare Services
FTZD	Foundation for Tourism Zones Development
ĠDM	Ġnien Duminku Mintoff
GDP	Gross Domestic Product
GPP	Government Printing Press
HME	Housing Maintenance and Embellishment Company Limited
HR	Human Resources
IPS	Institute for the Public Service
IRU	Industrial Relations Unit
ISSAI	International Standards of Supreme Audit Institutions
IT	Information Technology
IWB	In-Work Benefit

MBR	Malta Business Registry
MDH	Mater Dei Hospital
MDIA	Malta Digital Innovation Authority
MEAE	Ministry for European Affairs and Equality
MEDE	Ministry for Education and Employment
MELP	Malta Embellishment Landscaping Projects
MESD	Ministry for Energy, Enterprise and Sustainable Development
MESDC	Ministry for the Environment Sustainable Development and Climate Change
MEWM	Ministry for Energy and Water Management
MFC	Malta Film Commission
MFCS	Ministry for Family, Children's Rights and Social Solidarity
MFE	Ministry for Finance and Employment
MFEA	Ministry for Foreign and European Affairs
MFED	Ministry for Education
MFH	Ministry for Health
MFIN	Ministry for Finance
MFS	Malta Film Studios
MGOZ	Ministry for Gozo
MGS	Malta Government Stocks
MHAS	Ministry for Home Affairs and National Security
MIMCOL	Malta Investment Management Company Limited
MIS	Management Information System
MITA	Malta Information Technology Agency
MJCL	Ministry for Justice, Culture and Local Government
MoT	Ministry for Tourism
MPF	Malta Police Force
MSE	Malta Stock Exchange
MTCP	Ministry for Tourism and Consumer Protection
MTIP	Ministry for Transport, Infrastructure and Capital Projects
NAO	National Audit Office
PA	Planning Authority
PPR	Public Procurement Regulations
PSMC	Public Service Management Code
RP	Retirement Pension
SABS	Sistema għall-Amministrazzjoni tal-Benefiċċji Soċjali
SDA	Special Duty Allowance
SOP	Standard Operating Procedure
SP	Service Pension
SRS	Salaries Reporting System
SSC	Social Security Contributions
VAT	Value Added Tax
WAM	Weighted Average Maturity
WSC	Water Services Corporation
WSM	WasteServ Malta Limited

Guide to using this Report

As a result of the various financial and compliance assignments carried out by the National Audit Office, the Auditor General is hereby presenting separate opinions, on the financial and compliance aspects respectively, to the House of Representatives.

In line with normal practice, we sought to spread our reviews across Government Ministries, Departments and Entities, as well as across Government-wide activities in accordance with the National Audit Office Annual Audit Programme. We have also attempted to make this Report as user friendly as possible and thus have tried to adopt common language, although this was not always possible due to the technicality of some of the issues raised.

This Report is presented by Ministerial portfolios as featuring in the Government of Malta Financial Estimates 2020, each containing either the Ministry itself, or one or more Departments or Entities which were the subject of our review. Most write-ups under the Ministerial portfolios have the following structure:

Background

Includes a brief description of the relevant activities, roles and operations of the respective Ministry, Department or Entity under review. Where applicable, it may also include new legislation governing the Entity in question.

Audit Scope and Methodology

Gives an indication of the areas that the audit covered and how deep the assignment was performed. It also defines the steps taken to reach the audit objectives.

Key Issues

Highlight any material findings or outcomes of our audit and any major developments impacting on the respective Ministry, Department or Entity.

Control Issues

Outline any shortcomings that came to our attention relating to the Ministry, Department or Entity. These controls are expected to be in place so as to serve as an effective safeguard of public assets and resources.

Compliance Issues

Summarise instances whereby the relative Ministry, Department or Entity lacked compliance with effective legislation, standing regulations and circulars issued from time to time.

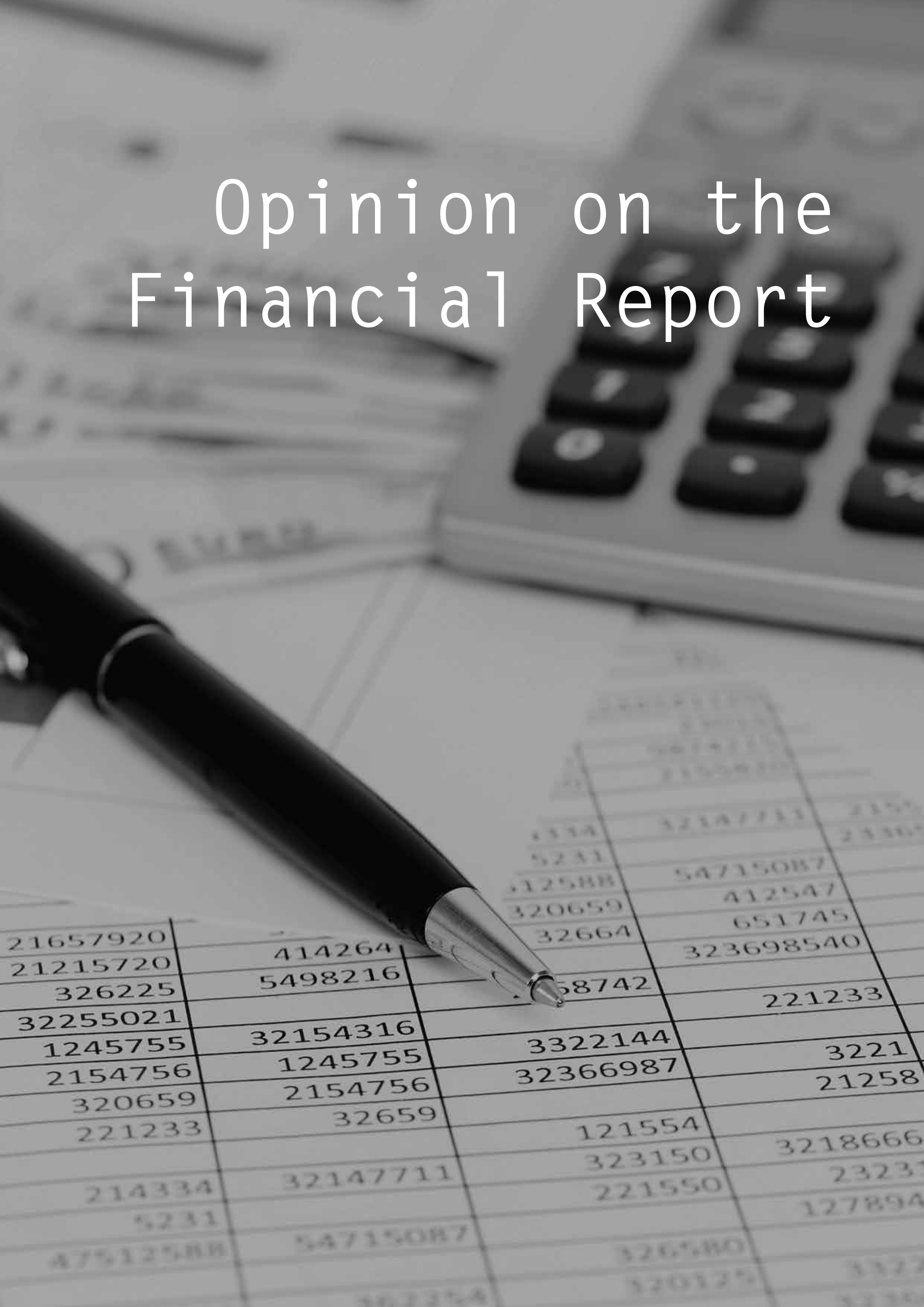
Recommendations

This is the most important part of our Report since ultimately our principal objective is to ensure that public resources are used in the best manner possible, in line with existing public finance management rules and regulations. Thus, it outlines our suggestions to the respective Ministries, Departments and Entities, to encourage them to address any weaknesses that came to our attention, as well as to consolidate and improve upon the management and proper discharge of public funds. In general, our recommendations are aimed at improving the internal control systems, addressing areas where there is lack of compliance with pertinent rules and regulations, and promoting good practice in the best interest of the taxpayer.

Management Comments

Seek to include, in as comprehensive manner as possible, the Management's reaction to the comments of the National Audit Office and action taken, or planned to be taken, so as to address in a timely manner the issues and any shortcomings identified.

Opinion on the Financial Report



Opinion on the Financial Report to the House of Representatives

Audit Mandate

As stipulated by Article 108(5) of the Constitution of Malta and para. 7 of the First Schedule of the Auditor General and National Audit Office Act, 1997, I am hereby reporting on the presentation of the statements and accounts prepared by the Accountant General in fulfillment of the provisions of Article 37 of the Public Finance Management Act, 2019, for the financial year under review.

I consider the primary users of the Analysis of the Financial Report to be Parliament and the Public Accounts Committee.

Respective Responsibilities of the Accountant General and Accounting Officers

As determined by the Public Finance Management Act, the onus for the proper discharge of financial administration and the preparation of statements and accounts rests with the Accountant General and the Accounting Officers. They are also responsible for institution and application of such internal controls as deemed necessary, to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error, and to ensure that the operations of the audited entities are in accordance with the pertinent rules and regulations.

Accounting officers are entrusted with the sound management of public funds. They are therefore to demonstrate transparency, accountability and integrity in their actions, and are to exercise good governance for the resources with which they are entrusted.

Auditor's Responsibilities

The responsibility of the National Audit Office is to obtain reasonable, rather than absolute, assurance as to whether areas in the Financial Report that were subject to examination, were free from material misstatement. Thus, it is not a guarantee that such examination will always detect material misstatements, arising from fraud or error.

Basis for Opinion

We conducted an examination of the Financial Report in terms of sub-para, 1(4) of the First Schedule of the Auditor General and National Audit Office Act.

This examination involves performing procedures to enhance the degree of confidence that intended users have in the published figures and accounts under review. The procedures selected depend on the auditors' judgement, which entails the assessment of risk, evaluation of internal controls, consideration of sensitivity of particular areas and other qualitative factors, as well as the assessment of materiality in terms of value, nature or context in which it occurs.

We have complied with independence requirements in accordance with the International Standard of Supreme Audit Institutions 130 – Code of Ethics and the Code of Professional Conduct of the National Audit Office, and have fulfilled our ethical responsibilities in accordance with such codes. We have also adhered to avoidance of conflict of interest regulations as stipulated by Article 108(3)(c) of the Constitution of Malta and fulfilled the independence requirement in accordance with Article 108(12) of the aforementioned Constitution.

We believe that the evidence we have obtained is sufficient and appropriate to provide a basis for our opinion, which only draws on conclusions upon areas that have been examined.

Opinion

Clean Opinion

In terms of para. 5(ii) of the First Schedule of the Auditor General and National Audit Office Act, I am to report that I received all the information and explanations required for the carrying out of my duties.

In my opinion, the areas in the Financial Report that were subject to our examination were fairly presented in accordance with the Public Finance Management Act and any regulations made thereunder.

A separate opinion is being published dealing with the compliance aspect.

Charles Deguara
Auditor General

December 2021

Financial Report

Analysis of the Financial Report 2020

Introduction

Details of Government financial operations can be found by referring to both the Annual Financial Statements and Financial Report for 2020.

In a letter addressed to the Minister for Finance, and included in the Financial Report, the Accountant General explained how the Treasury has undertaken a massive change since the implementation of the Corporate Financial Management Solution (CFMS) in 2020. By end 2020, there were 15 Departments using CFMS, whilst the other Departments were still using the Departmental Accounting System. In view of this, a new Chart of Accounts was introduced to complement the new system.

Figures for 2020, which were earlier published in the Annual Financial Statements, have been revised and updated in the Financial Report. Moreover, due to some discrepancies encountered whilst compiling the Financial Report, further analysis will be carried out by Treasury and any necessary revision of figures will then feature in next year's publication under the respective column.

Thus, the analysis undertaken by the National Audit Office (NAO) is based on figures as published in the 2020 Financial Report.

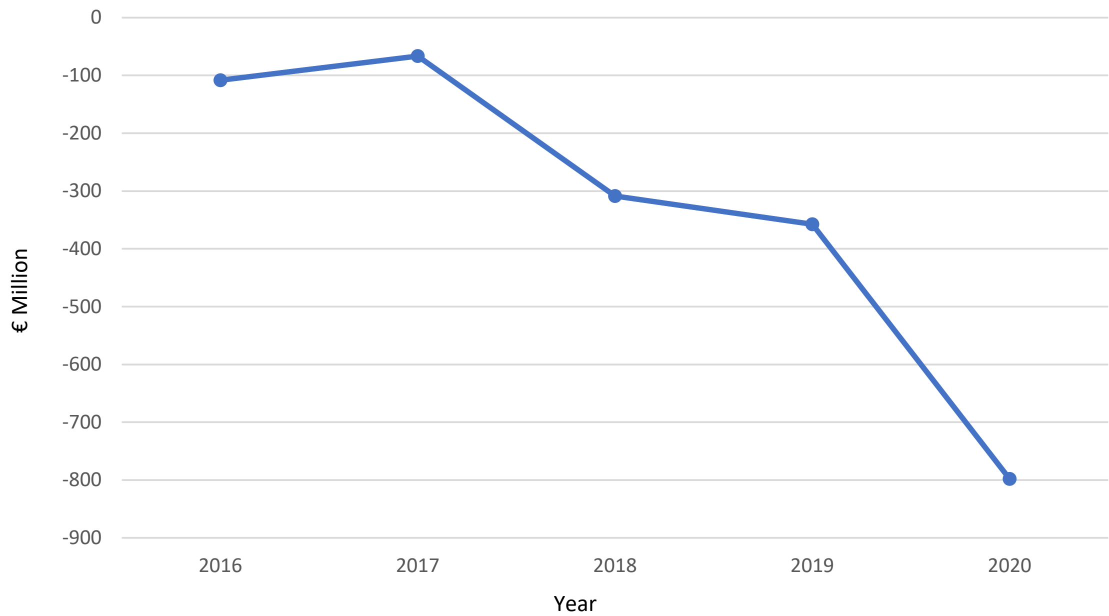
Consolidated Fund Statement – 2020

As detailed in Article 102(1) of the Constitution of Malta, the Consolidated Fund incorporates all moneys received by the Government of Malta[1]. All disbursements out of the Consolidated Fund are authorised by means of Appropriation Acts of Parliament, which include the Supplementary Estimates.

The House of Representatives approved the year 2020 Budget (Estimates)[2] for an aggregate expenditure of €5.9 billion and a further €951 million was approved by Supplementary Estimates[3]. Actual expenditure for the year, amounting to €6.4 billion, exceeded revenue by around €441 million, leading to an end-of-year deficit of nearly €798 million.

A line graph comparing the closing balance of the Consolidated Fund as at 31 December 2020 with the prior four years is depicted in Chart 1.

Chart 1: Trend Analysis of the Closing Balance of the Consolidated Fund (2016 – 2020)

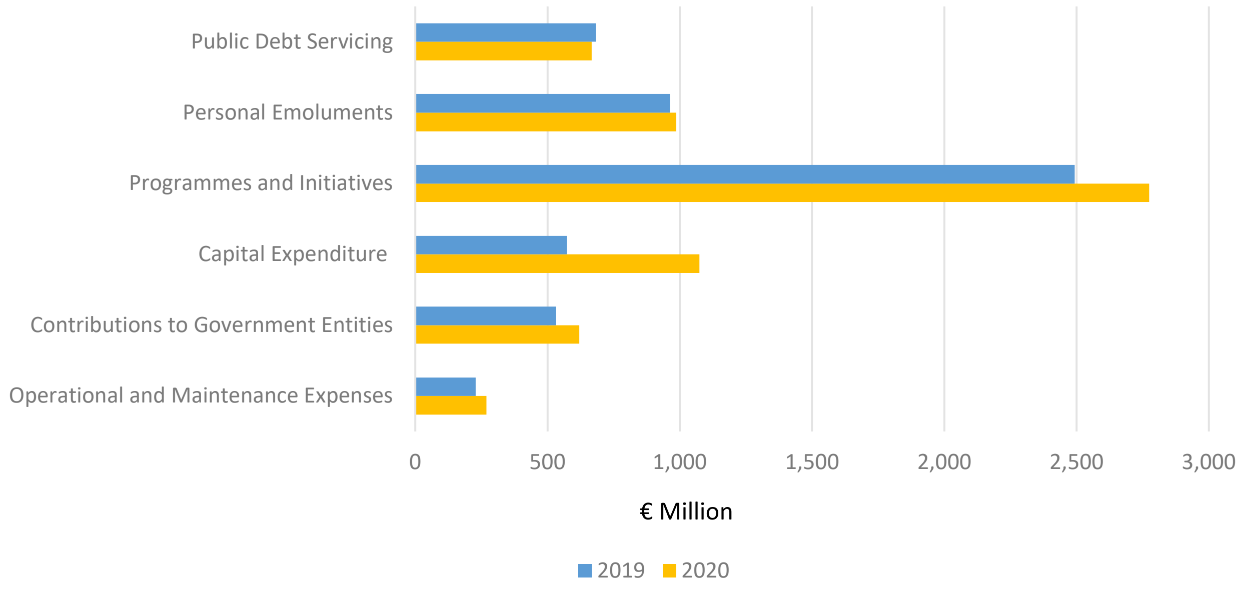


(Source: Financial Report 2016 page xv, Financial Report 2017 page xv, Financial Report 2018 page xv, Financial Report 2019 page xvi, Financial Report 2020 page xvi)

Total revenue generated during the year increased by 10%; however, the shortfall of around €441 million of expenditure over proceeds, as well as the substantial negative opening balance (over €357 million), led to a negative balance of nearly €798 million as at year-end. As shown in Chart 2, all categories of outflow, except for public debt servicing, experienced an upsurge during 2020.

[1] Does not include amounts payable into any other fund established by or under any law, currently in force in Malta for a specific purpose.
[2] As authorised by Warrant No. 1 of 2020 issued on 7 January 2020.
[3] As authorised by Warrant No. 2 of 2020 dated 29 December 2020.

Chart 2: Growth registered in most Expenditure Areas during 2020



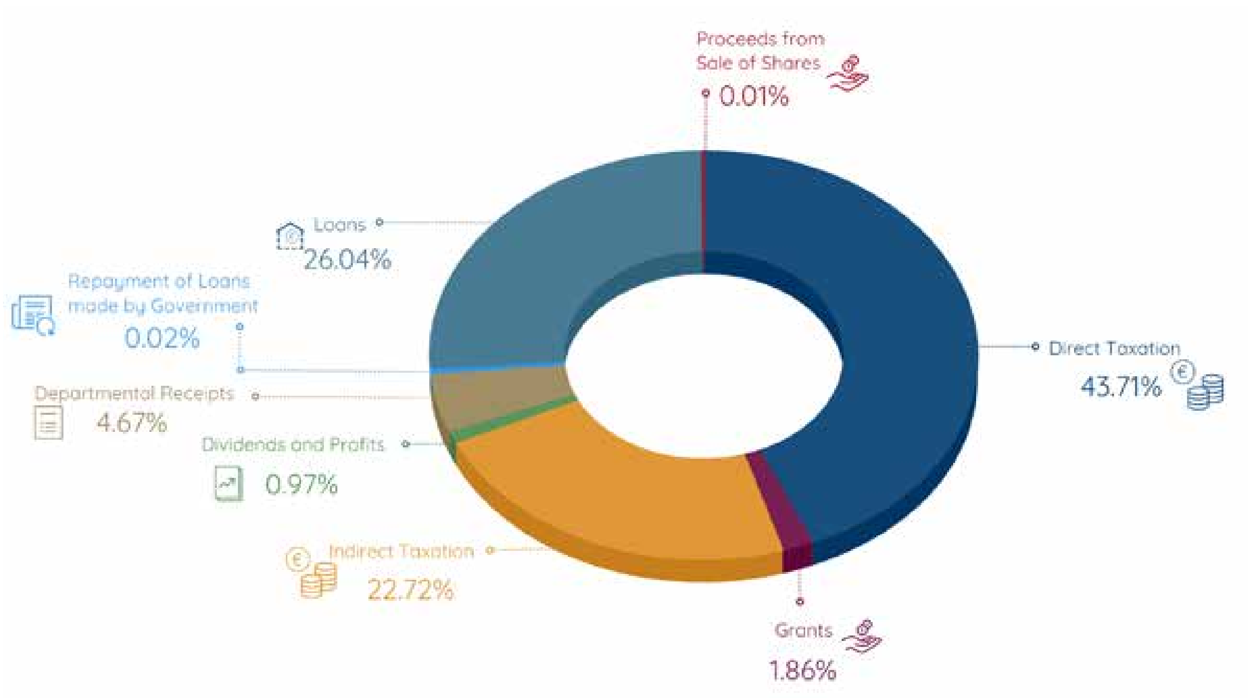
(Source: Financial Report 2020 page xvi)

Revenue

Revenue by Category

Actual total revenue collected during 2020 amounted to €5.9 billion, representing a 10% increase over the previous year. Chart 3 shows the different categories of revenue as a percentage of the total consolidated amount.

Chart 3: Revenue by Category as a Percentage of Total Consolidated Revenue



(Source: Financial Report 2020 page xxi)

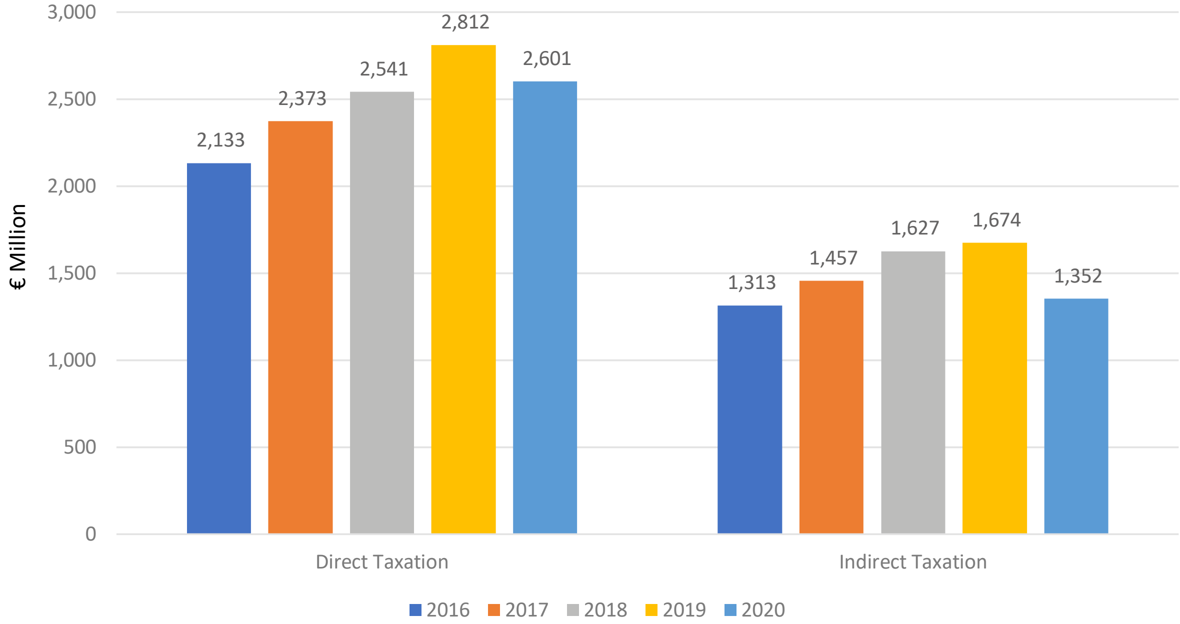
Five-year Trend Analysis

Recurrent Revenue

a. Tax Revenue

An analysis of tax revenue for the years 2016 to 2020 is shown in Chart 4.

Chart 4: Tax Revenue between 2016 and 2020



(Source: Financial Report 2016 page xviii, Financial Report 2017 page xviii, Financial Report 2018 page xviii, Financial Report 2019 page xix, Financial Report 2020 page xix)

Revenue arising from income tax and social security contributions grew consistently by an average of 10% between 2016 and 2019. In contrast, direct taxation fell by 8% (€211 million) in 2020 due to the lower economic activity registered during the COVID-19 pandemic.

Meanwhile, indirect taxation was also growing annually until 2019, but a reduction of €322 million was registered in the following year. The pandemic negatively affected the income streams listed in Table 1.

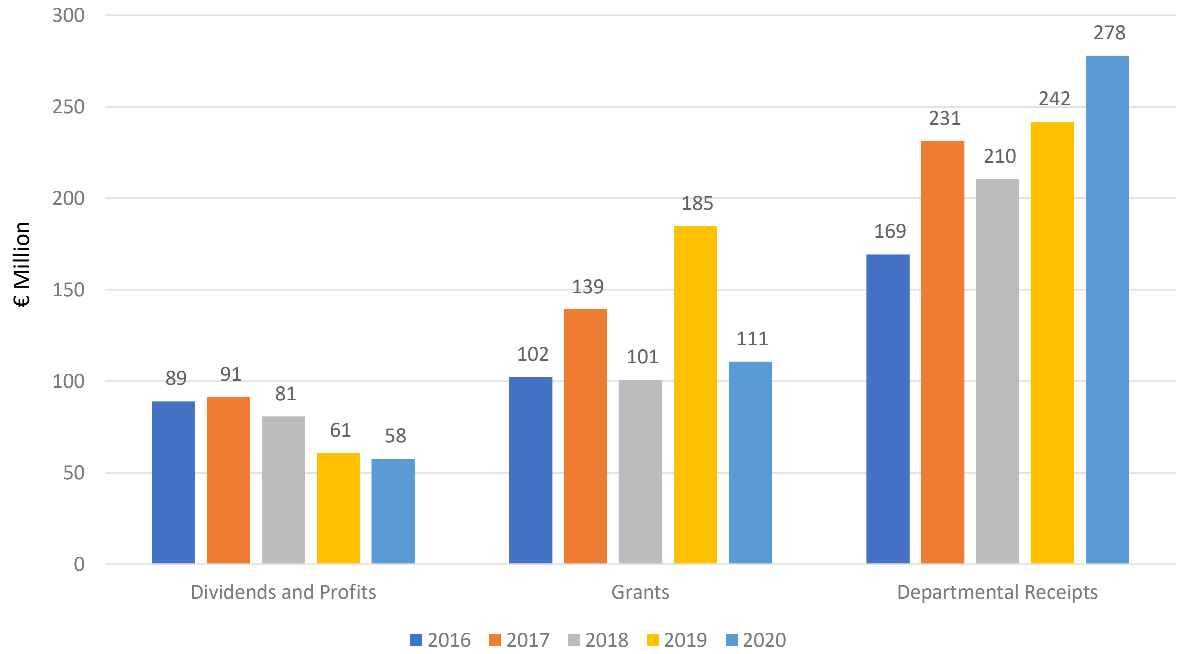
Table 1: Main Decreases in Indirect Taxation during 2020

Revenue from Indirect Taxation	**Reduction during 2020**	
	Reduction Amount	**Percentage Change**
	€'000	**%**
Value Added Tax	167,462	18
Excise Duties:		
Petroleum	48,526	31
Machine-made Cigarettes	9,923	11
Licences, Taxes and Fines:		
Motor Vehicle Registration Tax	14,774	29

b. Non-tax Revenue

Chart 5 depicts non-tax revenue for the five years 2016 to 2020. An analysis of these figures follows.

Chart 5: Non-tax Revenue between 2016 and 2020



(Source: Financial Report 2016 page xviii, Financial Report 2017 page xviii, Financial Report 2018 page xviii, Financial Report 2019 page xix, Financial Report 2020 page xix)

Dividends and Profits – During 2020, income generated from this category fell by a further 5%. This resulted from a nearly €6.6 million decrease in dividends on investments which offset an increase in revenue for the Central Bank of Malta of €3.5 million, when compared to the previous year.

Grants – During the last five years, grants experienced considerable fluctuations, with the most significant increase of 83% being registered in 2019. Subsequently, in 2020, this fell by 40% due to timing differences in the actual receipt of funds from the European Union.

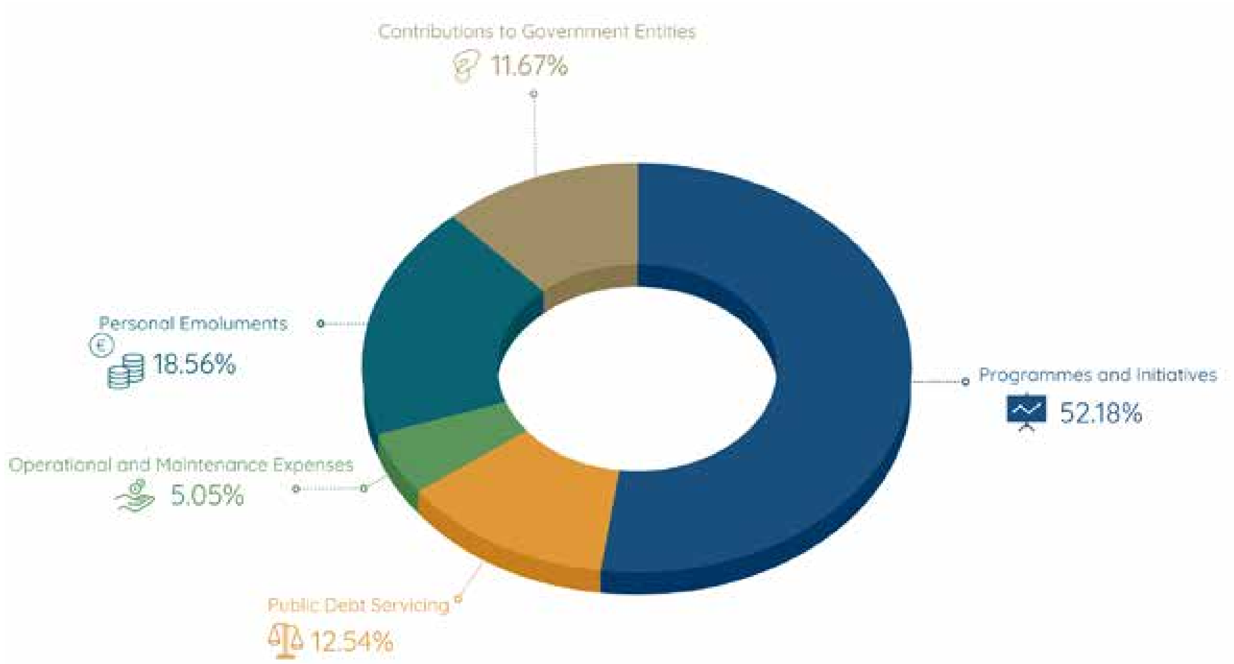
Departmental Receipts – During the last five years, several fluctuations were noticed in revenue collected from Fees of Office, Rent, Reimbursements and Miscellaneous Receipts. The lowest inflow, amounting to €169 million, was registered in 2016, whilst the highest was registered in 2020 at €278 million. The 15% increase from 2019 to 2020 was mainly due to a rise of over €32 million in Fees of Office.

Expenditure

Recurrent Expenditure and Public Debt Servicing

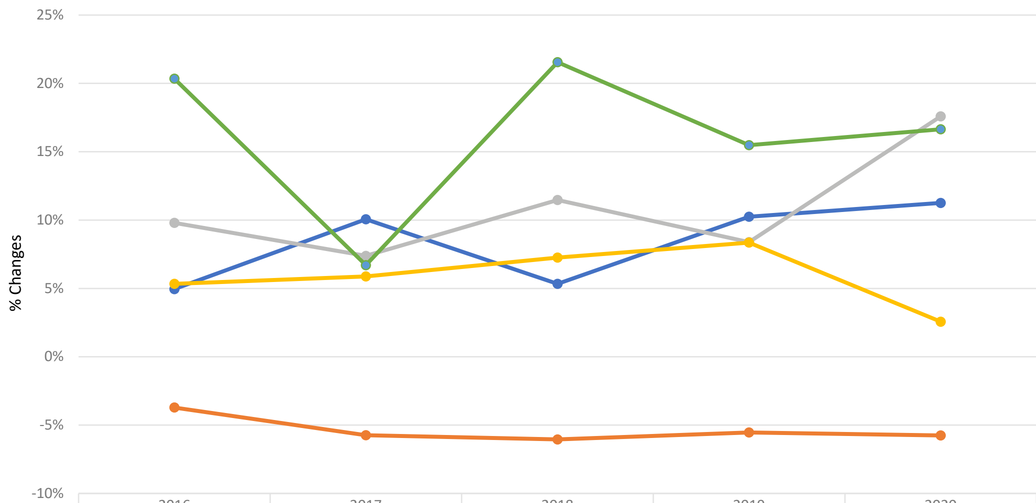
The total recurrent expenditure during 2020 exceeded €5.3 billion, representing a 9% increase over the previous year. This amount includes €667 million in relation to Public Debt Servicing. Chart 6 shows the different categories of expenditure as a percentage of total recurrent expenditure.

Chart 6: Recurrent Expenditure by Category as a Percentage of Total Recurrent Expenditure[4]



(Source: Financial Report 2020 pages xxvi - xxviii)

Chart 7: Five-year Trend Analysis of Recurrent Expenditure by Category



	2016	2017	2018	2019	2020
Programmes and Initiatives	5%	10%	5%	10%	11%
Public Debt Servicing	-4%	-6%	-6%	-6%	-6%
Operational and Maintenance Expenses	10%	7%	11%	8%	18%
Personal Emoluments	5%	6%	7%	8%	3%
Contributions to Government Entities	20%	7%	22%	15%	17%

(Source: Financial Report 2016 page xxv, Financial Report 2017 page xxvi, Financial Report 2018 page xxvi, Financial Report 2019 page xxvii, Financial Report 2020 page xxvii)

[4] Programmes and Initiatives and Contributions to Government Entities include a substantial amount that was also incurred on Personal Emoluments as well as on Operational and Maintenance Expenses.

The fluctuations of the various categories[5] of recurrent expenditure over the last five years are depicted in Chart 7. The major variation during 2020 was noted in Operational and Maintenance Expenses, which registered an increase of 18% when compared to the prior period. Another significant rise was registered in Contributions to Government Entities, which increase of 17% was more or less similar to the 15% increase of the preceding year. The main expenditure areas which contributed to these variations in 2020 are summarised in Table 2.

Table 2: Contributors for the most Material Increases in Recurrent Expenditure registered in 2020

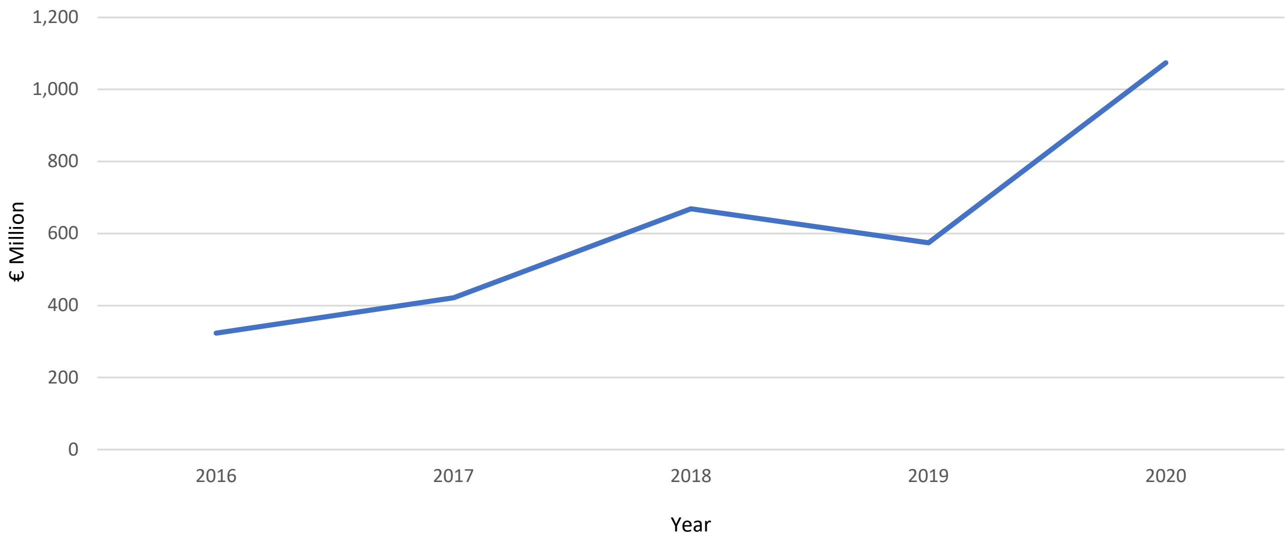
Classification	Government Ministry or Entity receiving Funds	Increase €
Operational and Maintenance Expenses – Contractual Services	Ministry for Foreign Affairs and Trade Promotion	39,394,181
	Ministry for the Economy, Investment and Small Businesses	13,921,707
Contributions to Government Entities	Court Services Agency[6]	17,162,738
	Mental Health Services	10,808,644
	Agency for Welfare of Asylum Seekers	8,197,000
	Heritage Malta	6,047,939
	Malta College of Arts, Science and Technology	5,500,000
	University of Malta	4,000,000
	Building and Construction Agency[7]	2,999,999
	Malta Financial Services Authority	2,888,616
	Sapport	2,871,449
	Correctional Services Agency[8]	2,602,916
	Servizz.gov	2,238,128
	Malta Investments Management Company Limited	1,900,000
	Foundation for Social Welfare Services	1,700,000

[5] Any repayments and contributions made to sinking funds were excluded from Public Debt Servicing expenditure.
[6] Established in 2019 in terms of the Public Administration Act (Cap. 595). Initial funds were allocated in 2020.
[7] In 2020, the Agency received its initial funds following its establishment.
[8] Previously known as the Corradino Correctional Facility. In 2019, the Agency was founded in terms of the Correctional Services Agency (Establishment) Order, 2019 (L.N. 121 of 2019).

Capital Expenditure

An analysis of total capital expenditure over the last five years revealed that the most substantial expense was registered in 2020, which exceeded €1 billion, representing an increase of 87% over previous year. Chart 8 refers.

Chart 8: Capital Expenditure over the Last Five Years



(Source: Financial Report 2016 page xxix, Financial Report 2017 page xxx, Financial Report 2018 page xxx, Financial Report 2019 page xxxi, Financial Report 2020 page xxxi)

Analysis of Appropriations

The appropriations for expenditure during 2020, authorised by the Ministry for Finance (MFIN) Warrant Nos. 1 and 2, were made under the following Statutes:

		€
a.	Appropriation Act	4,921,103,191
b.	In terms of Special Laws	1,901,292,000
c.	In terms of the Constitution	4,753,809
	Total Appropriations	**6,827,149,000**

a. Appropriation Act

	€
Appropriated by Act XXXII of 2019 (Original Budget)	3,990,889,191
Appropriated by Act LXIV of 2020 (Supplementary)	930,214,000
Total	**4,921,103,191**

b. *In terms of Special Laws*

The following amounts, including Supplementary Estimates as detailed in Warrant No. 2 of 2020, were appropriated in terms of the various laws as indicated in Table 3.

Table 3: Amounts Permanently Appropriated in terms of the Various Laws

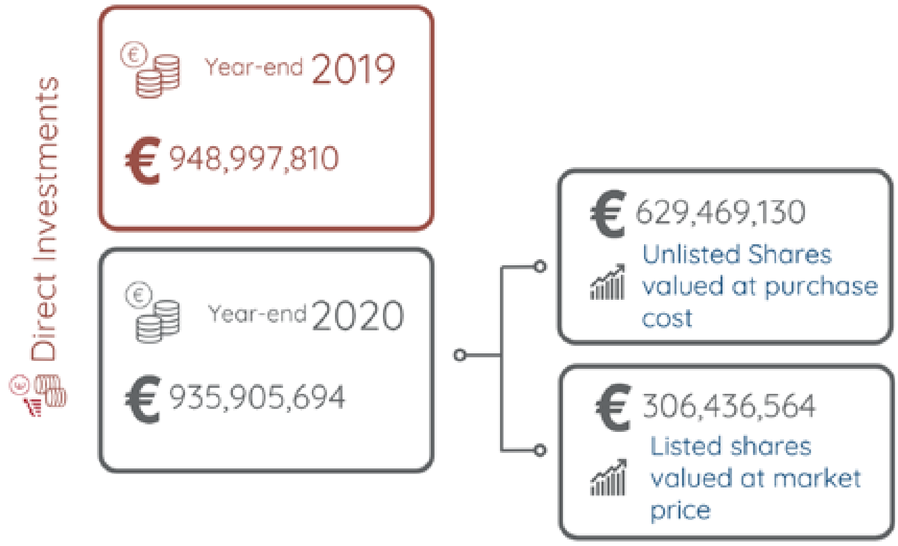
Description	2020 €'000	2019 €'000
General Elections Act (Cap. 354)	330	330
Broadcasting Act (Cap. 350)	583	583
Reletting of Urban Property (Regulation) Ordinance (Cap. 69) and Agriculture Leases (Reletting) Act (Cap. 199)	-	60
Social Security Act (Cap. 318)	1,080,495	1,029,440
Pensions Ordinance (Cap. 93)	97,200	108,000
Ombudsman Act (Cap. 385)	1,340	1,300
Permanent Commission Against Corruption Act (Cap. 326)	100	80
Government Borrowing and Management of Public Debt Act (Cap. 575)	697,855	688,396
Arbitration Act (Cap. 387)	75	75
Auditor General and National Audit Office Act (Cap. 396)	3,800	3,500
Value Added Tax Act (Cap. 406), Customs Ordinance (Cap. 37) and Excise Duty Act (Cap. 382)	3,000	3,000
Widows' and Orphans' Pensions Act (Cap. 58)	511	555
Personal Injuries (Emergency Provisions) Ordinance (Cap. 111)	32	45
Members of Parliament (Retiring Allowances) (Act XVII of 1966) and Members of Parliament Pensions Act (Cap. 280)	2,500	2,350
Lease of Parliament Building – Budget Measures Implementation (Act V of 2012)	4,430	4,430
Standards in Public Life Act (Cap. 570)	640	368
Local Loans (Registered Stock and Securities) Ordinance (Cap. 161)	200	-
Parliamentary Service Act (Cap. 562)	8,201	6,920
Totals	**1,901,292**	**1,849,432**

c. *In terms of the Constitution*

In terms of Article 107(2) of the Constitution, the following amounts were permanently appropriated in respect of:

	€
The President of Malta	94,155
The Attorney General	106,520
Judges and Magistrates	4,459,134
The Public Service Commission	94,000
Total	**4,753,809**

Public Credit – Shareholding



The following were the major changes in investments during the year:

Movements in Values of Existing Investments

During 2020, the cost of investment in the following entities collectively increased by €28,738,556, representing additional paid-up share capital:

- European Investment Bank
- European Stability Mechanism
- IP Holding Limited

On the other hand, the cost of investments in the following entities collectively decreased by €6,832,774 due to changes in the exchange rate of the American Dollar:

- Asia Infrastructure Investment Bank
- Council of Europe Development Bank
- International Bank for Reconstruction and Development
- Malta Air Travel Ltd
- Malta Freeport Corporation Ltd
- Mediterranean Offshore Bunkering Company Ltd
- Multilateral Investment Guarantee Agency

Public Credit – Other Investments

Investment in Industry

The Schedule of Investments submitted by Malta Government Investments Ltd to the Accountant General showed that the total cost of investment in 38 companies as at 31 December 2020 amounted to €28,682,940. However, the estimated net book value of these investments amounted to €27,089,466, thus a total unrealised loss of €1,593,474. This includes five companies that were undergoing liquidation procedures.

At the end of 2020, the investment in industry as reported by Treasury amounted to €28,705,224. As in previous years, this figure did not tally with the aggregate amount stated by the Malta Government Investments Ltd due to a difference of €22,284 between Treasury's and the company's records. This mainly represents an investment of €22,369 in Topwear Ltd that was not reported on the Malta Government Investments Ltd records. This investment was made by the former Malta Development Corporation.

Movements in Other Investments

Euro Coins

During 2020, the Central Bank of Malta issued Euro Coins, totaling €1,200,000, on behalf of Treasury, bringing the total amount of Euro Coins in circulation as at 31 December to €90,371,000.

Malta Development Bank

During 2020, there was a further increase in the paid-up capital of €10 million in the Malta Development Bank, in view that the foregoing was to embark on several new projects. Hence, the total invested in this bank as at 31 December amounted to €50,000,000.

Dividend and Profit received

Central Bank of Malta

By the end of financial year 2020, the Central Bank of Malta distributed a total dividend of €31.5 million in six tranches.

Malta Business Registry

During 2020, Treasury also received surplus funds, amounting to €6.75 million, generated from the Malta Business Registry.

Inspection of Securities and Investments – Government Securities Board

The purpose of the Government Securities Board is to verify and certify the List of Securities held by the Government at year-end, with the relative Stock Certificates held by Treasury. The Board is made up of three members, namely the Chairperson, this being MFIN Permanent Secretary, a representative from Malta Investments Management Company Ltd and the Accountant General.

Up to the date this Report went for publication, NAO had not yet received the List of Securities verified by the respective Board.

Public Credit – Loans made by Government and Repayments thereof

Balances of all loans issued by Government as at 31 December 2020, as reported in Appendix E of the Financial Report 2020, totalled €54,342,769.

Water Services Corporation

The loan to the Water Services Corporation is interest free and repayable either through a direct payment to Treasury, if a subvention is not required by the Corporation, or through a Transfer Voucher when the Government's subvention is still required. The initial amount of the loan granted in 1999 was of €10,482,180.

A loan repayment of €250,000 was made during the year 2020. As a result, the closing balance as at 31 December 2020 amounted to €4,117,885.

Loan Facility Agreement with the Hellenic Republic

The liability from the Hellenic Republic originated from an €80 billion loan facility agreement dated 8 May 2010, between the Euro Member States[9] (the lenders) and the former (the borrower). The principal repayments were scheduled between 15 June 2020 and 15 September 2026. The maximum amount that each country contributed was established in the respective agreement, which, in Malta's case, stood at €74,543,026. However, the actual contribution amounted to €50,683,923.

The first three loan repayments, totalling €664,872, were made during 2020. Thus, the closing balance as at 31 December 2020 amounted to €50,019,050.

Loan – Mariam Al Batool School

On 21 December 2017, following Cabinet approval in August of the same year, the Government and Mariam Al Batool School entered into an agreement whereby the outstanding amount of €399,854 was to be waived. The said cancellation of debt was factored as part of the budget estimates for Vote 21 – Line Item 7189: Contribution towards the Treasury Clearance Fund.

Subsequently, a total drawdown of €112,397 was made during 2018, following a request by the School, to cover salaries for period November and December 2018.

Moreover, to assist the School addressing its financial circumstances, the Government agreed to lend an annual sum of €460,000 for three scholastic years, starting 2018-2019, and €300,000 as from scholastic year 2021-2022 onwards, as per agreement dated 19 December 2018. The school bound itself to repay the full amount of the loans provided throughout a calendar year, in two equal instalments at the end of June and December of the third year that follows the year in question, without interest. However, the annual sums of €460,000 lent in years 2019 and 2020, as per said agreement, were accounted for as Advances in Appendix L.

Investments held on behalf of Sinking Funds

Article 59 of the Government Borrowing and Management of Public Debt Act (Cap. 575), which replaced the Local Loans (Registered Stocks & Securities) Ordinance (Cap. 161), as from 1 September 2017, requires the Treasury to invest any contributions made in the Sinking Fund, as well as the return generated from the investment in other financial assets. To this effect, contributions and investment income are invested in Government Securities.

Table 4 shows a breakdown of investments held on behalf of Sinking Funds.

Table 4: Sinking Funds' Investments

Investment	Sinking Funds - Local	Sinking Funds - Foreign
	€	€
Central Bank of Malta Deposit Accounts	163,188,789	584,126
Malta Government Stocks	113,353,499	-
Totals	**276,542,288**	**584,126**

(Source: Financial Report 2020 pages 198 - 199)

[9] Excluding the Hellenic Republic since it was not a signing party for a loan to itself.

Advances (Receivables)

Accounting for Advances

Article 87 of the General Financial Regulations, 2017 stipulates that "... *it shall be the duty of accounting officers to see that such accounts are repaid as early as possible in the manner specified in the warrant*".

Appendix L of the Financial Report incorporates a detailed statement of balances remaining outstanding as on 31 December 2020, in respect of advances made to various Ministries on behalf of Government Departments, Agencies and Organisations.

Chart 9: Outstanding Advances

Outstanding advances as at 31 December 2020 were as reported in Table 5.

Table 5: Outstanding Advances

Description	Amount €
Ministry of Finance to the Bank of Valletta Employees Foundation, for the purchase of 1,385,406 ordinary shares by the same Foundation, in Bank of Valletta Ltd in 1995	1,484,215
Ministry of Finance and Commerce, to be utilised as a loan facility by the Maltacom Employees Foundation, to purchase ordinary shares in Maltacom plc in 1998	3,366,078
Ministry for Education and Employment, advanced loan facility to Mariam Al Batool School	920,000
Ministry of Finance, advanced to Mid-Med Bank Employees Foundation, for the purpose of investment, pursuant to the agreement dated 3 December 2002, entered into between Malta Government and the Foundation, in the interest of the members of the said Foundation	6,773,305[10]
Total	**12,543,598**

[10] Refer to 'Loan – Mariam Al Batool School' under 'Public Credit – Loans made by Government and Repayments thereof' earlier in this write-up.

Remarks

Bank of Valletta Employees Foundation

MFIN confirmed that this loan continued to be repaid through annual instalments, in accordance with the respective loan agreement. In 2020, a repayment of €55,415 was effected.

Maltacom Employees Foundation

During 2020, this Ministry continued to look into the potential repayment of this loan, in the light of representations made by the Maltacom Employees Foundation.

Mariam Al Batool School

Despite a further issue during 2020, MFIN confirmed that no repayment was made on this loan.

Mid-Med Bank Employees Foundation

The loan continued to be repaid through annual instalments in accordance with the loan agreement. During 2020, a repayment of €83,809 was effected.

Central Bank of Malta Public Account

Monthly reconciliation statements for the Public Account for the period January to December 2020 were prepared by Treasury.

As reported in the prior year's Annual Audit Report, NAO noted that discrepancies classified as Other Adjustments, between the balance as per the Central Bank of Malta Statement and that reported in the Cash Book, averaged €617 million in 2020. Treasury confirmed that the main variance was triggered by the cancellation of a cheque, amounting to €50, which was inadvertently inputted as €621,318,406, being the reference number of the transaction instead of the actual amount, on 17 October 2018. Although corrected immediately, according to the Treasury, the amount in question will continue to feature as an unreconciled balance in the future.

With regard to the Reconciliation for the period June 1992 to December 2001, Treasury once again confirmed no development in this respect and retained its position as in prior years that, due to cost considerations and human resources requirements, it was impossible to embark on any kind of reconciliation for the years in question.

In order to compute the monthly Bank Reconciliation Statement, consistently since January 2020, an amount of €90,363,370 had to be added to the Departmental Accounting System balance, to agree to the balance as per Cashbook. This figure[11] was inadvertently imported in CFMS Cashbook and unfortunately now has to be carried forward indefinitely for reconciliation purposes.

[11] Transactions related to January till 19 February 2020.

Boards of Survey

Boards of Survey at Treasury and at the Ministry for Gozo were appointed in terms of Article 98 of the General Financial Regulations, 1966, in order to take account of moneys, deposits and other values as at 31 December 2020.

NAO received the 2019 Board of Survey Report on 25 February 2021. The relevant statements for the year ended 2019 were duly certified correct with no adverse remarks.

The Board of Survey's Report for the Ministry for Gozo for the year ended 31 December 2020 reached this Office in April 2021. The Board noted some issues in the Survey Report, mainly related to document management and training, and suggested appropriate measures to rectify such issues.

At the date of this publication, NAO had not yet received the Report from the Board of Survey for Treasury, certifying, amongst others, the correctness of the List of Securities held as at year ended 2020.

Ministerial and Departmental Bank Accounts

Treasury Circular No. 1/2021 – 'End of Year (2020) Statements of Account Cash in Hand and Bank Balances held at local Commercial Banks and Central Bank of Malta', dated 6 January 2021, requested Heads of Departments and other Accounting Officers to submit a return, both in soft and hard copies, indicating the cash and bank balances as at 31 December 2020, including the position of each bank account held both at local commercial banks and the Central Bank of Malta. In addition, officers were to submit a hard copy of these statements to the Treasury, clearly indicating those bank accounts against which a liability exists, as well as identifying bank accounts in respect of Trust Funds.

The bank balances were published accordingly in the Financial Report 2020 (pages i to vii). Whilst the credit balance as per Bank Statement consists of the liability, trust and resulting balances, the debit balance on the other hand, should only show credit card accounts. Any exceptions were queried by Treasury with the respective Ministry and corrective action was taken as necessary.

Public Debt

Debt Composition

The composition of Government Debt as at end-of-year 2020 and comparative figures of the preceding year are shown in Table 6.

Table 6: Government Debt

Type of Debt	2020 Amount €'000	2020 Percentage of Total Debt %	2019 Amount[12] €'000	2019 Percentage of Total Debt %
Malta Government Stocks (Consolidated)	5,358,625	76.79	4,615,450	80.70
Treasury Bills	586,500[13]	8.41	300,000	5.25
Malta Government Retail Savings Bond	380,507	5.45	289,849	5.07
European System of National and Regional Accounts Rerouted Debt	272,597	3.91	249,060	4.36
Extra Budgetary Units and Local Councils	168,065	2.41	174,014	3.04
Euro Coins	90,371	1.30	89,171	1.56
Foreign Loans	120,839[14]	1.73	967	0.02
Total Debt	**6,977,504**	**100**	**5,718,511**	**100**
Gross Domestic Product (GDP)	**13,054,927**		**14,047,607**	
Ratio of Public Debt to GDP	**53.45%**		**40.71%**	

(Source: National Statistics Office News Releases 058/2021, 116/2021, 156/2021; Debt Management Directorate (DMD) computations)

Foreign loans account for less than 2% of total debt. As at end 2020, the percentage of Government Debt to the country's GDP amounted to 53.45%, resulting in an increase of 12.74% over the previous year[15]. However, this remained below the 60% Maastricht Treaty requirements.

Moreover, since year 2016, Malta had a considerably lower Government Debt-to-GDP ratio when compared to the average of the European Union, which as at end 2020 was recorded as 90.1%. Chart 10 refers.

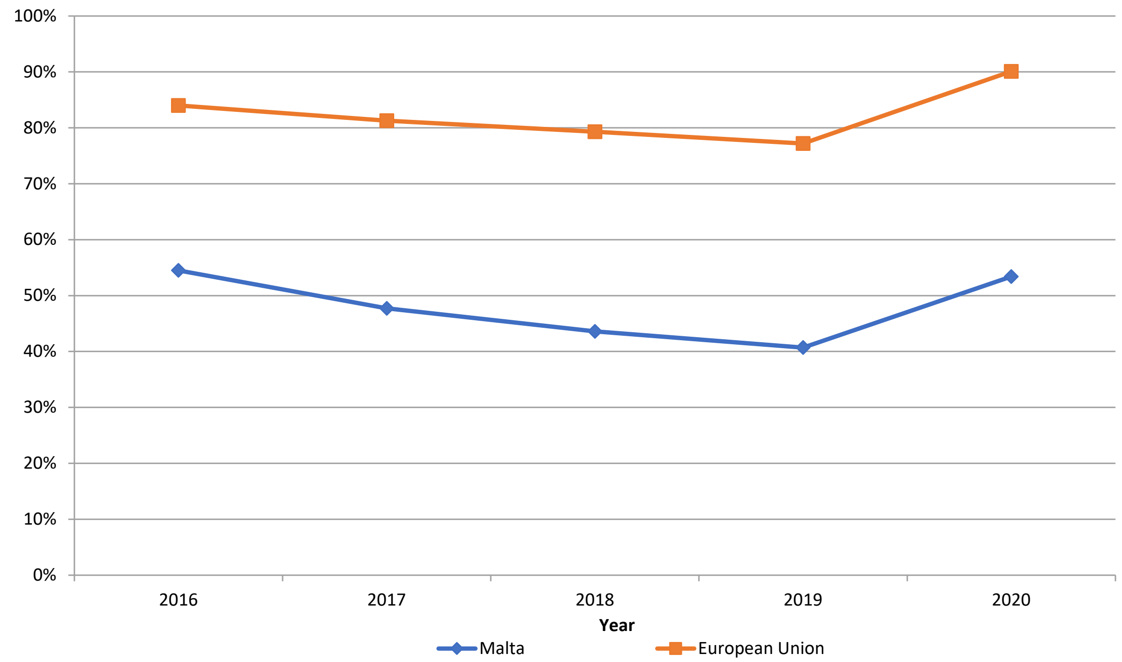
[12] Public Debt and GDP balances as at 31 December 2019 as reported in the previous year's Annual Audit Report have been updated to provide a more accurate analysis as per most recent publications.

[13] Figure for 2020 is consolidated.

[14] The commitment of the European Union Member States and institutions towards significant joint fiscal measures in response to the COVID-19 pandemic crisis, gave the opportunity to the Maltese Government to fund a small portion of its medium to long-term borrowing programme for 2020 through loan agreements entered into with the European Commission on favourable terms under the Support to mitigate Unemployment Risks in an Emergency programme. The amount funded through this instrument during 2020 amounted to €120 million.

[15] Like most other countries, the policies adopted by the Maltese Government to tackle the crisis caused by the COVID-19 pandemic have led to sudden and significant increases in borrowing requirements.

Chart 10: Government Debt-to-GDP Ratio (2016 to 2020)



(Source: Year 2016 – Eurostat News Release 156/2020, Year 2017 to 2020: Eurostat News Release 119/2021)

Debt Management

Methodology used for the Analysis of Public Debt Management

The analysis of Public Debt was based on the latest Revised Guidelines for Public Debt Management dated 1 April 2014, as prepared by the World Bank and the International Monetary Fund, as well as the Government Borrowing and Management of Public Debt Act (Cap. 575).

The five main aspects of Debt Management analysed in line with the International Best Practices include:

International Standards of Supreme Audit Institutions (ISSAI) followed during the analysis were:

- ISSAI 5410 – Guidance for Planning and Conducting an Audit of Internal Controls of Public Debt
- ISSAI 5421 – Guidance on Definition and Disclosure of Public Debt
- ISSAI 5440 – Guidance for Conducting a Public Debt Audit – The Use of Substantive Tests in Financial Audits

Characteristics of Public Debt Management Activities

Tables[16] 7 and 8 provide filled-in checklists, as listed in ISSAI 5440, of issues drawn from the Revised Guidelines for Public Debt Management, which auditors should consider when developing their understanding of Public Debt Management.

[16] The two tables were originally compiled by the International Organisation of Supreme Audit Institutions based on a questionnaire sent to public debt managers in many countries in order to identify the key features of public debt management operations. However, the tables are not meant to be a comprehensive list of factors that should be present in all public debt management arrangements.

Table 7: Characteristics of Public Debt Management Activities – Institutional Arrangements

Common Institutional Arrangements	Is this feature present in DMD?
An annual borrowing authorisation	Yes
A public debt ceiling limit	Yes
Domestic and foreign currency public debt programmes managed together	Not Applicable
Separate public debt management agency	No[17]
Separate front and back offices	Yes
Separate Risk Management Unit (middle office)	Yes
Formal guidelines for managing market and credit risk	Yes
Annual public debt management reports	Yes
Regular external peer reviews of public debt management	No
Annual audits of public debt management transactions	Yes
Code of Conduct and conflict of interest guidelines for public debt management staff	Yes[18]
Business recovery procedures in place	Yes

Table 8: Characteristics of Public Debt Management Activities – Features of Markets

Features of Primary Markets for Public Debt Instruments	Is this feature present in DMD?
Auctions used to issue domestic public debt	Yes
Fixed-price syndicates used to issue domestic public debt	Not Applicable
Benchmark issues for domestic market	Yes
Pre-announced auction schedule	Yes
Central Bank participates in the primary market	No
Primary Dealer[19] System	No[20]
Universal access to auctions	Yes
Limits of foreign participation	No
Collective action clause, domestic issues	Yes
Collective action clause, external issues	Not Applicable
Features of Secondary Markets for Public Debt Instruments	
Over the counter market	Yes
Exchange traded market mechanism	Yes
Sound clearing and settlement systems	Yes
Limits on foreign participation	No

Policy

The scope of the Government Borrowing and Management of Public Debt Act (Cap. 575) is to provide for the governance aspects, high-level policy objectives and institutional arrangement for prudent management of the Government Debt, cash position, as well as liquidity and reserve funds, as detailed in Article 3 of the same Act.

[17] In the case of Malta, the public debt ceilings arise from four different legislations or Parliamentary resolutions.
[18] Subject to Code of Ethics incorporated in the First Schedule of the Public Administration Act (Cap. 595).
[19] A Primary Dealer is a bank or financial institution that buys Government Securities directly from a Government, with the intention of reselling them to others, thus acting as a market maker of Government Securities.
[20] In the absence of a Primary Dealer System, DMD has a comprehensive process of reconciliation in place.

The Treasury published the Annual Borrowing Plan in January 2020, in terms of Article 18(4). It also announced that for the financial year 2020, the issuance of Malta Government Stocks (MGS) and debt instruments with maturity of more than one year shall not exceed €450 million. The maturity term of the issues was planned to be a mix of short and medium to long term MGS. A degree of flexibility was to be retained to adapt to changing market conditions, and where necessary, review the type of securities and debt instruments, as well as the intervals of the issuances.

However, towards the end of the first quarter, the Maltese economy, like most economies all over the world, experienced unexpected abnormal circumstances due to the outbreak of COVID-19 pandemic. To this effect, in March 2020, the Government was compelled to revise upwards the amount of €450 million that it could borrow, to a sum not exceeding €2 billion.

Operations

As can be seen from the Bid-to-Cover ratios in Table 9, there was strong participation in both MGS and Malta Government Retail Savings Bonds.

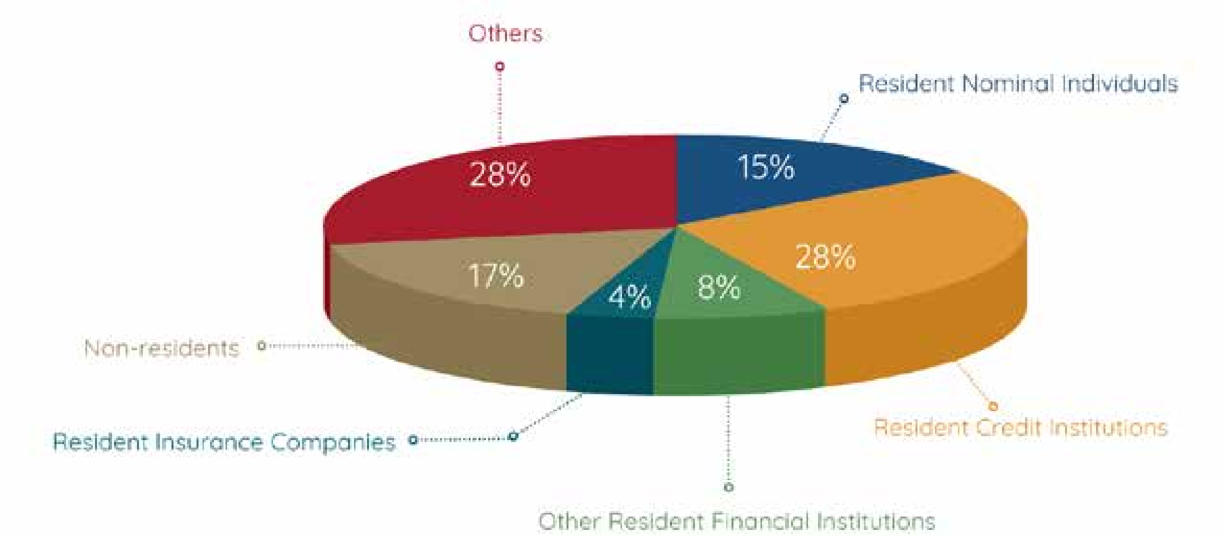
Table 9: 2020 Issuance Performance

Month	On Offer (plus over-allotment) € Million	Total Participation € Million	Bid-to-Cover
Malta Government Stocks			
February	60 + 40	234.4	3.91
April	200 + 100	403.7	2.02
May	200 + 100	493.9	2.47
July	150 + 100	526.3	3.51
September	120 + 80	426.5	3.55
November	150 + 85	492.3	3.28
62+ Malta Government Retail Savings Bond			
March	60 + 35	109.7	1.83

(Source: DMD 2020 Annual Report, page 14)

The distribution of MGS among the different types of investor categories as at 31 December 2020 is depicted in Chart 11. Holdings by resident entities not falling under the main categories and classified as Others, including non-profit entities, Local Councils and public non-market units, collectively amounted to 28%. Resident credit institutions also held an amount of 28%, whilst resident nominal individuals held ownership of 15%, decreasing it by 5% over the previous year.

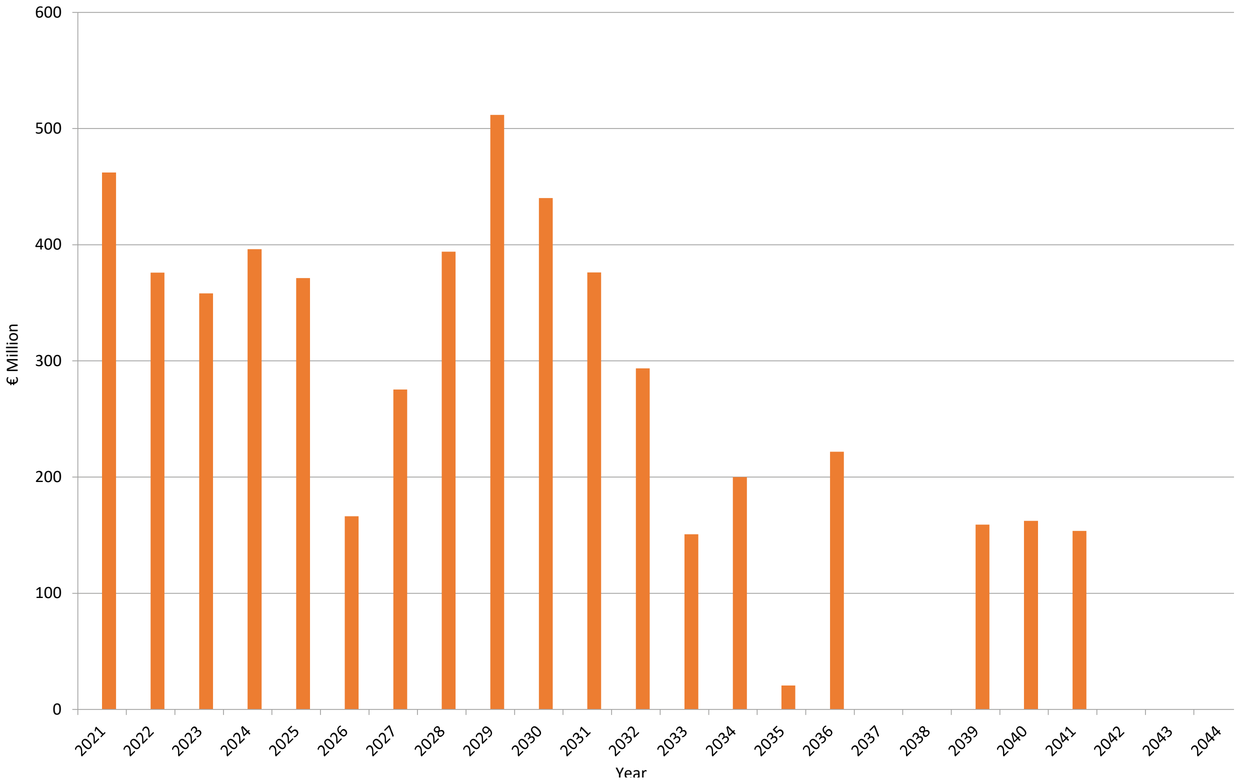
Chart 11: Malta Government Stocks Holder Distribution as at 31 December 2020



(Source: DMD 2020 Annual Report, page 16)

The gross outstanding nominal value of MGS as at 31 December 2020 stood at €5.6 billion. This represented an 18% increase over the preceding year-end balance. This was a consequence of the unplanned sizeable increase in financing needs triggered by the negative impact of COVID-19 pandemic. Chart 12 illustrates the distribution of outstanding MGS by year of maturity.

Chart 12: Maturity Profile of Malta Government Stocks as at 31 December 2020



(Source: Financial Report 2020 pages 177-179)

The refinancing volume within the next five years is approximately evenly distributed, thus making the refinancing of maturing debt more manageable. This is the result of a prudent risk management policy which DMD has in place. DMD may also make use of Bond switches to mitigate further the rollover risk, as it had done in the past, if it is deemed appropriate.

With the demand for MGS during 2020 mostly coming from financial institutions, DMD leaned towards issuance of stocks of short-term maturities, which tend to meet the appetite of these type of investors. This resulted in a slight decrease in the Weighted Average Maturity (WAM) of MGS from 8.8 to 8.5 years.

A publication by the Organisation for Economic Co-operation and Development[21] countries, on the Sovereign Borrowing Outlook for the year 2021, estimated that the average term to maturity of outstanding marketable Central Government Debt in several countries reached almost eight years in 2020; thus, comparing well with the situation in Malta.

Risk Control Procedures

A Medium-Term Debt Management Strategy was published for a four-year period starting 2019, on which DMD based its risk management framework accordingly. To the extent possible, DMD has taken steps to mitigate and limit the major risks that may arise during its funding operations. Table 10 refers.

Table 10: Major Risks faced by Debt Management Directorate

Risk	Details	Action by Management
Market	Risk mainly relates to the interest rate, given that all marketable debt is issued in the domestic currency.	• Weekly monitoring of cash management. • Smoothing expenditure peaks over a period of months to avoid the need to borrow extensively at times when revenue falls short of expenditure. • When possible, avoids issuances of medium to long-term debt during times of market stress or volatility.
Refinancing	Rollover risk is traditionally and conceptually assessed by the debt metric known as WAM.	• Over the past years, DMD has pursued a strategy of lengthening WAM of its debt portfolio. In fact, that of MGS has risen steadily from 6.6 to 8.5 years at end 2010 to 2020, respectively.

Information Technology Systems

As already recommended in the previous years, the debt management activities are to be supported by a reliable, accurate and comprehensive information technology management system with proper safeguards, dealing with debt management. DMD confirmed that this issue will be improved once a separate debt management system (standalone) compatible with CFMS is identified and procured. So far, DMD has maintained comprehensive databases which were saved on recoverable servers operated by the Malta Information Technology Agency.

[21] The Organisation for Economic Co-operation and Development is a forum of 34 industrialised countries that develops and promotes economic and social policies.

Financial

Table 11 shows the servicing cost of Central Government Debt for 2020 when compared to the preceding year.

Table 11: Central Government Debt Interest Expense

Description	2020 €	2019 €	Variance €
Local Loans:			
Malta Government Stocks and 62+ Malta Government Retail Savings Bonds	181,195,925	192,273,129	(11,077,204)
Treasury Bills[22]	327	422	(95)
Sub-totals (Local)	**181,196,252**	**192,273,551**	**(11,077,299)**
Foreign Loans	8,631	9,697	(1,066)
Totals	**181,204,883**	**192,283,248**	**(11,078,365)**

(Source: Financial Report 2020 pages 136-137)

During year 2020, the overall servicing cost of Government Debt totalled €181.2 million, resulting in a decrease of €11.1 million over the previous year. This is 5.7% less than the interest paid in 2019. The decline was mainly the result of lower coupons assigned to new MGS issued during the current low interest rate environment, whereby Treasury continued to refinance maturing high coupons MGS with longer-dated bonds paying lower coupon. To this effect, MGS portfolio Weighted Average Coupon[23] as at 31 December 2020 continued to decrease to 3.0% from 3.7% registered a year earlier.

Debt Metrics

DMD calculates various ratios both for internal analysis, as well as for publication through the Sub-Committee on the European Union Sovereign Debt Markets. The Treasury submits a comprehensive set of risk metrics to the Economic and Financial Committee, the most important of which are included in the Medium-Term Debt Management Strategy published by MFIN.

[22] Cost represents bank charges. On the other hand, negative interest in favour of Government, received from Treasury Bills, amounting to €2,577,239 (2019: €1,172,394) was reported as Revenue under line item Bank Interest.

[23] Weighted Average Coupon of MGS portfolio is the weighted average gross interest rate of the outstanding MGS portfolio at a point in time, in this case, 31 December 2020.

Chart 13: Debt Sustainability Ratios

(Source: Financial Report 2020 pages xix, 4, Financial Report 2019 pages xix, 4)

All four ratios calculated in Chart 13 have shown adverse movement over the previous year, since the interest paid and debt servicing as a percentage of Government revenue and tax revenue increased. These results mainly derived from a decrease in Government revenue and tax revenue of €499.9 million and €532.8 million respectively, being part of the impact of COVID-19 pandemic on the economy (these outpaced the decrease of €11.1 million and €15.0 million in both total interest and debt servicing respectively).

Contingent Liabilities

As reiterated in previous years, DMD needs to perform a risk assessment prior to granting a guarantee in favour of the respective entity. So far, Government guarantees were not being managed by the former but resided within MFIN. Moreover, where contingent liabilities exist, information on their cost and risk aspects should be disclosed in the Government Accounts. Thus, this Office had recommended that the Directorate is properly equipped to carry out the necessary risk assessments. Communication between Treasury and MFIN regarding Government guarantees was also solicited.

NAO also suggested that Government monitors the potential risk that it could be exposed to by its contingent liabilities, to ensure that it is aware of the related obligations. Furthermore, DMD is not only expected to be informed but is also conscious of the conditions that any contingent liabilities could trigger.

However, DMD confirmed that up to the date of this publication, the responsibility, including the scrutiny and risks arising from Government guarantees, still lied within the remit of MFIN. Furthermore, since Part 4 of the Government Borrowing and Management of Public Debt Act (Cap. 575) has not yet come into force, the Treasury is not yet informed of any requests made to MFIN for new guarantees. Thus, the same concerns prevail. The foregoing provision should eventually come into force once an officer with a strong accounting and risk management background is assigned to DMD and the relative details are published via a Legal Notice.

Letters of Comfort and Bank Guarantees

The position of contingent liabilities as at 31 December 2020, otherwise referred to as Government Potential Debt, as reported upon in Part I of the Financial Report 2020, and comparative figures for 2019 are reproduced in Table 12.

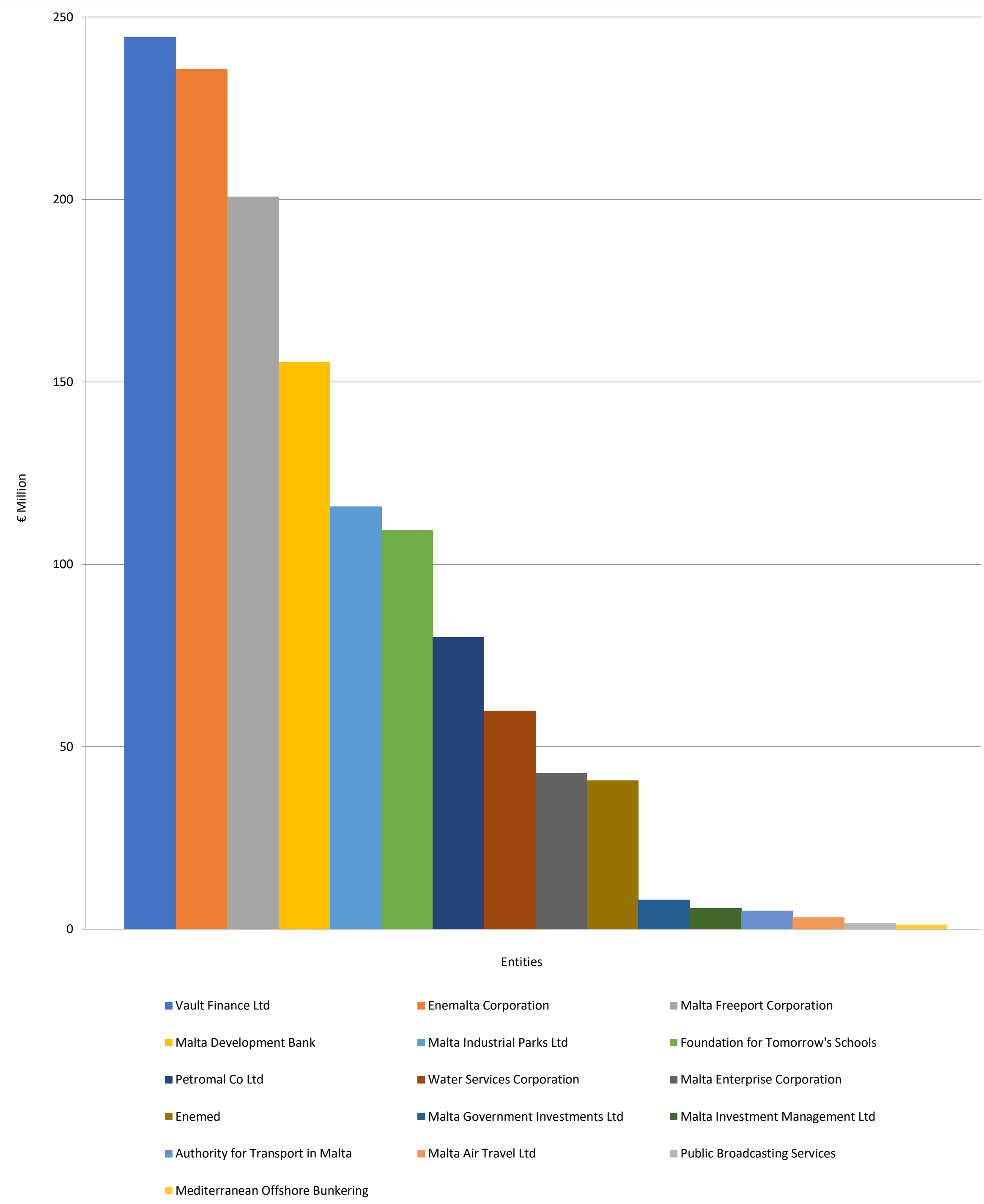
Table 12: Contingent Liabilities

Description	2020	2019
	€	€
Government Guarantees:		
Local	825,863,973	634,524,390
Foreign	461,706,120	436,020,765
Sub-totals	**1,287,570,093**	**1,070,545,155**
Letters of Comfort	22,280,926	27,748,943
Totals	**1,309,851,019**	**1,098,294,098**

Premiums received by Government during 2020 with respect to Letters of Comfort and Bank Guarantees amounted to €2,830,235 (2019: €2,792,771), which revenue was appropriately accounted for by MFIN under Guarantee Fees.

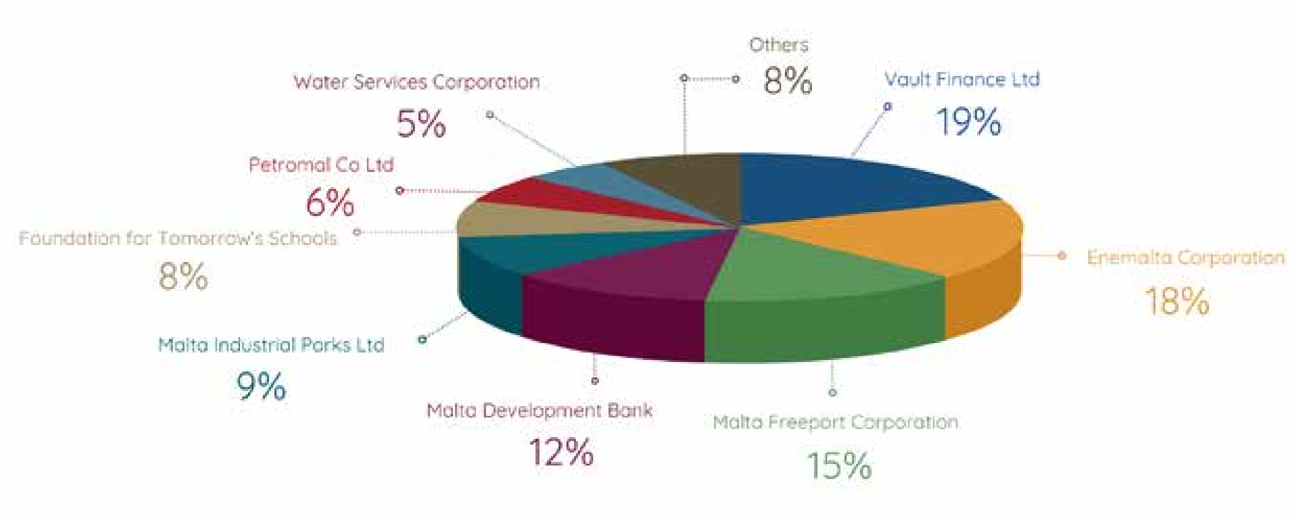
Chart 14, shows the 16 Government entities in favour of which a spread of 42 Letters of Comfort and Bank Guarantees were issued.

Chart 14: Letters of Comfort and Bank Guarantees for the year ended 31 December 2020



A total of 92% of the aggregate guarantees amount as at end 2020 was given in favour of eight entities. Out of the total guarantees, 45% was absorbed by the energy sector, whilst other sizeable guarantees related to water services, the industrial sector and education. Chart 15 refers.

Chart 15: Outstanding Guarantees



These Letters of Comfort and Bank Guarantees offered to Government entities and Extra Budgetary Units may potentially translate into dues, up to more than €1.3 billion from public funds, should the entities concerned call upon Government to make good for their debts. This represented an increase of €211,556,921 (19.3%) over the amount reported in the previous year, which movement also represented 1.62% of GDP for 2020, bringing total guarantees at 10.03% of the foregoing monetary measure.

The National Statistics Office confirmed that, in line with the European System of Accounts 2010, its data includes guarantees granted by the Extra Budgetary Units, but excludes guarantees provided by Government in favour of the latter. This triggered a difference between the figures reported to Eurostat by the National Statistics Office and the figures reported by Treasury, showing the amount of €1,172,632,172 and €1,309,851,019 respectively as at end 2020.

Creditors' Analysis

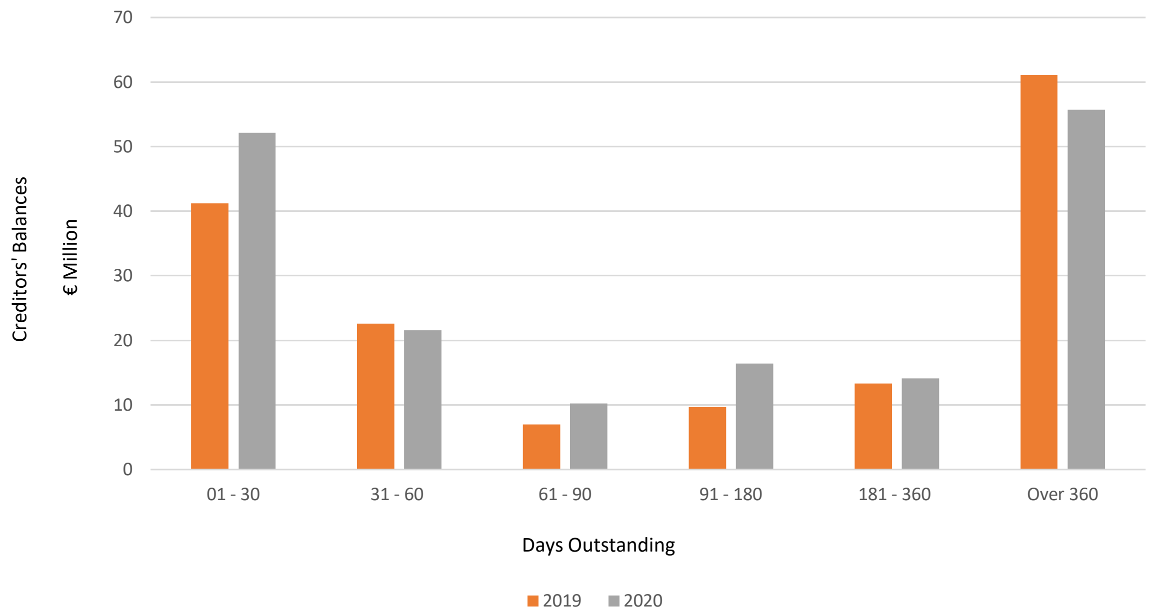
In order to facilitate regular monitoring and evaluation of the implementation of the approved budget, Article 39(5) of the Fiscal Responsibility Act, 2014 (Cap. 534), mandates that *"Heads of Ministries, Departments, Authorities and other entities shall ensure full observance and compliance with the statutory and other reporting requirements as provided in this Act or as may be prescribed, from time to time, by the Ministry for Finance, the Treasury and/or the National Statistics Office"*. Failure to abide by the provisions of the Act shall lead to disciplinary proceedings.

According to MF Circular No. 10/2001 – 'Government Accrual Accounting: Procedures for the Control of Debtors and Creditors', a quarterly analysis of creditors is to be submitted on the prescribed template to the Accountant General within seven days after the end of the specified monthly period.

A total of 51 Ministries and Departments submitted this analysis as at 31 December 2020 to the Treasury. Aggregate reported creditors amounted to €171,171,192, out of which €1,010,213 related to contested amounts. The aggregate opening balance as at 1 January 2020 amounted to €155,306,456. Thus, there was an increase of over 10% in creditors in 2020. Six out of the fifty-one Ministries and Departments reported a Nil creditors' balance in their return. The Ministry for Home Affairs and National Security failed to submit the return.

Chart 16 depicts an ageing analysis of the aggregate creditors' balances as at 31 December 2020, categorised by the number of days overdue, compared to prior year. The most significant increase was in the amounts outstanding from recent creditors; an increase of nearly €11 million when compared to end 2019.

Chart 16: Ageing of Creditors' Balances in 2019 and 2020



Credit balances outstanding by over 360 days related mainly to payables by the Lands Authority, Ministry for Transport, Infrastructure and Capital Projects, as well as Mater Dei Hospital, with aggregate amounts of €43.6 million[24], €7.8 million and €3.7 million respectively.

Transition to Accrual Accounting

Background

The Government of Malta is in the process of the full implementation of accrual accounting in Central Government, based on the International Public Sector Accounting Standards, as adopted by the Maltese Government to reflect local requirements. The implementation of these standards has brought about considerable challenges, including the need of a complete overhaul of current policies and circulars, as well as changes in business processes across Government. This project has also been coupled by the change-over from the Departmental Accounting System, which is a cash-based system, to CFMS, which is a fully-fledged accrual accounting system.

The piloting stage of accounting on accruals basis took place in the last quarter of 2020, with the core CFMS going live in 15 pre-agreed sites where the respective Ministries and Departments operated exclusively through CFMS. Following this piloting stage, the core CFMS has been live in all Ministries and Departments since 1 April 2021.

[24] This amount has been reported since 2018, following a reduction of €1 million over 2017.

Update and Upcoming Developments

An update, including upcoming developments, as at date of reporting follows:

- Since the Go-Live date, users have been supported by the CFMS Implementation Team, who has addressed several queries in the past months. Many of the solutions were included in the guidelines issued during the hands-on training sessions provided to all CFMS users and can be accessed via the respective portal.

- CFMS Implementation Team uploaded all the datasets related to Fixed Assets and Inventory Items modules, including the opening balances for fixed assets. This was only done after extensive checks by the Implementation Team to ensure a smooth integration into the system. However, the other opening balances are in the process of being uploaded into the system. Thus, as at date of this publication, it is still unknown when the first set of full financial statements prepared on an accrual basis will be published for audit purposes.

- Preparations are also underway for the final part (phase three) of CFMS project. This includes budgetary groundwork and forecasting, cost management, as well as the management of financial assets and liabilities.

Training provided

Training to CFMS users included:

- Overview of CFMS – September 2020
- Accrual Accounting – January 2021
- Hands on sessions on CFMS – March 2021

A training portal is also available for all CFMS users.

General Comment

The Treasury and MFIN staff was cooperative during the conduct of analysis by NAO. Recommendations were in general acted upon, with corrective action taken immediately, wherever possible.

Compliance Audit Opinion

Opinion on the Compliance Audits to the House of Representatives

Audit Mandate

As stipulated by Article 108(5) of the Constitution of Malta and para. 7 of the First Schedule of the Auditor General and National Audit Office Act, 1997, I am reporting on whether the audited entities, subjected to review, were in compliance with identified criteria, namely, the applicable rules and regulations, as well as the principles of sound financial management, among others.

I consider the primary users of the Annual Audit Report to be Parliament and the Public Accounts Committee.

Respective Responsibilities of the Accountant General and Accounting Officers

As determined by the Public Finance Management Act, 2019, the onus for the proper discharge of financial administration rests with the Accountant General and the Accounting Officers. They are also responsible for the institution and application of such internal controls as deemed necessary, to enable the processing and recording of financial transactions to be free from material misstatement, whether due to fraud or error, and to ensure that the operations of the audited entities are in accordance with the pertinent rules and regulations.

Accounting officers are entrusted with the sound management of public funds. They are therefore to demonstrate transparency, accountability and integrity in their actions, and are to exercise good governance for the resources with which they are entrusted.

Auditor's Responsibilities

The responsibility of the National Audit Office is to obtain reasonable, rather than absolute, assurance as to whether statements and accounts of Government Ministries and Departments, as well as of other entities that were subject to audit, were free from material irregularity. Thus, it is not a guarantee that an audit conducted in accordance with International Standards on Auditing will always detect non-compliance and material misstatements, arising from fraud or error.

Basis for Opinion

We conducted our compliance audits in accordance with the relevant International Standards on Auditing, the applicable public sector perspective provisions, and in line with the Office's auditing practices. Regularity audits involve audit procedures to test compliance with standing rules and regulations, as well as with the principles of sound financial management, through direct testing of transactions.

The procedures selected depend on the auditors' judgement, which entails the assessment of risk, evaluation of internal controls, consideration of sensitivity of particular areas and other qualitative factors, as well as the assessment of materiality in terms of value, nature or context in which it occurs. Our audit sample is not designed to gather data on the frequency of error in the population as a whole.

We have complied with independence requirements in accordance with the International Standard of Supreme Audit Institutions 130 – Code of Ethics and the Code of Professional Conduct of the National Audit Office, and have fulfilled our ethical responsibilities in accordance with such codes. We have also adhered to avoidance of conflict of interest regulations as stipulated by Article 108(3)(c) of the Constitution of Malta and fulfilled the independence requirement in accordance with Article 108(12) of the aforementioned Constitution.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion, which only draws on conclusions upon areas that have been examined.

Opinion

Adverse Opinion

In terms of para. 5(ii) of the First Schedule of the Auditor General and National Audit Office Act, I am to report that, except for instances reported upon, I received all the information and explanations required for the carrying out of my duties.

Based on the audit work performed, I am of the opinion that the activities of a number of the audited entities under review were not, in all material respects, in compliance with the pertinent rules and regulations, and compliance deviations were at times pervasive.

A separate opinion is being published dealing with the financial aspect.

Charles Deguara
Auditor General

December 2021

Arrears of Revenue

Arrears of Revenue 2020

Background

Statements of arrears of revenue were submitted by Government Departments[1] to the Treasury in line with Treasury Circular No. 3/2021 – 'End of Year (2020) Statements of Account – Arrears of Revenue – Amounts due to Government'.

Table 1: Arrears of Revenue Analysis (2016 – 2020)

	2016 €'000	2017 €'000	2018 €'000	2019 €'000	2020 €'000
Gross outstanding arrears	2,960,751	3,367,138	4,203,320	5,109,558	6,308,114
Arrears estimated as not collectable	2,404,517	2,840,882	3,546,664	4,290,654	5,507,998
Net collectable arrears	556,234	526,256	656,656	818,904	800,117
Collected arrears	192,345	209,512	232,475	329,818	268,186
Gross domestic product	10,346,500	11,302,828	12,490,970	14,047,607[2]	13,054,927

(Source: Reports by the Auditor General 2016 – 2019, National Statistics Office News Release 156/2021)

An analysis of the figures in Table 1, which displays data relating to arrears of revenue for the years 2016 to 2020, shows that gross arrears as at 31 December 2020 amounted to €6,308,114,239, an increase of almost €1.2 billion (23%) over the previous year's figure (€5,109,557,672).

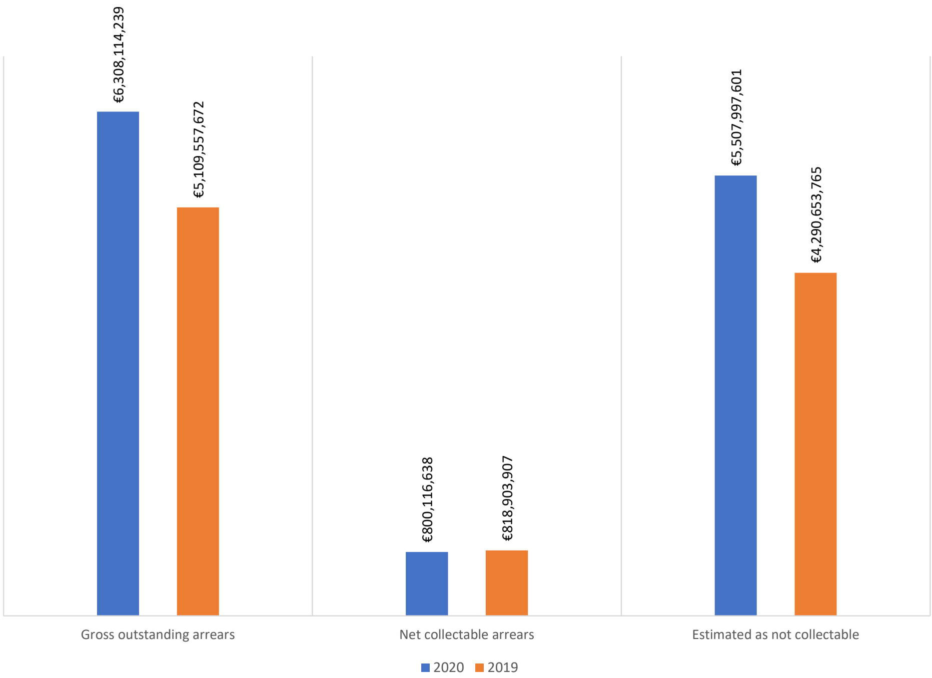
The Commissioner for Revenue (CfR)[3] contributed to this upsurge, with reported gross collectable arrears of €6,123,222,731 in 2020; a growth of €1,229,693,869 over 2019. The Ministry for Health and the Pensions Section also registered increases of €6,687,314 and €2,381,597, respectively over their corresponding 2019 gross figures.

Table 1 further shows that over the span of five years, since 2016, gross outstanding arrears rose by a total of €3.3 billion.

Despite the steep increase in gross outstanding amounts, net closing arrears of revenue as at end December 2020 amounted to €800,116,638, which was around €19 million less than its equivalent as at end 2019. This decline was the result of higher amounts deemed as uncollectable, which by end 2020 totalled €5,507,997,601, an increase of €1,217,343,836 over last year's total. Moreover, even though the net outstanding balance dropped when compared to the preceding year, this figure swelled by €244 million over the analysed five years. Chart 1 further illustrates these figures.

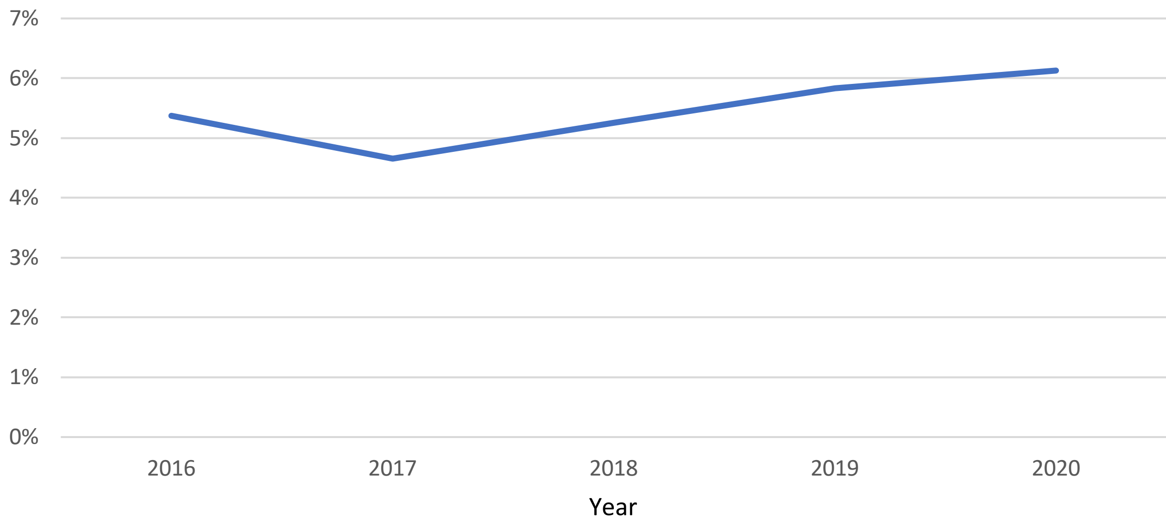
[1] Throughout this write-up, mention of Department refers either to the Ministry, Department, Authority or Entity, as applicable.
[2] Revised 2019 figure of gross domestic product as reported in National Statistics Office News Release 156/2021.
[3] Figures include totals for the Departments of Inland Revenue, Capital Transfer Duty and Value Added Tax.

Chart 1: Comparison of Closing Balances between end 2019 and 2020



When taken as a percentage of Gross Domestic Product (GDP), which decreased by almost €1 billion from 2019 to 2020 despite its constant increase since 2017, net collectable arrears fluctuated between 4.5% and 6.1% of this economic indicator. As reported last year, this increase had been on an upward trajectory since 2017, a trend which was also maintained during 2020, as shown in Chart 2.

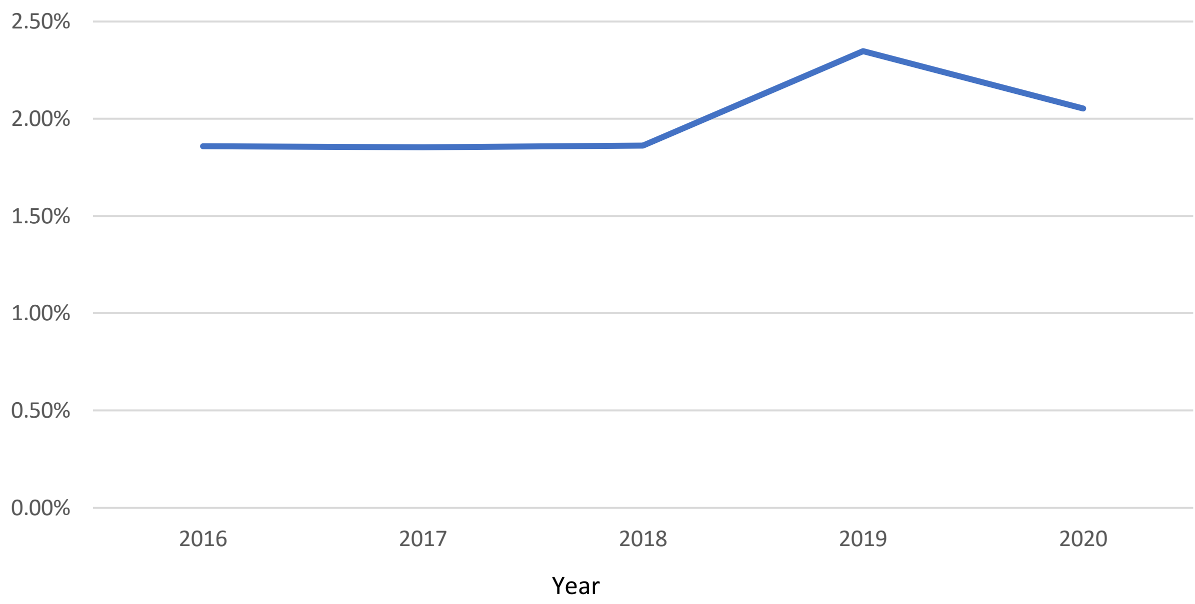
Chart 2: Net Collectable Arrears as Percentage of Gross Domestic Product



Arrears of revenue collected during 2020 were lower when compared to 2019. In fact, even though €268,186,110 was collected in 2020, this was about €61.6 million less than the previous year (€329,817,697). Notwithstanding, when comparing the same figure to that of 2016, a favourable increase of €75.8 million was noted.

Chart 3 illustrates the collected arrears as a percentage of GDP in the last five years. It shows that whilst collection has been a constant 1.9% of GDP from 2016 to 2018, rising to approximately 2.5% in 2019, it dropped to around 2% in 2020.

Chart 3: Collected Arrears as a Percentage of Gross Domestic Product



From the additional analysis of the statement of arrears of revenue on the 2020 year-end balances (Table on page 72), it was estimated that, out of the total reported gross arrears of revenue:

- €196,143,658[4] was statute-barred;
- €276,608,447 was under contestation and pending court action;
- €7,318,151 was under contestation but not pending court action;
- €496,634,119 was deemed recoverable by departmental action; and
- €1,042,937,583 was considered recoverable.

Returns

Details of arrears of revenue included in the Table on page 70 have been compiled from the returns forwarded to the National Audit Office (NAO) by Treasury. Departments not featuring in this Table have submitted Nil returns, with the exception of the Ministry for Home Affairs and National Security and Transport Malta, which defaulted from submitting this return.

[4] The difference of €4,288,472,281 between this amount and that quoted in Table on page 72 relates to the figure reported by the VAT Department as statute-barred, which in reality reflects the amount estimated as not collectable rather than prescribed by law.

Notes and Comments on Major Balances of Arrears of Revenue

Ministry for Health

The gross closing balance of €28,006,968, reported as arrears of revenue as at 31 December 2020, is made up of the following:

		€
a.	Central Procurement and Supplies Unit	13,969,205
b.	Mater Dei Hospital: Hospital Fees	8,865,800
c.	Mater Dei Hospital: Sundry Bills	1,419,320
d.	Mater Dei Hospital: Overpayments	393,034
e.	Sir Anthony Mamo Oncology Centre	145,604
f.	European Union Countries E125 Claims	2,254,410
g.	Addolorata Cemetery	887,955
h.	Licences	31,235
i.	Pharmacy of Your Choice	19,183
j.	Ship Sanitation	18,319
k.	Breach of Contract	2,278
l.	Primary Health Care	625
	Gross Closing Balance	**28,006,968**

In contrast to the newly accrued figure of €9,548,968, only €2,869,538 was collected from the gross opening balance of €21,319,654 during the year 2020. The revision of €14,447 pertained mainly to cancelled E125 claims and to Pharmacy of Your Choice debtors which were unaccounted for in the previous annual return. The amount of €6,563 in connection to Mater Dei Hospital Fees was written off.

At year-end, the amount of €81,005 estimated as not collectable was statute-barred, out of which €80,403 related to the Oncology Centre, whilst the remaining balance of €602, had been long outstanding to Primary Health Care. Given that over €10 million has been due for more than three years, NAO does not deem such estimate as adequate.

The net closing balance of €27,925,963 can be analysed as follows:

	€
Amount outstanding for less than one year (2020)	9,890,804
Amount outstanding for over one but less than two years (2019)	4,777,976
Amount outstanding for over two but less than five years (2016 – 2018)	7,943,023
Amount outstanding for over five but less than ten years (2011 – 2015)	4,334,771
Amount outstanding for over ten but less than fifteen years (2006 – 2010)	682,593
Amount outstanding for over fifteen years (prior to 2006)	296,796
Net Closing Balance	**27,925,963**

Central Procurement and Supplies Unit

The balance of €13,969,205 due to Central Procurement and Supplies Unit at end of year 2020 related to the provision of medical supplies to Active Ageing and Community Care, St. Vincent de Paul Residence and Healthmark Care Services. This balance has been increasing steadily since 2015 without any amounts being recouped. Management reiterated that although the debtors recorded are in fact irrecoverable, the Central Procurement and Supplies Unit is not authorised to write off any of these amounts but was instructed to "… *keep track and keep accruing for such dues under debtors*". Notwithstanding this, a provision for doubtful debts was not taken.

Although the Unit continued to maintain record of pending arrears due from Steward Health Care Malta, these were considered as payments in line with the concessionaire agreement and thus, were once again excluded from the return. Up to end of year 2020, supplies costing nearly €20 million were provided in this respect.

Mater Dei Hospital

Debtors comprising hospital fees, sundry bills and overpayments, totalled €9,556,597 at the beginning of the year. Of this amount, €796,526 was collected and €6,564 was written off, while €1,924,647 became newly accrued, resulting in a closing balance of €10,678,154.

The necessary authorisation covering the amount written off was not available. However, Management intended to align internal processes with the pertinent legislation after this requirement was brought to its attention by NAO.

Notwithstanding that the closing balance contains nearly €1 million debtors which have been due for over 10 years, a provision for doubtful debts was again not considered. It was claimed that the billing process was enhanced upon the introduction of the new system in August 2020, but the Hospital intends to embark on an extensive exercise to determine which amounts may be considered as not collectable.

Management was not in a position to support all the amounts reported in the return since, a detailed breakdown supporting the amount of €796,526 recorded as past arrears collected, and newly accrued amounts pertaining to hospital fees and overpayments, amounting to €1,641,416, was not provided. Additionally, although the total of the aged debtors' analysis reconciled to that recorded in the return of arrears, NAO noted a discrepancy of €87,500 between the sub-totals pertaining to the individual categories.

Ministry for Education and Employment

Ministry

From the gross opening balance of €1,293,563, the amount of €214,195 was recorded as collected, whilst €295,743 was newly accrued. The net collectable amount of €1,367,769 was considered as recoverable without the need of any departmental action. NAO noted an anomaly in the return as the estimated amount of €7,342, considered as not collectable, was also classified as recoverable by departmental action in the analysis of the same arrears. The underlying reason for which this amount was considered as not collectable was not indicated.

Education Department

From the gross opening balance of €372,713, the amount of €60,180 was collected whilst €197,677 was newly accrued. Again, an inconsistency was noted in this return as the estimated amount of €195,052, considered as not collectable, was also classified as recoverable by departmental action.

In conclusion, as reported by NAO in previous years, the Ministry continued to show negligible interest in the proper reporting of arrears. In this regard, the Office's concerns are reiterated below:

a. Both returns were revised following the original submission due to inconsistencies noted by the Auditors.
b. Figures reported were again not adequately supported.
c. A consolidated ageing of debtors, analysed by year, was not prepared in respect of each Arrears of Revenue Return (ARR).

Ministry for Finance

Commissioner for Revenue

Inland Revenue Department

The Inland Revenue Department reported a gross balance of €1,542,471,477 in its ARR for the year ended 31 December 2020, classified as follows:

		€
a.	Pre '99 System (Up to Year of Assessment 1998)	153,478,217
b.	Self-assessment System (Post Year of Assessment 1998)	719,236,648
c.	Final Settlement System (FSS) (Employers)	217,352,441
d.	Social Security Contributions Class 1 (Employers)	324,862,386
e.	Social Security Contributions Class 2 (Self-employed or Self-occupied)	127,541,785
	Gross Closing Balance	**1,542,471,477**

Collectability of Arrears

Out of the gross balance, the amount of €1,177,520,292 was considered as not collectable, thus resulting in net collectable arrears of €364,951,185.

As reported in previous years, the highest instance of non-collectability related to the Self-assessment System, with €625,302,697 estimated as uncollectable out of gross arrears of €719,236,648.

Balances from the Pre '99 System also had a high percentage of non-collectability (90%), amounting to €138,130,395.

The non-collectability rate of FSS and Social Security Contributions Class 1 stood at 70% and 47.9% respectively, resulting in provisions for bad debts of €152,146,709 and €155,573,533. Furthermore, all balances owed in relation to Class 2 Contributions that were older than six years, were considered as not collectable.

Ageing Analysis

The ageing of the net collectable arrears can be analysed as follows:

	€
Amount outstanding for less than one year (2020)	87,179,174
Amount outstanding for over one year but less than two years (2019)	59,677,951
Amount outstanding for over two years but less than five years (2016 – 2018)	88,219,266
Amount outstanding for over five years but less than ten years (2011 – 2015)	53,986,969
Amount outstanding for over ten years but less than twenty years (2001 – 2010)	50,915,140
Amount outstanding for over twenty years (prior to 2001)	25,262,096
Net Closing Balance	**365,240,596**[5]

Efforts to Collect

By way of efforts to collect overdue amounts, the Collection Section issued statements, notices for amounts due under FSS, as well as demand notes and judicial letters for both FSS and income tax garnishee orders and privileges on immovable property were also filed to safeguard Government revenue. Regular meetings with debtors were held to agree on instalment plans for the collection of the amounts due. Furthermore, action through the Criminal Court was taken on a number of employers, both with regard to the non-submission of returns, as well as non-payment of FSS due.

Capital Transfer Duty Department

The gross closing balance as reported by the Capital Transfer Duty Department in its ARR for the year ending 31 December 2020 consists of:

		€
a.	Duty on Documents	29,014,091
b.	Death and Donation Duty	4,611,928
	Gross Closing Balance	**33,626,019**

Out of this gross closing balance pertaining to Duty on Documents and Death and Donation Duty, the amount of €12,581,562 was reported as being under contestation while another €23,400,706 was considered as not collectable, thus resulting in net collectable arrears of €9,349,047 and €876,266 respectively.

[5] The total of the ageing analysis differs from the net collectable arrears in the ARR by €289,411. Similar to previous years, this amount relates to payments collected by the Inland Revenue Department in connection with the Pre '99 System collection schemes.

Ageing Analysis

The outstanding balances were analysed as follows:

	€
Amount outstanding for less than one year (2020)	4,595,400
Amount outstanding for over one but less than two years (2019)	347,055
Amount outstanding for over two but less than five years (2016 – 2018)	369,359
Amount outstanding for over five but less than ten years (2011 – 2015)	202,846
Amount outstanding for over ten but less than fifteen years (2006 – 2010)	698,325
Amount outstanding for over fifteen but less than twenty years (2001 – 2005)	3,133,959
Amount outstanding for over twenty years (prior to 2001)	876,266
Net Closing Balance	**10,223,210**[6]

Amounts under Contestation

Duty on Documents under contestation amounted to €10,812,414. The majority of this, totalling €8,855,309 (82%), was statute-barred (relating to 983 cases). Thus, the likelihood of the non-collection of these amounts is very high. The remaining balance of €1,957,105 (relating to 295 cases) was either undergoing collection procedures or dealt with by the Administrative Review Tribunal at objection stage; thus, stands a better chance of being collected.

The remaining amount under contestation (€1,769,148) pertained to Death and Donation Duty, which remained the same as in the previous years, since the respective legislation has been repealed and therefore no new claims were issued. The likelihood that these amounts are collected is very remote.

Revisions

Revisions during 2020, totalling €2,214,297, were mainly due to revaluations made by architects following objections, which led to a downward adjustment of claims or cancellation thereof.

Amounts considered as not collectable

The dues estimated as not collectable during the year amounted to €23,400,706 (2019: €22,925,867). This comprised a provision of 10% for newly accrued arrears and a gradual higher percentage reaching 80% of the remaining amounts due, depending on their ageing.

Collection Efforts

During 2020, the Department issued 647 reminders and submitted 219 letters from the Legal Unit to various debtors. Furthermore, it proceeded with 178 demand notes, 7 garnishee orders and 34 legal action warnings. Collection procedures are controlled by an information technology system thus ensuring timely action and that legal action is taken.

[6] A difference of €2,103 between the ageing analysis and the net collectable arrears is due to timing differences.

VAT Department

The net closing balance as reported by the Value Added Tax (VAT) Department in its ARR for the year ended 31 December 2020 comprised:

		€
a.	VAT (post-1998)	254,267,825
b.	VAT (pre-1995)	643,979
c.	Customs and Excise Tax	640,715
d.	Eco-contribution (Accommodation)	1,996,729
e.	Eco-contribution (Environmental)	483,325
f.	Refund to Government on Stocks pre–1997	620,381
	Net Closing Balance	**258,652,954**

A total balance of €4,288,472,281 was reported as not collectable in the VAT Department's ARR. This is an increase of €1,034,897,664 over the previous year. This figure represents estimated audit assessments, penalties and related interest, generated when a taxpayer fails to submit a VAT return by the due date.

The gross closing balance amounted to €4,547,125,235, out of which 94% was reported as not collectable.

As in previous years, an ageing analysis of net collectable arrears was not made available to NAO. For the third consecutive year, the Department's figures were again excluded from the CfR's debtors' return.

According to the Department, to recoup VAT (post-1998) arrears, regular requests for payment were sent to individuals and companies. Legal action was then taken where deemed necessary. With regard to VAT (pre-1995) and Customs and Excise Tax falling in arrears, some amounts were recouped mainly through legal action and remission.

Since last year, CfR has been working on facilitating payments by online submission of returns through an application, which was functional and operational during 2021. However, according to the Department, it is rarely used and staff responsible for collections is increasing awareness with taxpayers. Local postal branches are also accepting such payments to make it easier for taxpayers to comply with their tax obligations.

Customs

The net closing balance reported by Customs at year ending 2020 consisted of:

		€
a.	Import and Excise Duties	11,101,149
b.	Licences, Taxes and Fines	838,944
c.	Reimbursements	946,722
	Net Closing Balance	**12,886,815**

Amounts under Contestation

The Department reported an aggregate of €8,265,090 as contested. Of this amount, €7,163,640 related to pending court cases while another €71,601 was considered as statute-barred. Notwithstanding this, only €8,549 was reported as uncollectable in the ARR.

Ageing Analysis

The ageing of the net collectable arrears can be analysed as follows:

	€
Amount outstanding for less than one year (2020)	4,451,170
Amount outstanding for over one but less than two years (2019)	212,677
Amount outstanding for over two but less than five years (2016 – 2018)	407,624
Amount outstanding for over five but less than ten years (2011 – 2015)	1,255,674
Amount outstanding for over ten but less than fifteen years (2006 – 2010)	5,906,743
Amount outstanding for over fifteen but less than twenty years (2001 – 2005)	549,992
Amount outstanding for over twenty years (prior to 2001)	102,935
Net Closing Balance	**12,886,815**

This Office conducted a separate Customs revenue audit, including a review of the reported arrears of revenue balances as at 31 December 2020. Detailed findings are reported upon in this publication, under the respective Ministry on page 178.

Ministry for Tourism

The Ministry reported a net closing balance of €951,123 for the year ended 31 December 2020, comprising unpaid licences relating to the Malta Tourism Authority. The opening balance of €1,385,006 was revised downwards by an amount of €33,923, representing credit notes raised during 2020 for licences which were issued in prior years but which were in fact not due.

Although the Authority is able to generate an aged debtors report, all the debts relating to 2017 and prior years were shown as one aggregate figure.

	€
Amount outstanding for less than one year (2020)	6,807
Amount outstanding for over one but less than two years (2019)	147,503
Amount outstanding for over two but less than three years (2018)	59,102
Amount outstanding for over three years (prior to 2018)	737,711
Net Closing Balance	**951,123**

The amount due is recorded as recoverable with the requirement of departmental action. The Authority's Internal Audit Committee had approved a number of reversals and write-offs during 2019, however these decisions were still not reflected in the 2020 ARR.

During July 2021, an Arrears Review Committee was appointed by the Minister to review cases reported by the Arrears Division and subsequently forward them to the Internal Audit Committee for necessary ratification. A process is being ensued to ensure that action is taken following the latter's approval.

Ministry for Justice, Culture and Local Government

Judicial

The Court Services Agency's ARR which, as from the year under review, included arrears pertaining to Gozo Law Courts[7], had a gross closing balance of €11,136,563 as at 31 December 2020, an aggregate increase of 1% over the amount due at the beginning of the year. The balance is further analysed below:

		€
a.	Fines: Criminal – Judges Superior Courts	3,391,187
b.	Fines: Criminal – Magistrates Inferior Courts	4,552,568
c.	Fines: Civil – Superior Registry	38,407
d.	Fines: Civil – Inferior Registry	66,624
e.	Fines: Gozo Registry	449,205
f.	Fees: Malta	2,328,662
g.	Fees: Gozo	309,910
	Gross Closing Balance	**11,136,563**

During the year under review, arrears collected amounted to €1,063,214. Newly accrued debtors totalled €1,688,161, with 47.8% of this amount relating to the Inferior Criminal Courts. Write-offs amounting to €87,257 were covered by approvals from the respective level of authority.

The amount of €2,872,004 (25.8%) of the said gross closing balance, is considered to be recoverable through departmental action, whilst no action was deemed necessary to recoup the amount of €3,700,000 (33.2%).

The amount of €4,564,559 (41%), which included fines totalling €3,812,363 that could be converted into imprisonment, was estimated as not collectable at year-end.

The ageing of net debtors as at year-end can be analysed as follows:

	€
Amount outstanding for less than one year (2020)	1,688,162
Amount outstanding for over one but less than five years (2016 – 2019)	2,282,311
Amount outstanding for over five but less than ten years (2011 – 2015)	885,227
Amount outstanding for over ten but less than fifteen years (2006 – 2010)	567,560
Amount outstanding for over fifteen but less than twenty years (2001 – 2005)	606,909
Amount outstanding for twenty years and over (1978 – 2000)	541,835
Net Closing Balance	**6,572,004**

[7] Arrears in aggregate amounting to €738,834 were included in the gross opening balance.

Court Fines

Criminal – Judges Superior Courts

The opening balance of €3,305,581 was revised downwards by a net amount of €114,073. This was mainly due to adjustments, whereby revoking prison sentences into fines, together with fines imposed, exceeded the conversion of fines to prison sentences.

During 2020, only the amount of €206,753 (6.3%) from past arrears was collected. Arrears newly accrued amounted to €408,581. Furthermore, an amount of €2,406,753 was estimated as not collectable while €2,149 was written off.

Criminal – Magistrates Inferior Courts

The opening balance was revised downwards by a net amount of €384,889. This was due to various adjustments, mainly relating to fines which were either converted into imprisonment, revoked, settled or appealed.

A total of €618,367, which is equivalent to 13% of the gross opening balance of €4,770,623, was collected during the year under review, mostly relating to arrears due from the previous six years. An aggregate amount of €22,721 was written off while newly accrued debtors for 2020 amounted to €807,922. In addition, the amount of €1,577,360 was estimated as not collectable.

Civil – Superior Registry

The opening balance of €39,757 was revised downwards by a net amount of €2,700. An estimated amount of €1,260 was considered as not collectable but no amounts were written off. During 2020, only €650 was collected from past arrears, whilst €2,000 was newly accrued. This resulted in a net outstanding balance of €37,147.

Civil – Inferior Registry

During 2020, the €35,672 opening balance was revised downwards by €641, while the amount of €3,260 (9.1%) was collected. Newly accrued totalled €34,853, making up 52.3% of the net collectable arrears as at 31 December 2020.

Gozo – Registry

The Ministry for Gozo did not report any balance of arrears in its 2019 return. The opening balance of €434,061, was established by Court Services Agency from the reports provided by the Gozo Law Courts and was subsequently revised downwards by €4,060. During 2020, the amount of €67,937 (15.7%) was collected. The amount of €87,141, which accrued during the year, makes up 19.4% of the net collectable arrears as at year-end.

Court Fees

Malta

The opening balance of €2,204,191 was revised upwards by €3,379. Arrears of €148,267 were collected while €331,746 was newly accrued. Several amounts, in aggregate totalling €62,387, were written off, whereas €579,186 was estimated as not collectable. The provision included two amounts totalling €496,289, relating to court registry fees due by a foreigner, since 2014 and 2019 respectively. Despite the judicial letters sent, the foregoing individual remained untraceable and no further action could be initiated.

Gozo

The opening balance of €304,773, did not agree with the previous year's gross closing balance, reported by the Ministry for Gozo which amounted to €325,477. The Court Services Agency confirmed that the closing amount was erroneously reported by the foregoing Ministry. During 2020, the opening balance was revised upwards by €7,199. Only the amount of €17,980 (5.9%) was collected from past arrears. The amount of €15,918, which became newly accrued during the year, makes up 5.1% of the net outstanding balance as at 31 December 2020.

Ministry for the Environment, Sustainable Development and Climate Change

The Ministry for the Environment, Sustainable Development and Climate Change reported a gross balance of €1,465,832 in its ARR for the year ended 31 December 2020. Out of this amount, €905,209 was reported as being under contestation, whereas €44,666 was considered as not collectable. This resulted in a net balance of €1,421,166, which was split under the following categories:

		€
a.	Hard Standing Facility (Agriculture)	485,631
b.	Fish Market	239,751
c.	Public Abattoir	256,535
d.	Paying Agency	194,560
e.	Aquaculture	112,682
f.	Animal Health and Welfare	33,585
g.	Plant Protection	1,300
h.	Salaries – Ministry for Agriculture, Fisheries, Food and Animal Rights	66,227
i.	Salaries – Ministry for the Environment, Climate Change and Planning	30,895
	Net Closing Balance	**1,421,166**

Ageing Analysis

The ageing of the net collectable arrears as at year-end can be analysed as follows:

	€
Amount outstanding for less than one year (2020)	392,017
Amount outstanding for over one but less than two years (2019)	103,071
Amount outstanding for over two years but less than five years (2016 – 2018)	554,081
Amount outstanding for over five years but less than ten years (2011 – 2015)	197,486
Amount outstanding for over ten years (prior to 2011)	174,511
Net Closing Balance	**1,421,166**

Estimated Amounts considered as Not Collectable

The amount of €44,666 that was considered as not collectable related to various long outstanding cases and hence were likely to be time-barred, with the exception of €4,500 which was subject to an ongoing dispute at the Malta Arbitration Centre and was at appeal stage at time of this publication. However, considering that almost €372,000 has been outstanding for over five years, the provision for bad debts is not considered sufficient.

Amounts under Contestation

The amount of €905,209 reported as being under contestation, an increase of €58,046 when compared to 2019, is made up of the following:

a. €485,631 pertaining to Hard Standing Facility. The amount in the 2019 ARR was understated and even though some corrections were required, the balance was not revised accordingly. The amount is made up of balances due from two vessel owners, amounting to €330,893, another vessel owner who owed €110,563 which was in fact paid in full in 2021, and another debtor, namely a Co-operatives Society, amounting to €44,175;
b. €179,738 due to the Paying Agency, of which €140,574 is considered recoverable;
c. €165,874 due to the Public Abattoir. Amount will be considered for write-off since it is not likely to be collected;
d. €66,271 owed to Aquaculture on which legal action is still in progress. Discussions with the debtor are also in progress in pursuit of an out-of-court settlement; and
e. €7,695 refund of salaries, €3,205 of which was undergoing court proceedings and a case for €4,490, which at the date of this publication was at the Attorney General's Office.

Collection Efforts

Various measures are taken to collect outstanding arrears depending on the ageing of the debt. This included contacting debtors personally, issuing reminders, as well as taking legal action with the assistance of the Attorney General.

In the case of Fish Market, the Department has forwarded statements to hawkers to pay the pending amounts. In those cases where hawkers did not comply, the Department issued notices (including legal means) to inform them to settle their dues without delay. Furthermore, in line with the Fish Market Regulations, the Department precluded defaulters from making further purchases.

Similarly, the Public Abattoir can also prohibit debtors from slaughtering at the abattoir until the payment of all invoices.

During 2020, apart from legal action, the Paying Agency sent registered reminders to all debtors in order to pay their dues.

Ministry for Transport, Infrastructure and Capital Projects

Lands Authority

The Lands Authority reported a gross and net closing balance of €38,302,567 in the ARR for the year ended 31 December 2020.

Ageing Analysis

The balance due can be analysed as follows:

	€
Amount outstanding for less than one year (2020)	12,582,026
Amount outstanding for over one but less than five years (2016 – 2019)	9,091,172
Amount outstanding for over five years (prior to 2016)	16,629,369
Gross and Net Closing Balance	**38,302,567**

Collection Efforts

During the year 2020, standard operating procedures on credit control were updated. In order to recoup outstanding amounts, the Department sent statements to defaulters followed by letters issued electronically. Furthermore, officers in charge personally contacted defaulters to urge them to settle their balances. In the eventuality that tenants still failed to pay, legal action was initiated to avoid prescription. With regard to arrears due by Government Departments, the Authority sent statements and subsequently contacted the aforementioned. If these Departments do not have sufficient funds to pay their dues, discussions are entered into with the Ministry for Finance.

A balance of €2,341,808 was declared as statute-barred, however, similar to the previous years, the Lands Authority did not report any amounts under the column estimated as not collectable in its ARR. The foregoing claimed that it continued to chase all the outstanding dues, even if these are time-barred or under contestation. It usually proceeds with immediate write-off when amounts are deemed as not collectable.

Ministry for the Family, Children's Rights and Social Solidarity

Social Security Benefits

The Department of Social Security (DSS) reported a figure of €26,818,001 as gross closing balance in relation to Social Security Benefits, in the ARR for the year ending 2020.

An analysis of the amounts pertaining to each benefit or assistance can be summarised as follows:

		€
a.	Social Assistance	12,214,815
b.	Retirement Pension	3,093,718
c.	Age Pension	3,007,553
d.	Children's Allowance	2,451,432
e.	Medical Assistance	2,109,505
f.	Widows Pension	1,683,887
g.	Invalidity Pension	577,241
h.	Short Term Benefits	480,895
i.	Disability Pension	398,691
j.	Non-contributory Bonus	326,055
k.	Supplementary Assistance	236,195
l.	Energy Benefit	167,723
m.	In-work Benefits	52,695
n.	Senior Citizen Grant	17,496
o.	Contributory Bonus	100
	Gross Closing Balance	**26,818,001**

An amount of €4,177,746 was estimated as uncollectable. DSS confirmed that this calculation includes balances which have not been collected after the elapse of 10 years or more.

Ageing Analysis

An analysis provided by DSS shows the following details:

	€
Amount outstanding for less than one year (2020)	5,438,914
Amount outstanding for over one but less than two years (2019)	3,832,543
Amount outstanding for over two but less than five years (2016 – 2018)	6,570,631
Amount outstanding for over five but less than ten years (2011 – 2015)	6,798,167
Net Closing Balance	**22,640,255**

Collection Efforts

A statistical report provided by DSS indicated that during 2020 there was a total of 9,210 emails, as well as 4,457 letters sent in relation to pending cases. These were also backed up by more than 2,000 phone calls and 41 judicial letters during the same period. These contributed to the settlement of overpayments, which amounted to €1,186,156.

The Income Support and Compliance Division issued and followed up on 1,558 overpayment notification letters. Following this exercise, 100 cases were fully settled for the amount of €180,470, whilst part-payments totalling €212,941 were made on another 1,122 cases. In another seven cases, adjustments to the outstanding balance were made. The remaining 329 cases were followed up in 2021, resulting in the recoupment of an additional €35,157. Given the success of this effort, this exercise will be replicated on a yearly basis.

Pensions Section

The outstanding balance reported as at 31 December 2020 by the Pensions Section consists of:

		€
a.	Cost Sharing regarding Treasury Pension	43,115,221
b.	Refunds in respect of Deceased Pensioners	55,692
c.	Overpayments	16,358
	Gross Closing Balance	**43,187,271**

During the year under review the Section collected a total of €1,332,179 from past arrears, amounting to 3.3% of the balance carried forward from the previous period. This represented a decrease when compared to the amount collected in the previous year, which amounted to 6.2% of the respective opening balance.

Ageing Analysis

The ageing of debtors is categorised as follows:

	€
Amount outstanding for less than one year (2020)	3,708,430
Amount outstanding for over one but less than two years (2019)	4,076,722
Amount outstanding for over two but less than five years (2016 – 2018)	10,393,389
Amount outstanding for over five but less than ten years (2011 – 2015)	15,911,508
Amount outstanding for over ten years (prior to 2011)	9,097,222
Gross and Net Closing Balance	**43,187,271**

Although over €9 million had been outstanding for over 10 years, no provision in this respect was taken.

Collection Efforts

According to the Pensions Section, letters are sent on a regular basis to remind debtors of the amounts due. No further action was reported.

Conclusion

This Office favourably noted that, together with the various collection efforts made during the year, Departments are also putting in place procedures in pursuit of the collection of outstanding debts. This is not only commendable but of utmost importance to ensure that amounts due to Government are duly collected.

Of particular concern, however, is the fact that the amount of arrears estimated as not collectable stood at €5.5 billion at the end of 2020. Whilst it is important to be prudent and provide for bad debts, it will also enable to show a realistic figure of receivables and ensure a true and fair view of the amounts owed to Government.

Arrears of Revenue 2020[a]

Department		Gross Outstanding on 31/12/2019 [b]	Collected during 2020	Written off 2020	Revisions 2020	Arrears 2020
Office of the Prime Minister [c]	€	10,460,019	213,078	-	-	-
Department of Information	€	22,435	22,352	-	-	67,532
Government Printing Press	€	543,355	197,220	-	-	471,118
Malta Gaming Authority [d]	€	3,033,407	1,546,990	-	-	1,537,403
Malta Communications Authority	€	1,111,266	1,106,530	-	-	357,287
Ministry for Health	€	21,319,654	2,869,538	6,563	14,447	9,548,968
Ministry for the Economy, Investment and Small Businesses						
Commerce	€	2,079,489	18,382	140	16,095	40,387
Ministry for Education and Employment	€	1,666,276	274,375	-	-	493,420
Ministry for Energy and Water Management	€	7,820	7,586	-	344	5,770
Ministry for Finance	€	72,340	43,946	-	-	48,598
Commissioner for Revenue:						
Income Tax	€	799,658,674	15,626,057	-	(451,630,478)	540,312,726
Social Security Contributions: Class 1 and Class 2	€	363,957,244	69,949,165	-	(1,006,553)	159,402,645
Final Settlement System	€	167,008,780	52,161,770	-	(814,697)	103,320,128
Duty on Documents	€	27,726,487	1,306,192	558	(2,214,297)	4,808,651
Death and Donation Duty	€	4,614,066	2,138	-	-	-
VAT	€	3,530,563,611	97,097,155	401	(862,224,611)	1,975,883,791
Customs	€	11,543,639	4,044,337	4,008	37,695	5,362,375
Contracts	€	163,723	1,000	-	-	-
Ministry for Tourism	€	1,385,006	352,402	54,365	(33,923)	6,807
Ministry for Home Affairs and National Security [e]	€	e	e	e	e	e
Armed Forces of Malta	€	140,099	25,213	-	-	88,140
Police	€	489,437	112,169	14,182	(5,048)	217,415
Civil Protection	€	61,154	58,388	-	-	48,054

Gross Outstanding on 31/12/2020	Gross Variation	Amounts Est. as not Collectable	Net Collectable Arrears as at 31/12/2020	Net Collectable Arrears as at 31/12/2019	Net Variation	Due from Govt. Depts. and Para. Bodies	Due from Individuals and Private Cos.	Amounts Coll. during January 2021	Balance as at 31/01/2021
10,246,941	(213,078)	4,008,973	6,237,968	6,451,046	(213,078)	-	6,237,968	-	6,237,968
67,615	45,180	-	67,615	22,435	45,180	67,615	-	18,865	48,750
817,253	273,898	-	817,253	543,355	273,898	797,260	19,993	-	817,253
3,023,820	(9,587)	2,897,657	126,163	444,215	(318,052)	110,261	15,902	604,903	(478,740)
362,023	(749,243)	-	362,023	1,111,266	(749,243)	24,148	337,875	317,793	44,230
28,006,968	6,687,314	81,005	27,925,963	21,238,852	6,687,111	16,262,890	11,663,073	-	27,925,963
2,117,449	37,960	2,103,153	14,296	2,700	11,596	-	14,296	646	13,650
1,885,321	219,045	202,394	1,682,927	1,510,492	172,435	-	1,682,927	-	1,682,927
6,348	(1,472)	-	6,348	7,820	(1,472)	6,149	199	-	6,348
76,992	4,652	-	76,992	72,340	4,652	12,671	64,321	29,373	47,619
872,714,865	73,056,191	763,433,092	109,281,773	128,123,311	(18,841,538)	-	109,281,773	994,625	108,287,148
452,404,171	88,446,927	261,940,490	190,463,681	155,539,999	34,923,682	-	190,463,681	5,930,824	184,532,857
217,352,441	50,343,661	152,146,710	65,205,731	50,102,634	15,103,097	-	65,205,731	994,413	64,211,318
29,014,091	1,287,604	19,665,044	9,349,047	8,538,013	811,034	-	9,349,047	191,817	9,157,230
4,611,928	(2,138)	3,735,662	876,266	876,673	(407)	-	876,266	-	876,266
4,547,125,235	1,016,561,624	4,288,472,281	258,652,954	276,988,995	(18,336,041)	-	258,652,954	-	258,652,954
12,895,364	1,351,725	8,549	12,886,815	11,535,090	1,351,725	63,301	12,823,514	3,426,985	9,459,830
162,723	(1,000)	-	162,723	143,213	19,510	-	162,723	250	162,473
951,123	(433,883)	-	951,123	1,330,640	(379,517)	-	951,123	17,139	933,984
e	e	e	e	13,235	e	e	e	e	e
203,026	62,927	113,830	89,196	53,282	35,914	71,071	18,125	59,571	29,625
575,453	86,016	19,701	555,752	469,736	86,016	7,459	548,293	11,310	544,442
50,820	(10,334)	-	50,820	61,154	(10,334)	42,192	8,628	-	50,820

Arrears of Revenue 2020[a] *cont./*

Department		Gross Outstanding on 31/12/2019 [b]	Collected during 2020	Written off 2020	Revisions 2020	Arrears 2020
Ministry for Justice, Culture and Local Government	€	82,922	52,480	-	-	30,845
Judicial [f]	€	11,094,658	1,063,214	87,257	(495,785)	1,688,161
Attorney General	€	344,054	23,643	41,465	(18,822)	29,056
Notary to Government	€	5,793	5,793	-	-	4,125
Ministry for the Environment, Sustainable Development and Climate Change	€	1,384,472	287,131	3,074	71,693	299,872
Ambjent Malta	€	52,526	52,104	-	-	2,447
Ministry for Foreign Affairs and Trade Promotion	€	244,120	137,543	-	-	76,285
Ministry for Transport, Infrastructure and Capital Projects	€	604,596	192,376	14,853	(4,518)	474,287
Cleansing and Maintenance	€	187,405	80,508	-	479	23,610
Transport Malta [e]	€	e	e	e	e	e
Lands Authority	€	39,640,805	12,871,743	1,373	-	11,534,878
Ministry for Gozo	€	628,022	13,566	-	(325,477)	30,987
Ministry for the Family, Children's Rights and Social Solidarity						
Social Security Benefits	€	26,825,330	5,033,553	58,627	(62,274)	5,147,125
Pensions Section [g]	€	40,805,674	1,332,179	-	-	3,713,776
Elderly and Community Care	€	281,261	2,265	-	-	108,375
Ministry for European Affairs and Equality						
Industrial and Employment Relations	€	288,282	2,029	-	-	-
Totals [h]	**€**	**5,070,097,901**	**268,186,110**	**286,866**	**(1,318,695,730)**	**2,825,185,044**

a. Figures may not add up due to rounding.
b. Opening balances reported as featuring in last year's Annual Audit Report, unless otherwise specified.
c. Includes figures for the Television Licensing Unit.
d. The negative balance as at 31 January 2021 is mostly the result of the legal overhaul exercise performed in past years and payments received in advance.
e. The ARR for 2020 was not submitted.
f. Opening balance 2020 did not tally with closing balance 2019 (vide comments where applicable).
g. Previously shown under the Ministry for Finance.
h. Totals are incomplete in view of e above.

Gross Outstanding on 31/12/2020	Gross Variation	Amounts Est. as not Collectable	Net Collectable Arrears as at 31/12/2020	Net Collectable Arrears as at 31/12/2019	Net Variation	Due from Govt. Depts. and Para. Bodies	Due from Individuals and Private Cos.	Amounts Coll. during January 2021	Balance as at 31/01/2021
61,287	(21,635)	-	61,287	82,921	(21,634)	43,795	17,492	-	61,287
11,136,563	41,905	4,564,559	6,572,004	6,339,967	232,037	-	6,572,004	155,936	6,416,068
289,180	(54,874)	60,598	228,582	248,914	(20,332)	2,440	226,142	300	228,282
4,125	(1,668)	-	4,125	5,793	(1,668)	1,891	2,234	1,142	2,983
1,465,832	81,360	44,666	1,421,166	1,334,838	86,328	5,086	1,416,080	184,891	1,236,275
2,869	(49,657)	-	2,869	52,525	(49,656)	-	2,869	-	2,869
182,862	(61,258)	-	182,862	244,120	(61,258)	152,579	30,283	10,214	172,648
867,136	262,540	33,730	833,406	583,461	249,945	420,156	413,250	-	833,406
130,986	(56,419)	16,853	114,133	187,405	(73,272)	113,813	320	9,225	104,908
e	e	e	e	39,825,408	e	e	e	e	e
38,302,567	(1,338,238)	-	38,302,567	39,640,805	(1,338,238)	10,161,821	28,140,746	1,271,519	37,031,048
319,966	(308,056)	64,670	255,296	511,823	(256,527)	255,296	-	-	255,296
26,818,001	(7,329)	4,177,746	22,640,255	23,375,308	(735,053)	-	22,640,255	416,665	22,223,590
43,187,271	2,381,597	-	43,187,271	40,805,674	2,381,597	43,115,221	72,050	-	43,187,271
387,371	106,110	-	387,371	281,261	106,110	138,610	248,761	54,767	332,604
286,253	(2,029)	206,238	80,015	82,044	(2,029)	-	80,015	133	79,882
6,308,114,239	**1,238,016,338**	**5,507,997,601**	**800,116,638**	**818,782,763**	**21,172,518**	**71,875,725**	**728,240,913**	**14,703,306**	**785,413,332**

Arrears of Revenue Analysis of the Outstanding Balance as at 31 December 2020[a]

Department		Net Collectable Arrears as at 31/12/2020	Amounts Est. as not Collectable	Gross Outstanding on 31/12/2020	Analysed as follows:				
						Under Contestation			
					Statute-barred	Pending Court Action	Not pending Court Action	Recoverable by Dept. Action	Considered Recoverable
Office of the Prime Minister [b]	€	6,237,968	4,008,973	10,246,941	4,008,973	-	-	6,237,968	-
Department of Information	€	67,615	-	67,615	-	-	-	67,615	-
Government Printing Press	€	817,253	-	817,253	-	-	-	817,253	-
Malta Gaming Authority	€	126,163	2,897,657	3,023,820	-	2,774,638	-	249,182	-
Malta Communications Authority	€	362,023	-	362,023	362,023	-	-	-	-
Ministry for Health	€	27,925,963	81,005	28,006,968	81,005	-	-	1,024,171	26,901,792
Ministry for the Economy, Investment and Small Businesses									
Commerce	€	14,296	2,103,153	2,117,449	2,066,150	-	37,003	-	14,296
Ministry for Education and Employment	€	1,682,927	202,394	1,885,321	-	-	-	202,394	1,682,927
Ministry for Energy and Water Management	€	6,348	-	6,348	-	-	-	-	6,348
Ministry for Finance	€	76,992	-	76,992	-	-	-	36,459	40,533
Commissioner for Revenue (Inland Revenue and Capital Transfer Duty)	€	375,176,498	1,200,920,998	1,576,097,496	178,049,995	176,828,885	-	237,698,305	983,520,311
Commissioner for Revenue (VAT) [c]	€	258,652,954	4,288,472,281	4,547,125,235	4,288,472,281	83,423,823	-	175,229,131	-
Customs	€	12,886,815	8,549	12,895,364	71,601	7,163,640	1,101,450	-	4,558,673
Contracts	€	162,723	-	162,723	-	-	-	162,723	-
Ministry for Tourism	€	951,123	-	951,123	-	-	-	951,123	-
Ministry for Home Affairs and National Security [d]	€	d	d	d	d	d	d	d	d
Armed Forces of Malta	€	89,196	113,830	203,026	107,155	-	-	6,675	89,196
Police	€	555,752	19,701	575,453	164,922	14,734	-	384,953	10,844
Civil Protection	€	50,820	-	50,820	-	-	-	-	50,820

Arrears of Revenue Analysis of the Outstanding Balance as at 31 December 2020[a] *cont./*

Department		Net Collectable Arrears as at 31/12/2020	Amounts Est. as not Collectable	Gross Outstanding on 31/12/2020	Analysed as follows:				
						Under Contestation			
					Statute-barred	Pending Court Action	Not pending Court Action	Recoverable by Dept. Action	Considered Recoverable
Ministry for Justice, Culture and Local Government	€	61,287	-	61,287	-	-	-	2,060	59,227
Judicial	€	6,572,004	4,564,559	11,136,563	4,564,559	-	-	2,872,004	3,700,000
Attorney General	€	228,582	60,598	289,180	-	-	-	288,736	444
Notary to Government	€	4,125	-	4,125	-	-	-	-	4,125
Ministry for the Environment, Sustainable Development and Climate Change	€	1,421,166	44,666	1,465,832	44,666	426,114	479,095	249,178	266,779
Ambjent Malta	€	2,869	-	2,869	-	-	-	-	2,869
Ministry for Foreign Affairs and Trade Promotion	€	182,862	-	182,862	-	-	-	182,862	-
Ministry for Transport, Infrastructure and Capital Projects	€	833,406	33,730	867,136	16,781	16,949	-	833,406	-
Cleansing and Maintenance	€	114,133	16,853	130,986	86,274	-	-	44,712	-
Transport Malta [d]	€	d	d	d	d	d	d	d	d
Lands Authority	€	38,302,567	-	38,302,567	2,341,808	5,485,921	5,412,325	22,555,040	2,507,473
Ministry for Gozo	€	255,296	64,670	319,966	-	-	64,670	41,127	214,169
Ministry for the Family, Children's Rights and Social Solidarity									
Social Security Benefits	€	22,640,255	4,177,746	26,818,001	4,177,746	82,237	223,608	3,038,135	19,296,275
Pensions Section [e]	€	43,187,271	-	43,187,271	-	-	-	43,187,271	-
Elderly and Community Care	€	387,371	-	387,371	-	387,371	-	-	-
Ministry for European Affairs and Equality									
Industrial and Employment Relations	€	80,015	206,238	286,253	-	4,135	-	271,636	10,482
Totals [f]	**€**	**800,116,638**	**5,507,997,601**	**6,308,114,239**	**4,484,615,939**	**276,608,447**	**7,318,151**	**496,634,119**	**1,042,937,583**

a. Figures may not add up due to rounding.
b. Includes figures for the Television Licensing Unit.
c. Although the VAT Department reported a figure of €4,288,472,281 as statute-barred, a comment in the respective ARR explained that this balance reflects the amount estimated as not collectable, which in reality is not statute-barred.
d. Did not submit all the submissions required by Treasury Circular No. 3/2021.
e. Previously shown under the Ministry for Finance.
f. Totals are incomplete in view of d above.

Office of the Prime Minister

Government Printing Press

Revenue and Expenditure

An audit of the **Government Printing Press** falling within the remit of the Office of the Prime Minister was conducted with limitations on the scope of the audit, arising from the obsolete Management Information System in use.

Background

The Government Printing Press (GPP) renders services to all Ministries, Government departments and entities, as well as private companies, using the latest available technology. In February 1994, it became a partly autonomous department and in November of the following year, GPP moved from Valletta to Marsa Industrial Estate.

GPP's organigram is split into three main sections: health and safety, operations (printing) and administration[1], all falling under the direct supervision of the Director. As at 31 December 2020, GPP's staff complement was 56.

Financial Information

Falling under the remit of the Office of the Prime Minister[2], GPP was allocated a budget of €1,666,000 for the year 2020, under Recurrent Vote 8. This covered personal emoluments (€1,320,000), as well as operational and maintenance expenses (€346,000). Total expenditure during the year under review as recorded in the Departmental Accounting System (DAS) amounted to €1,647,319.

Revenue for the year 2020 derived from sales (printing jobs) was estimated at €500,000, whilst the actual figure as reported in DAS Consolidated Fund amounted to €674,008. All payments and receipts were recorded on a weekly basis in the Management Information System (MIS)[3], from where the respective amounts and apportionments were calculated in order to credit the Revenue[4] and Value Added Tax (VAT) Accounts and debit the Revolving Account[5] in DAS accordingly.

[1] Including human resources, finance, procurement and information technology.
[2] During 2021, GPP fell under the direct responsibility of the Principal Permanent Secretary within the Office of the Prime Minister.
[3] The system used by GPP to record transactions and issue invoices to clients for printing jobs.
[4] Revenue – 'Jobbing Government' is used to record income transferred to the Government Consolidated Fund.
[5] The Revolving Account in MIS is used by GPP to record a portion of the revenue, equivalent to the cost of material used for the respective jobs, against the respective cost of materials for subsequent jobs.

Audit Scope and Methodology

Revenue

The audit included an examination of the revenue from printing jobs, which is the main source of income, to verify its correctness and completeness. The sampled revenue transactions, amounting to €282,995, consisted of 13 paid invoices pertaining to seven different client accounts with the highest sales values. This resulted in an overall coverage of 28% from approximately 3,300 invoices posted to MIS revenue account, in aggregate totalling €1,001,952[6] (VAT excl.). In each case it was verified that the quotation and invoice amount tallied to DAS receipts. The proper use of the relative revenue accounts was also evaluated. Additionally, the arrears of revenue reported by GPP in the return submitted to the Treasury as at end December 2020, was also analysed.

Expenditure

The other scope of the audit was to determine the level of existing controls over expenditure, including that relating to overtime and allowances, as well as ascertaining compliance with the pertinent legislation. A random sample from the 15 most material DAS expenditure accounts was selected for testing, comprising 30 transactions amounting to €284,876. This resulted in an overall coverage of 17% of total expenditure (€1,647,319). The National Audit Office verified compliance with the respective provisions of the Public Procurement Regulations when purchasing the goods and services and that the expenses were supported by the appropriate fiscal documentation. Testing also included verifying eligibility of the sampled transactions covering allowances and overtime to ensure compliance with the relevant Public Sector Agreements and other Policies and Procedures.

Limitations on Scope of Audit

GPP was not able to provide a report comprising sales invoices which were settled during 2020, to reconcile the respective revenue with DAS receipts. This was due to MIS reporting limitations, wherein receipts, relating to invoices issued prior to 2020, were excluded from the report. Consequently, testing to ensure the completeness of the income derived during the year under review could not be carried out. Moreover, performing revenue reconciliation exercises between MIS and DAS were deemed to be time consuming.

GPP does not maintain documentation in support of manual workings to calculate the cost of sales which are recorded in MIS. Thus, the amounts charged to clients could not be verified as highlighted further down under the Control Issues.

Key Issue

Lease of Premises not formalised

The original approval for the leasing[7] of the factory located at the Marsa Industrial Estate to accommodate GPP was granted retrospectively in 1996. The lease started in February 1994 and was for a period of 10 years. However, upon expiry, although GPP continued to occupy the premises, no other formal agreement was signed.

Back in March 2015, Malta Industrial Parks Ltd, being the entity owning the property, had notified GPP of an initiative whereby occupiers of the foregoing property would be given the opportunity to rent roof space to install photovoltaic panels and benefit from income derived from the generation of electricity. GPP confirmed its interest to lease the

[6] This amount includes both paid and unpaid invoices.
[7] The original lease was with the then Malta Development Corporation.

roof space above the factory premises that it occupied; however, prior to participating in the photovoltaic panels scheme, it required time to carry out the necessary roof repairs, which work was not yet carried out by the last quarter of 2021. In the meantime, GPP continued to occupy the premises, with the approval of Malta Industrial Parks Ltd given in 2017 at an annual compensation of €104,135 (VAT excl.). When the necessary repairs on the roof are carried out, a new tenancy agreement will be entered into.

Recommendations

GPP is to ensure that there are no further delays to issue a call for tenders for the necessary roof repairs to commence as scheduled. A new lease agreement, legally binding both parties with the applicable terms and conditions, is also to be entered into without undue delay.

Management Comments

Since the premises are the property of third parties, a call for tenders for the replacement of the ceiling will be issued by the foregoing. Notwithstanding this, it was GPP that in 2018 initiated the discussions with the lessor, for the replacement of the ceiling. Tenders for architectural and engineering services regarding the replacement of the roof at GPP were issued by the owners and onsite meetings were held with personnel responsible for the project. Since then, studies to obtain the necessary bill of quantities with respect to various items, were carried out. It was estimated that works would begin during the third quarter of 2022.

Furthermore, GPP and the lessor concurred that a new lease agreement will be entered into once the tender is awarded and the final cost established. In this regard, the rent will remain the same for a period of 20 years and the cost for the replacement of the roof, will be paid to the lessor in 10 equal yearly instalments on completion of the replacement process.

Control Issues

System Limitations

Besides the restrictions mentioned under 'Limitations on Scope of Audit', MIS also had the following limitations:

a. Aggregate job costings on invoices were shown by category item, such as for manpower and material. However, a breakdown supporting each category charge was not available and such details could not be traced in MIS. Given that manual workings were also not kept, the audit trail was incomplete. As a result, job costings could not be verified for correctness.

b. Amounts relating to invoices partly paid could not be posted on MIS. This limitation is affecting the reporting of the arrears of revenue since the respective amounts that are paid are not being captured unless the entire invoice is paid.

Recommendations

GPP is encouraged to prioritise the procurement process in order to replace the obsolete system with a new one that adequately caters for GPP's requirements, including sufficient pre-set classification of job costings. Until this is available, it is advisable to retain soft copies of the manual workings supporting job costings to enable verification and ensure a robust audit trail.

Management Comments

Management is fully aware of the limitations of the current[8] MIS, thus GPP sought the expertise of the Information Management Unit within the Office of the Prime Minister and the Malta Information Technology Agency in the last quarter of 2019, for the procurement of a new system. Since then, a process to map all the functions required at GPP was undertaken. Following this process, a tender document was drafted and submitted to the Department of Contracts and a tender for the procurement of an Online Print Management System and related services for GPP was issued in July 2021. Only one offer was received but, given that the bidder did not satisfy 13 out of 161 mandatory requirements, the tender had to be rescinded. A new tender shall be duly issued. In the meantime, manual workings have started to be retained on a spreadsheet and kept in the works docket together with the quotation.

Provision for Bad Debts not taken

The GPP arrears of revenue return as at 31 December 2020 reported gross and net collectable arrears of revenue as €817,253. Most of this amount (€726,744) was revenue due from various Government departments.

This Office was informed that by end of June 2021, outstanding arrears totalled €371,571; this included balances prior to 2011. Notifications[9] were sent to the entities concerned; however, the collectability of the amount of €68,746[10] is questionable and very likely to being statute-barred. Notwithstanding this, a provision for bad debts in respect of the foregoing amount was not taken.

Recommendations

Management is encouraged to obtain legal advice, to determine the prescription period, particularly in respect of the long outstanding amounts. In the interim, it is advisable that an adequate provision for bad debts is taken.

Management Comments

Between 2015 and 2016, an intensive exercise was carried out, where all debts due to GPP from various Ministries and Government departments were collated. Letters were sent to the respective Permanent Secretaries, advising them of the situation and requesting that debts, due by the relative Ministry or department, be settled within an agreed period. Debtors were urged to settle outstanding dues, through various meetings held, as well as correspondence sent. Moreover, the situation was carefully monitored with regular follow-ups.

Subsequently, between 2016 and 2017, in view that only a minimal number of outstanding payments were collected following the foregoing exercise, GPP submitted a request to the Ministry for Finance to approve that outstanding claims, dated between 2005 and 2011, be considered as bad debts. However, this request was not acceded to and the said Ministry contacted all debtors requesting that all aged debts be settled.

Legal advice will be sought as recommended.

[8] Management comments submitted on 28 October 2021.

[9] Since 2017, all debtors (aged and current) are twice yearly contacted by telephone or email requesting settlement of outstanding amounts due to GPP. The last notifications to aged debtors were sent in March 2021.

[10] This amount is due from Government departments and entities.

Compliance Issue

Fiscal Receipts not submitted

From the 30 sampled transactions, a few payments were not supported with VAT fiscal receipts. Moreover, GPP did not submit the list of defaulters in accordance with MF Circular No. 5/2002 – 'Submission of Fiscal Receipts to Government Departments'.

Recommendations

GPP is to ensure that all fiscal receipts are submitted to support the respective payments and continue to chase suppliers until these are provided accordingly. In cases where suppliers fail to adhere to VAT regulations, defaulters are to be reported to the VAT Department.

Management Comments

The defaulters' list was inadvertently not being submitted to the VAT Department therefore, GPP will start to submit this list. Meanwhile, the VAT Department was contacted and the respective lists pertaining to the last six years have been submitted.

General Comments

Except for the issues reported above, testing carried out by the National Audit Office confirmed that the majority of controls were in place and in sound operation. The auditee also extended full cooperation during this audit assignment.

Expenditure

The audit at the **Malta Digital Innovation Authority** revealed several shortcomings. Amongst others, these included insufficient control over document management, in particular that relating to the leasing of office premises and car spaces and personal emoluments. Shortcomings concerning procurement, transport, and hospitality costs were also noted.

Background

The Malta Digital Innovation Authority (MDIA) was established in 2018 by the Act Cap. 591 bearing the same name. This regulatory body is responsible for promoting Malta as the centre for excellence for technological innovation, while setting and enforcing standards that ensure compliance with any other international obligations. The Authority's headcount as at 31 December 2020 was of 15 full-time employees.

For the financial year under review, the budget for this Authority was €1,540,000 under Contributions to Government Entities, Line Item 6845, Recurrent Vote 6 and another €150,000 under Capital Vote III Line Item 7006, both titled as Malta Digital Innovation Authority. The latter was supplemented by a warrant of €1,250,000, in view of the project comprising the new premises in Mrieħel.

Audit Scope and Methodology

The main scope of the audit was to ascertain that expenditure for the year 2020 was in line with the financial regulations, circulars and policies, as applicable, ensuring efficient use of public funds, and that the necessary internal controls were in place.

The National Audit Office (NAO) held an introductory meeting with the Permanent Secretary, Ministry for the Economy and Industry, and the then Chief Executive Officer (CEO), MDIA, in order to obtain a general overview of the operations of the Authority. During the course of the audit, further information was obtained from various officers as necessary.

Following scrutiny of the trial balance and general ledger provided by MDIA, a number of accounts were identified for testing on the basis of materiality or nature of expense. Testing comprised an analysis of the project of the new premises, scrutiny of a mix of sixteen transactions[1] and remuneration paid to seven individuals (staff and Board members). Enquiries were also made on the internal control procedures in place with regard to inventory and petty cash, while Government allocations were checked to supporting documentation.

[1] Transactions related to property rental, fuel and leasing of vehicles, travel, hospitality costs, professional and other outsourcing fees.

Key Issue

Leasing of Office Premises and Car Spaces in Mrieħel

Background

MDIA engaged an advisory firm in order to assist in the expression of interest process for the provision of lease of office space, located in a central area or in an easily accessible area of Malta, together with parking spaces. Diagram 1 includes information with regard to the leasing of premises and the respective finishing works[2].

Diagram 1: Details of the Procurement Process, Leasing and Finishing Works

Expression of Interest

Expression of interest, with closing date 29 August 2018, was issued for a floor area of circa 500 square metres, accommodating up to 25 employees (the possibility for expansion was to be considered as an asset). Expected minimum number of car spaces was 10.

Application

Applications were submitted by six different parties; one of them included two options. One of these two options and another bidder were disqualified.

Proposal

The proposal submitted by the winning bidder comprised the second floor level in a usable area of 525 square metres, with the possibility of expanding operations at the penthouse level, having 420 square metres, as well as 38 parking spaces on two basement levels.

Lease Agreement

On 27 November 2018, an agreement was reached with the lessors, for the lease of premises in Mrieħel, on the second floor level, consisting of 550 square metres, as well as 10 car spaces in the basement level. The following terms and conditions refer:

1. The lease was to remain in force for 10 years as from 1 December 2018, automatically renewed for additional 5-year periods. However, both parties have the option to terminate six months prior to the end of a lease term.
2. Both the finishing of the premises and the services of a project manager were to be at MDIA's sole expense.
3. Rent was not to be charged for the first six months. After the lapse of this period, rent to be paid was €179 per square metre and €750 per car space, giving a total of €105,950 per annum. Rent was to increase annually by 3% from the second term, which increase was taken into consideration as from June 2020.
4. The lessors were refrained from granting the possession of the penthouse, under any title, to any third party, i.e., the floor immediately above the leased second floor, for a period of 12 months from 1 December 2018.
5. Premises shall be surrendered to the lessors in the state described in the architect's report. All permanent improvements made by the lessee shall accede to the premises for the benefit of the lessors, without any entitlement on the former's part to any compensation from the lessor.

Addendum to the Lease Agreement

On 23 April 2019, an addendum was signed whereby the penthouse, having an additional area of 450 square metres, together with a further eight parking spaces were being leased as from June 2019, for a period of nine and a half years, at the same rates, increasing the rent to €192,500 per annum.

Finishing Works Agreement

An agreement was entered into on 23 April 2019 in order to regulate the finishing of the leased premises. Lessors were to provide MDIA with related quotes, with the latter having the sole and exclusive prerogative to accept or to refuse any quotes. Finishing works were to be carried out by the lessors up to a high standard.

Total Cost

The total rent to be paid at the end of the term, that is up to November 2028, for the total floor area over the two floors with an aggregate of 1,000 square metres, as well as 18 parking spaces, will result in about €2.04 million. Since total finishing works amount to approximately €2.25 million, the total cost over the 10-year lease period will be around €4.29 million.

[2] The project included finishing works to be carried out, heating, ventilation and air-conditioning, mechanical and electrical services, lighting and fittings.

Leasing of Premises

From a review of the documentation made available, and a comparison of the bid as proposed by the winning bidder with the lease agreement, the following matters and divergencies were noted:

a. As per evaluation report, one of the bids was received by email and the other five by post. However, once the independent evaluation of the expression of interest was finalised by the advisory firm, only documentation supporting the winning bid[3] was provided to MDIA. Therefore, this Office could not verify the amounts[4] included in the evaluation score grids of the remaining bids.

b. As per winning bid and subsequent lease agreement, the rate was to increase annually by 3%. However, the financial ranking was only based on the first year, rather than the final aggregate rent of the entire 10-year period. Since copies of the other bids were not available, NAO could not confirm that the winning bidder was still the cheapest one, as the other bidders might have proposed different increases.

c. During the design layout, the Authority noted that the second floor was not going to be enough for the headcount for the first five years. Thus, an additional 450 square metres and a further eight parking spaces were leased, less than six months after signing the lease agreement. Furthermore, the agreement specified that this was to be renewed automatically for further five-year periods, whilst the expression of interest included the possibility of renewal for only a further five years.

   One cannot exclude the possibility that if MDIA had based the expression of interest on 1,000 square metres and indicated the option of automatic renewal for further periods of five years at the outset, other potential bidders with a more advantageous offer would have come forward.

Recommendations

Copies of all bids are to be requested and maintained by MDIA for future reference. Furthermore, proper planning is to be carried out before any commitment is entered into, in order not to miss out on potential better terms and conditions, thus safeguarding taxpayers' money.

Management Comments

Following NAO's fieldwork, the Authority continued liaising with the firm that issued the expression of interest to locate the original submission files of all properties. After several attempts, the Authority is in possession of all the submissions pertaining to the expression of interest.

With regard to observation on the aggregate rent of the entire 10-year period, the Authority has requested the firm to clarify this matter. MDIA was informed that the firm had analysed the financial position for the 10-year term taking into consideration the yearly increases and all bidders quoted a 3% increase per annum, except for one bidder. Nevertheless, the 10-year financial projections did not change the final ranking.

On MDIA's business plan, financial year 2021, the Authority had an approved headcount by the People and Standards Division of 28 vacancies, out of which, 18 were employed by the last quarter of 2021 and the remaining 10 were in the process for recruitment.

[3] The area to be rented was incorrectly indicated in the winning bid.
[4] In respect of both financial and non-financial considerations; the latter included criteria which was open to interpretation.

Services of a Project Manager

The following concerns were noted with regard to the services of a project manager, for which related costs, i.e., the management fee, will eventually amount to €166,933[5]:

a. The appointment of the project manager and the respective service price were to be acceptable by both parties. The related costs were to be borne by MDIA, but the lessors proposed a manager of their trust, since work was to be carried out on their property. MDIA accepted this proposal given that the management fee of 10% was deemed reasonable compared to the industry standard. However, no other quotes were sought.

b. As per lease agreement, the project manager was responsible for finishing works and in April 2019 a separate agreement was endorsed to specify the respective conditions. However, various other expenses, such as regular cleaning services up to September 2020 and costs in connection with the opening ceremony, which were not related to finishing, were also procured through the project manager. Thus, MDIA had to pay the respective 10% fee on these amounts. The Authority claimed that the expenses in question were all considered ancillary and necessary to the project.

Recommendations

In order to ensure a more transparent process, in similar future instances, procurement is to be effected following request for quotes or call for tenders, as applicable; thus, enabling open competition and ensuring a fair procurement process. This will also ascertain that the management fee is fair and reasonable. Furthermore, MDIA is to bear in mind that when commitments entered into carry an additional cost, these should be limited to tasks specified in the respective agreement.

Management Comments

Given that the project manager had to be acceptable by both parties and the foregoing had to be appointed within two weeks from the signing of the lease agreement and considering that the 10% fee is within the industry standard, the Authority feels the appointment of the project manager is covered by the lease agreement.

Control Issues

Bypassing Standing Procurement Regulations

Testing included the procurement of three sampled service providers, one providing consultancy services paid €113,781[6], whilst the other two rendered logistic services for a total of €33,051[7] each. The following shortcomings were noted:

a. Procurement was continuously being split, not to exceed the threshold of €10,000 excluding Value Added Tax (VAT), established for direct orders. This resulted in non-compliance with the Public Procurement Regulations (PPR) Article 28(5) which states that when calculating the estimated value, procurement is not to be subdivided.

b. All contracts entered into had unlimited option for extension, stating that they may be renewed for a further period of time to be decided by MDIA.

c. Evidence of written approval from CEO to procure by direct orders, indicating the justifications for resorting to such method of procurement, was not available.

5 96% was invoiced between November 2019 and April 2021, with the remaining still to be presented for payment.
6 As per data provided on 9 August 2021, covering from 1 August 2018 up to June 2021.
7 As from 10 March 2020 up to end of year.

d. Whilst acknowledging MDIA's claims that the consultancy service in question specialises in legal services, very specific to the Authority's niche, the latter never sought quotations from other service providers or issued an expression of interest for the procurement of such services.

e. As from November 2020, instead of the hourly rate of €170 (VAT excl.) for consultancy services, a monthly fee of €2,500 (VAT excl.) was to be paid for a maximum of 15 working hours[8]; with any unutilised hours not transferable for the following month/s. Since detailed breakdown of service was only requested when the standard monthly hours was exceeded, it was not possible to calculate any potential unnecessary payments[9].

f. The need for the two individuals to carry out logistic services was verbally communicated by the Ministry Secretariat with CEO. These services were procured direct from the open market at the latter's discretion, thus at the risk of not obtaining the most advantageous offers and also triggering unfair competition.

Recommendations

MDIA is not to sub-divide contracts, the purpose of which is to bypass PPR. Considering the amounts involved and that the service is recurring, quotations are to be obtained or tender issued; thus, promoting competition, transparency, and guaranteeing the best rates and market conditions. Direct orders are only to be used in exceptional circumstances and as a last resort. Formal approval is to be obtained beforehand in such cases and held for future reference.

The Authority is also encouraged to carry out market research and document it, in order to establish a way forward for procurement of consultancy services, taking into consideration the possibility of an in-house officer to carry out the related tasks, if it is deemed more feasible and economical. In the interim, a detailed breakdown of service is to be invariably requested prior to payment, for control purposes. The introduction of the hourly rate instead of the fixed monthly fee is also to be considered.

Management Comments

The Authority operates in highly specialised innovative solutions areas where expertise in the local market is very limited. Furthermore, the terms of reference of such services are very dynamic and is very difficult to determine and forecast what to include in an expression of interest and/or tenders.

Having said that, in order to mitigate NAO's concern, the Authority will start seeking approval for such specialised expertise according to PPR, including the negotiation procedure comprehended particularly for the innovative sector like MDIA.

For other technological services, whereby the Authority has the knowledge from market research that various suppliers can provide the service, the relevant procurement mechanism has been engaged. This can be proven by several expressions of interest issued by the Authority and made public on the Government Gazette.

Whilst the Authority fully agrees with NAO's recommendation of building in-house expertise, it is a fact that public entities are finding it difficult to recruit such employees. It is pertinent to note that eligible candidates are highly sought by the private industry and the remuneration is circa 40% higher than what the Authority can offer. However, the Authority is committed to recruiting suitable candidates and once knowledge and skills are developed to the right candidates the outsourced functions will be reduced substantially.

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[8] Services above the established hours, were to be charged at the previous hourly rate.

[9] To establish whether all the 15 hours were performed for the first six months of year 2021, when only the fixed amount was claimed.

Information not maintained centrally

The Authority does not a have a central document management system in place. Certain correspondence and related documents are only retained by the individuals concerned in their mailbox. In the circumstances, information requested for audit purposes, such as approvals and documentation supporting the sampled transactions, was not always easily retrievable. This imposes the risk of no business continuity and lack of sufficient audit trail, when the officer concerned is absent from work for a relatively long period of time, or no longer employed with the Authority.

Recommendation

A centralised document management system should be in place, so that pertinent information is easily retrievable, to ensure business continuity, as well as for audit purposes.

Management Comments

The Authority has a cloud-based document management system; however, welcomes the recommendations of NAO and in 2022 will work on improving the system to ensure business continuity.

Shortcomings related to Personal Emoluments

The following matters related to personal emoluments were noted:

a. According to the salary structure approved by the Industrial Relations Unit within the Office of the Prime Minister, covering the year under review, employees engaged in the first three lower grades shall start on the minimum of their respective salary scale. However, all four employees, who were in the highlighted grades in 2020, were engaged on the maximum salary instead of the minimum. An explanation to this effect from the auditee was not forthcoming.

b. An officer in the audit sample, was receiving a basic salary higher than that stipulated in the contract of employment. Consequently, the special technical skills allowance, as well as the performance bonus, both computed as a percentage of the basic salary, were also incorrect. Following audit queries, MDIA requested a refund from the officer in question and the amount covering up to the fifth pay of 2021, was recovered in June of the same year.

c. Manual attendance sheets for year 2020 were being certified by the Human Resources Manager; however, the respective date was not indicated, risking that these may be amended following endorsement. Moreover, the foregoing individual was certifying his own timings.

   NAO performed an onsite visit at MDIA and it was also observed that two out of the seven individuals who signed in, had already recorded their time outs on the attendance sheet reviewed, even though it was still early morning. Furthermore, from the attendance sheets made available, missing timings of another officer were also noted.

d. Any unutilised vacation leave balance was automatically transferred to the following year without obtaining the necessary approvals.

Recommendations

MDIA is to ensure that salaries are in line with the approved structure. In case of divergencies, a valid reason accompanied by the necessary approval is to be obtained. Accuracy in the computation of salaries is also of utmost importance. An error in the basic pay, can trigger other errors and which ultimately may run in thousands of euro, especially if such errors go by unnoticed for a long period of time.

Although the Authority is not obliged to introduce an electronic attendance verification system, considering the nature and the digital environment the Authority operates in, it is considered atypical that attendance sheets are still being kept manually. Therefore, MDIA is encouraged to introduce a device for better time record keeping and transparency. Furthermore, transfer of unutilised leave from one year to another is to be approved by the right level of authority as outlined in the Public Service Management Code.

Management Comments

In order to mitigate the risk of employees being engaged on the maximum, an internal memo signed by the Chief Operations Officer and CEO had been sent to the Finance and Human Resources Units, outlining how employees shall be engaged and moved from the minimum to the maximum grade.

With regard to the attendance, the Authority welcomes NAO's recommendation and in 2022 it shall have a tagging time record system to ensure better transparency and accountability.

On the transfer of unutilised leave from one year to another, the Authority has implemented a new procedure whereby in October of every year, an email is sent to all employees in order to identify the number of hours to be transferred from one year to another, accompanied by a valid justification. Request not exceeding 48 hours can be approved by the Head of Unit, those between 49 and 108 hours need to be approved by the Chief Operations Officer, whilst requests over 109 hours must be approved by the Executive Committee.

Weaknesses related to Transport

Testing of the two leased vehicles[10], as well as the respective fuel consumption revealed the following:

a. In a number of instances, the amount of fuel intake by the CEO in year 2020, went beyond the entitled limit of 150 litres per month, as established by MFC Circular No. 5/98[11] – 'Purchase and Use of Official Cars'.

b. The vehicle used by the CEO has been leased through yearly contracts, costing €5,760 per annum, since the incumbent's previous employment as CEO with the Housing Authority. This continued to be procured directly with the same supplier, to date, year after year. Unless MDIA obtains the necessary quotations or publish a call for tender as applicable, in line with the procurement regulations, it will not be complying with the foregoing.

c. MDIA confirmed that the fully expensed vehicle and the one for general use by the Authority were not registered on the Fleet Management System. Consequently, fuel intake was not being registered through this system and monitored accordingly.

Recommendations

The pertinent guidelines and circulars relating to the use of official vehicles are to be adhered to. Refund is to be requested for the fuel consumed in excess of the entitled limit, evidence of which is to be provided to NAO. Transparency and fair treatment are two basic principles related to public procurement. Hence, the quotations as per PPR are to be obtained for leased cars. All Government-owned vehicles, as well as those leased are to be registered in the Fleet Management System, thus benefitting from the controls embedded therein.

[10] Two leased vehicles, one for general use and the other a fully expensed car.

[11] The circular clearly states that the maximum non-cumulative fuel consumption per month is of 150 litres.

Management Comments

The Authority took note of the circular and a copy was obtained from the Ministry for Economy and Industry. To rectify the mistake, the Authority has requested the previous CEO to refund, which respective amount was paid accordingly.

Going forward, given that a new CEO has been appointed and the benefits include a fully expensed car, in order to mitigate the risk and not to exceed the monthly limit, the fuel dongle has been set up with a monthly limit of 150 litres. On the other hand, the Authority would like to highlight that the general use car uses a system that has the necessary check and auditability in place. In fact, when the driver fills the car with fuel, the officer lists the mileage number of the car on the back of the fuel receipt and, once at MDIA, the Procurement Unit checks the car mileage with the receipt.

On the procurement of the fully expensed car for the new CEO, the Authority shall be issuing a tender in line with the pertinent circulars.

Invoices not certified as correct

Invoices in general were processed for payment, either after endorsing the invoice and/or obtaining approval by means of email. However, there was no indication that details therein were checked for correctness.

Recommendation

Invoices are to be checked for accuracy and certified as correct accordingly.

Management Comments

To improve the system, the Operations Department has established a set of standard operating procedures for the Finance and Procurement Units. In this regard, prior to payment, every invoice will have to be checked by the Procurement Officer to ensure that the invoice matches the quote and/or contract, certified by the officer responsible to oversee that the services and/or product has been provided to the Authority and approved by CEO for payment.

Compliance Issues

Hospitality incurred from Public Funds

As per annual circular issued by the Office of the Prime Minister, Christmas staff parties are not to be paid from public funds. However, an activity for all employees engaged with the Authority at year-end 2020 was held in mid-December, financed through public funds, notwithstanding that respective circular discouraged staff parties due to COVID-19 pandemic. MDIA claimed that this was not a Christmas staff party but a team building activity held in the terrace. However, both the details of the December transactions recorded in the general ledger and petty cash, as well as the emails requesting approval of invoices, referred to Christmas staff party. In January 2020, a transaction was recorded in this regard, thus not excluding that a similar event was also held in previous year.

Furthermore, notwithstanding that catering for a reception[12] cost €8,000, quotations were not requested from different suppliers, but contracted via direct order claiming urgency. Also, written approval from CEO was not evident.

[12] In respect of inauguration of the new premises in mid-July 2020. Number of guests invited totalled 152.

Recommendations

Instructions, which also apply to public sector entities, are to be observed, ensuring that public funds entrusted to the Authority are used efficiently and no undue expenses are incurred, irrespective of the amounts. Furthermore, approvals for hospitality are to be invariably sought and respective quotations obtained in line with pertinent regulations.

Management Comments

Given the COVID-19 pandemic situation, the Authority felt that such team building activity was necessary to sustain the well-being of the employees. Health measures were observed to minimise the risk. The entry in accounts was entered as staff party given the festive season.

Due to time constraints and the urgency of the event to inaugurate the Authority's new premises, no quotations were obtained and direct order has been verbally approved by the Authority's CEO. PPR provide that the Head of the Authority may authorise direct orders below €10,000 (VAT excl.). Consequent invoice and payment were both signed and approved by CEO.

Requirements of VAT not adhered to

The Authority confirmed that it did not request VAT receipts in support of each payment, claiming that the relative invoices suffice. However, since MDIA does not have a VAT number, the respective invoices cannot be considered as a tax invoice and therefore, the Authority is to be furnished by the actual VAT receipts, unless the supplier has an exemption which is to be duly indicated on the respective invoices. For the purpose of the audit, NAO requested VAT receipts to the tune of €418,894 which were not provided. Furthermore, the Authority does not submit quarterly returns listing VAT defaulters to the VAT Department.

Recommendations

VAT receipts are to be invariably requested for every payment. When in doubt, guidance is sought from the VAT Department accordingly. Furthermore, in line with pertinent circulars, which apply also to public sector organisations, a list of fiscal defaulters, or a nil return as applicable, is to be submitted to the VAT Department on a quarterly basis. When possible, purchases from defaulting suppliers are to be discontinued until the matter is rectified.

Management Comments

The Authority has already acted on this matter whereby clarification was sought from the VAT Department. Following this guidance, the Authority is requesting by email a VAT receipt with every payment processed and a spreadsheet is being compiled in order to identify those suppliers which failed to send the VAT receipt. This procedure is also reflected in the respective standard operating procedure.

Frequency of Board Meetings not held in line with Legislation

In line with the respective legislation, the meetings of the Board shall be called by the Chairman, as often as may be necessary, but at least once a month, either on the foregoing's own initiative or at the request of any two of the other members of the Board. However, during year 2020, the Board cancelled the meetings for January, March and July.

Recommendation

Board meetings are to be held at least monthly in accordance with legislation.

Management Comments

The January 2020 Board meeting was cancelled since national direction was required and a change in Government administration has taken place. The March 2020 Board meeting was cancelled due to a Board member getting stuck abroad as COVID-19 restrictions began, and it was decided to postpone the meeting to a time where the Board could make a better decision how to proceed with regard to COVID-19 restrictions and related operations. The July 2020 Board meeting was cancelled to host MDIA's new premises inauguration, within which the Board had an informal meeting. The Chairperson has taken note of the comments and will ensure that in future a monthly meeting is held.

Malta Business Registry

Revenue and Expenditure

An audit of the **Malta Business Registry** revealed strong controls pertaining to revenue and the collection of debts. However, good governance and value for money concerns were raised in the procurement procedures of certain services.

Background

The Malta Business Registry (MBR) is responsible for the registration of new commercial partnerships and other ancillary services, including the respective fees. The Registry, which employed 129 people during 2020, also conducts investigations of companies and maintains the register of companies and partnerships.

MBR was established in 2018 by means of the Malta Business Registry (Establishment as an Agency) Order (S.L. 595.27). It was previously known as the Registrar of Companies when it formed part of the Malta Financial Services Authority. As of 1 January 2019, MBR officially moved out of the Authority's premises in Mrieħel which, considering its extensive space requirements, were deemed inadequate, and was transferred to its own modern and spacious office space in Żejtun.

Financial Information

The Registry generates its own revenue and passes part of it (in 2020, 45%) on to the Consolidated Fund. MBR collects fees in relation to commercial partnership formations and annual submissions on behalf of Government. As per Financial Estimate, budgeted amount to be remitted to Government from this source for 2020 stood at €9 million; however, only €7.75 million was passed on to the relative Ministry during the year.

Management accounts as at end 2020 showed a total income figure of €17,172,517, out of which the amount of €10.5 million was from annual returns and licence fees. Expenditure during the period under review totalled €7,184,058, ending the year with a net surplus of almost €10 million. The remaining surplus was retained by MBR in a reserve fund to support its own operations. Accumulated surplus as at end December 2020 was €12.3 million.

Audit Scope and Methodology

The scope of the audit was to understand the processes and controls in relation to the collection of revenue from registration, penalties, and fines in line with relevant legislation. The audit also aimed to review certain expenditure line items deemed material by nature or value.

A meeting was conducted with MBR officers to discuss the audit objectives and obtain a general understanding of the operations, as well as the relevant procedures adopted. Walkthrough testing was then performed to obtain an understanding of the systems and controls surrounding revenue collection by the Registry. This test revealed that sufficient controls in this area, up to depositing, were in place.

Debtors and receivables were also scrutinised by the National Audit Office (NAO), whereby it transpired that a debt collection policy, together with several other internal procedures, are followed to monitor and collect any pending debts on a regular basis.

A thorough understanding of the main areas of expenditure was also obtained following a number of queries to the auditee. The process for the procurement of various services in place was reviewed and the respective contractual agreements and related payments made in 2020 were verified. The contract for rent and the related payments for the year under review, amounting to €1,406,383 (VAT excl.), were also analysed.

Key Issues

Excessive Rental Payments over Lease Term

Following an expression of interest, an agreement for the lease of office premises in Żejtun was entered into in September 2018, for a term of 15 years up to December 2033. This agreement covered the rental of 77 car park spaces in the subterranean levels and two floors of commercial premises in the overlying levels, all in shell form. In January 2020, a second agreement, superseding the first, was entered into to take up an additional area at ground floor level in shell form as well, with the end of the term of this lease also running up to end 2033.

In accordance with a works agreement entered into by both parties, the business centre was to be finished to a high standard at the lessee's sole expense[1]. Any improvements carried out to the leased premises, although paid by the lessee, would then become property of the lessor at the termination of the lease.

The agreement stipulated that the rent would increase automatically by 3% every year, with total rental payments over the lease term estimated at €26,123,546[2]. When adding up the finishing costs paid by MBR, the amount spent over the 15-year lease period would total around €31,264,126.

The evaluation process for the award of this contract was properly documented and backed up by a lease agreement; however, payment of over €26 million in rent for premises, which at the end of the lease term will still be property of the lessor, raises questions from a value for money perspective. Whilst this Office acknowledged the need for MBR to move to more spacious and modern premises, nevertheless it holds reservations on the prohibitive costs involved.

Recommendation

MBR is to ensure every effort is made to obtain adequate value for money when entering into agreements that include commitments of substantial value.

Management Comments

According to procurement regulations, at the time, lease property was exempted from such regulations. The procedure implemented went beyond such exemption and asked for an expression of interest and an evaluation report was prepared by an independent party to ensure good governance. Furthermore, this procedure was followed according to the recommendation by the Director General, Department of Contracts.

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[1] According to MBR, the cost of building improvements financed by the foregoing was €4,338,122 besides an additional amount of €802,458 for heating, ventilation and air conditioning.

[2] This is the total amount planned to be paid to the lessor by the end of the lease term in 2033, part of which is recovered from the other Government-owned entities for sub-letting.

It was a strategic action by the Government to create a business hub for the promotion of the financial sector, gaming sector and technology, under the same roof of the national entity registering the businesses which were encouraged to select Malta as their country of choice to invest. The entities operating from MBR's building, which outcome is completed by having such foreign investments registering in Malta, is not to be taken for granted. The state-of-the-art offices within the business centre are not a luxury but a necessity.

Lack of Value for Money in relation to Canteen Facilities

MBR entered into a three-year contract for the provision of environmentally friendly canteen services in August 2020, with a contractual value of €128,088 (VAT excl.). The contractor is expected to prepare daily food in MBR's fully equipped kitchen, solely for the staff and at fixed subsidised prices as per tender document. The following concerns relate:

a. Expenses related to food production and presentation are to be borne by the contractor and, according to the contract, all the proceeds from food sales are also intended as revenue for the foregoing. The contractor, who is therefore keeping the profit from the canteen, is not requested to contribute for the rent of the same premises. Moreover, as already indicated, MBR is paying the service provider over €40,000 (VAT excl.) per year for this service.

b. In order to set up the canteen's kitchen, the service provider requested several items to be purchased by MBR at the latter's expense. Total expenditure in this regard amounted to €5,686, part of which also pertained to a point of sale system.

Recommendation

MBR is to apply the concepts of value for money when managing taxpayers' money.

Management Comments

Management disagrees with these observations for the reason that economic activity generated is so minimal that no economic operator was interested to take over such canteen operations by paying rent. The tender was issued following other examples of similar canteens run by other Government agencies. From our experience at the Malta Financial Services Authority, such canteen facilities are not attractive to third parties to operate for a limited number of staff without the incentive of having a service fee for its operation.

Notwithstanding this, on termination of this contract, MBR will take the recommendation by NAO and will carry out a market research report to base its decision on the way forward.

Control Issues

Payments for Cleaning and Security Services exceeding Contracted Amounts

A contract for the provision of cleaning services using environmentally friendly products was entered into on 20 November 2019, between MBR and a service provider for the value of €50,325, up till December 2020. On the other hand, the provision of security services for the new premises was awarded for a period of 18 months starting on 1 January 2020 for a total value of €105,858. Both contracts were entered into following a public call for tenders.

The amount of €139,387 was paid for cleaning services for 2020. This was approximately three times as much as the value of the original contract that was awarded following a call for tender. Similarly, the total amount disbursed for security services exceeded the tendered amount by €56,791, i.e., circa 54% of the original contract value.

The variance from the original contracts is considered as a direct order; however, the required Ministry for Finance (MFIN) approval was not sought. The respective contracts were also not amended accordingly.

Recommendation

Whenever modifications to the original tender requirements are needed, the necessary approvals through the correct channels are to be obtained. This would ensure that good governance is being followed.

Management Comments

Both security and cleaning tender amounts were exceeded since following the agreements, more security and cleaning services were required in view of COVID-19 procedures and requirements. Furthermore, this was also due to additional floors that were acquired as per lease agreement.

Services rendered before Tender Adjudication

An amount of €39,400 was paid to the contractor for cleaning services covering June 2019 onwards, before the tender was formally awarded to the same company towards the end of the year in question.

Management claimed that this was required due to the inauguration of the new premises in June. The evaluation report was completed on 19 August 2019, thus also implying that payments to this service provider started being made before the evaluation committee's recommendation.

Similarly, although a contract for security services was not in place during 2019, MBR still paid the amount of €74,256 to the service provider for services rendered from June to December 2019. The evaluation report was actually concluded in September 2019, i.e., three months later; thus, before that date, the successful tenderer was still unknown.

Moreover, in both cases, payments were made following the approval by the Chief Operations Officer but the necessary direct order approvals for these disbursements were not sought from MFIN.

Recommendation

Contractors are only to be engaged once the tendering process is finalised and a valid contract is signed between the two parties.

Management Comments

The cleaning contract was awarded in August 2019; however, services started in July 2019. The reasons being that although the awarding process was not finalised by July 2019, the evaluation process was finalised. Since MBR needed cleaning services from July 2019, MBR started the service with the contractor which was selected but not yet contracted.

The contract for the provision of security services was signed on 31 December 2019. This took long to be signed because of an appeal made by one of the bidders following the decision.

Extension to Contract by Direct Order not duly approved

Approval for a direct order was not obtained prior to signing a contract for an extension of a four-month period from 1 January to 30 April 2021 with the cleaning contractor, for an approximate value of €46,500. The process of issuing a new tender for cleaning services was in its final stages in January 2021 when the audit was underway.

Recommendation

Contract extensions are only to be entered into after the necessary approvals have been obtained, including that from MFIN.

Management Comments

MBR agrees with NAO's recommendations and the Agency's position has already been regularised as a tender for cleaning services has been published and closed.

General Management Comments

Overall MBR is pleased with the recognition that the audit and management letter have given a certificate that sound financial control has been maintained in the initial years of its establishment. Management also recognises that there are shortcomings to tackle in order to make MBR an Agency following good governance policies.

Security Posture Programme

Expenditure

The procedures and internal controls in relation to the **Security Posture Programme** were found to be adequate and in sound operation at the Malta Information Technology Agency.

Background

In 2019, the Malta Information Technology Agency (MITA) put forward a recommendation for the formation of a line item specifically dedicated to Information Security tools and frameworks, in line with the global trends of ever-increasing cyber-attacks, both in scale and complexity. These funds were intended to strengthen Government's security posture, enabling MITA to enhance the Information Security detection capabilities and its cyber resilience abilities of the Public Administration's Information and Communication Technology Infrastructure.

To fulfil these obligations, a service contract between the Ministry for Finance and Financial Services and MITA covering 2020, was signed in January of the same year. The underlying service charge of €2,000,000 was as listed in the estimated expenditure for 2020, Line Item 7179 – Security Posture Programme under the Office of the Prime Minister's Capital Vote III. Actual expenditure as per data received from MITA amounted to €2,388,669[1].

Audit Scope and Methodology

The scope of the audit was to understand and assess the processes and controls in place with regard to the capital items procured by MITA in relation to the Security Posture Programme during the year under review.

Meetings were held with officials from MITA to discuss the audit objectives and understand the systems and controls surrounding procurement procedures, as well as to understand the underlying systems and solutions which were purchased and/or updated through such Programme.

Data showing all the payments made by MITA in 2020 in this respect was provided to the National Audit Office (NAO). A total of eight contracts were in place with different service providers, which were entered into between 2016 and 2020.

A sample of four contracts was selected for the purpose of audit testing, with total disbursements on these contracts during 2020 amounting to €2,035,551. Each contract was secured by means of a different procurement method.

[1] The difference was covered from core services within MITA. This figure included the amount of €319,464 in relation to prepayments for 2021.

Relevant documentation and the respective approvals were reviewed by NAO to ascertain whether these were in line with the Public Procurement Regulations (S.L. 601.03), as well as with MITA's Internal Procurement and Contracting Thresholds. In addition, all the related payments made in 2020 were vetted to ensure conformity with their underlying contracts, including MITA's regulations in relation to the certification of invoices.

General Comments

NAO positively noted that there was adequate control both during the procurement process, as well as the respective disbursements made by MITA with regard to the Security Posture Programme.

MITA is also to be commended for the professional manner in which it handled the related procurement. Documentation was properly maintained and internal procedures were continuously updated in order to ensure that procurement regulations were being followed.

All payments reviewed by NAO were found to be in line with underlying contracts and were signed off for payment by the pertinent levels of authority as stipulated in MITA's own internal policies.

Ministry for Health

Ministry for Health

Expenditure

An audit on the hire and lease of vehicles by entities and departments within the **Ministry for Health** revealed lack of centralised coordination, hindering proper verification. Various other control issues, including procurement of vehicles not carried out in line with standing regulations, as well as incomplete and incorrect data maintained on the Fleet Management System were noted.

Background

The use of transport within the public service is regulated by the provisions of the Public Service Management Code, the Manual on Transport and Travel Policies, as well as other pertinent circulars. Government's vehicles are primarily monitored through the Fleet Management System; a web portal administered by the Ministry for Finance and Employment (MFE) which, amongst others, provides authorised users with the facility of issuing fuel requisitions and perform reconciliations against invoiced amounts.

For the year under review, i.e., 2020, the Ministry for Health (MFH) was allocated a budget of €1,271,000 for transport expenses.

Audit Scope and Methodology

The main scope of this audit was to assess the adequacy of the internal controls in place with respect to the acquisition and management of leased and hired vehicles across MFH. The audit also sought to establish the reliability and adequacy of information as recorded in the fleet system, as well as ascertain compliance with pertinent circulars and the relevant sections of the manual regulating transport.

The audit was conducted in accordance with generally accepted auditing standards. Planning and audit procedures were designed with the aim of obtaining reasonable assurance on the effectiveness of the system of internal controls adopted vis-à-vis the Ministry's fleet management. To this effect, qualitative sampling techniques were applied, and testing was designed with the intention of identifying methods through which current practices could be improved. Thus, conclusions reached in this write-up, only relate to the documentation that was examined.

In obtaining the required audit evidence, a random sample of 12 hired and 5 leased vehicles, out of totals of 35 and 18 respectively[1], was selected for testing, resulting in a coverage of 32%. Checks mainly centred on ascertaining whether:

- the procurement procedure applied by MFH in relation to both hired and leased vehicles was compliant with the Public Procurement Regulations (PPR) and with the applicable circulars;
- hire and lease of vehicles was effected in accordance with the terms of the applicable agreements;

[1] As per information provided for audit purposes on 25 January 2021.

- the pertinent vehicles were adequately recorded and maintained in the respective system;
- expenditure incurred, including hire and lease charges, purchase of fuel and other related expenses, was backed up by the necessary supporting documentation, including fuel requisitions, invoices and receipts;
- set fuel quotas were not exceeded; and
- necessary reconciliations, including fuel procured compared to invoiced amounts, were adequately carried out.

Key Issue

Lack of Centralised Management of Hired and Leased Vehicles

The audit revealed lack of centralised coordination for the leasing and hiring of vehicles. These were procured under two agreements which were entered into with the pertinent suppliers by the Ministry's Central Procurement and Supplies Unit (CPSU), covering the various departments and entities within MFH. However, these contracts were not centrally managed by the latter but rather dealt with by the respective departments and entities using the vehicles.

Due to the insufficient control on the part of the contracting authority to monitor the respective contracts, the National Audit Office (NAO) could not ascertain that contracted limits were not exceeded[2].

Recommendation

When an agreement covers various departments and entities, it is to be centrally managed by the contracting authority, thereby ensuring that agreed terms are adhered to by all parties and that control is maintained over the respective costs being incurred.

Management Comments

The requirements to set up a contracts management structure was included in CPSU's Capacity Building submission in the past. The creation of this structure had not materialised owing to the fact that no staff were assigned.

Internal discussions are underway with a view to explore resourcing routes for the creation of a central structure, although not necessarily under the remit of CPSU.

Meanwhile a call for applications for Manager was issued in May 2021 to address specific contract management requirements in separate health entities.

Control Issues

Procurement of the Ministry's Vehicles not entirely in line with Standing Regulations

The Government's default position in relation to acquisition of vehicles is that of purchase rather than lease, with leasing only "*… permitted in exceptional circumstances and when the entity furnishes adequate workings … … which prove that the economic benefits associated with leasing … … outweigh those associated with purchasing …*"[3]. However, audit verifications carried out on MFH's fleet revealed that a number of vehicles, including those for general use, are leased or hired rather than purchased. The following matters were noted.

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[2] NAO's requests for transactions effected with the pertinent suppliers since commencement of the respective contracts was not acceded to. Instead, requests were directed to various officers within the Ministry's departments and entities procuring vehicles under the pertinent agreements. However, NAO did not manage to obtain the required information.

[3] Manual on Transport and Travel Policies and Procedures Section 4.1.

a. In 2012, MFE approved the lease of vehicles "*provided that in the case of headships, a benchmark daily rate of €8.25*[4] *excluding VAT … … was not to be exceeded*"[5]. However, it transpired that, at least in 2020, four of the fully expensed vehicles falling in the audit sample, used by officers occupying headship positions, were being leased at a daily cost of €9.72 (VAT excl.) per vehicle, thereby exceeding the daily benchmark agreed to with MFE by almost 18%.

b. Seven hired vehicles, out of the twelve sampled, were for general use. However, workings to substantiate that the hiring of these vehicles outweighed their respective purchase costs were not made available.

Recommendation

In line with the applicable manual, the leasing or hiring of vehicles is to be resorted to only in cases where the economic benefit outweighs that associated with purchasing. In this regard, considering that the respective lease contracts were to expire towards the end of 2021, MFH is to prepare a cost-benefit analysis and go for the most economically feasible option.

Management Comments

Requests to MFE for the leasing or purchase of vehicles are always substantiated by cogent justifications. MFE then approves the lease or purchase of the said vehicles accordingly. Included in our budgetary request for year 2022 was the purchase of new cars to replace those leased which are due to expire (end 2021).

Non-emergency Ambulances procured by means of Negotiated Procedures

Following a call for quotations issued in 2015 for the leasing of non-emergency ambulances for transporting patients, a contract was entered into on 1 February 2016 with a local supplier for a period of twelve months. The following shortcomings relate.

a. The one-year agreement entered into in 2016, only allowed an extension of six months, i.e., up till end July 2017. MFH confirmed that "*another call for quotes was never published upon termination of the said contract*" and the service continued to be procured from the same service provider by means of negotiated procedures, on less favourable terms than those originally agreed upon.

   Moreover, the non-emergency ambulances services for the period from 1 August 2017 to 25 March 2019 were procured under an expired agreement, without approval from the Department of Contracts.

b. Documentation provided indicated that requests to enter into negotiated procedures were made for reasons of extreme urgency brought about by events unforeseeable by the contracting authority. According to MFH, in 2018, the Ministry was to "… *publish a Tender for the Provision of Non-Emergency Transport* …". However, the tender was only published in January 2021 and was in evaluation stage by the time this audit was concluded in end April 2021. Thus, the claimed urgency is highly questionable.

c. The invoices issued by the pertinent supplier for the provision of non-emergency ambulances did not show specific details of the vehicles supplied, including registration numbers. Consequently, NAO could not confirm that the five non-emergency ambulances falling within the audit sample were hired under this agreement.

[4] Workings were based on the maximum benchmark applicable for the category of directors and analogous positions as per pertinent circular and computed over a seven-year term, including the cost of capital (€16,300), repairs and maintenance as well as registration fees.

[5] On 1 March 2021, NAO was also informed that MFE intends to review this agreement in the coming months given that the current contract is about to expire before the end of year 2021.

Recommendations

To ensure transparency, PPR are to be invariably adhered to. In cases where procurement is effected by means of negotiated procedures, in addition to being supported by valid justifications, this is to be effected with due diligence, especially vis-à-vis repeat suppliers, thereby reducing, to the least extent possible, any inherent risks associated with procuring goods and services from an uncompetitive market. MFH is also to request contractors to include necessary details on invoices, in this case vehicle registration numbers and type, thereby enhancing audit trail.

Management Comments

It is acknowledged that, for the period between August 2017 and March 2019, ambulances were being procured without approval from the Department of Contracts. Owing to the fact that retrospective approvals are not given by the said Department, the related rectification is not possible. We note NAO's recommendation that PPR are to be invariably adhered to and we will continue to do our utmost in this regard.

a. *In fact, since March 2019, all negotiated procedures relating to the non-emergency ambulance garage have been authorised by the Department of Contracts.*

b. *During 2019 and 2020, the Management of the garage felt that it did not make commercial sense for an entity to enter into an investment of seven new ambulances, keeping in mind that work was ongoing on the tender to outsource the operations of the garage. The Management of the non-emergency ambulance garage was in constant contact with the team working on the preparation of the tender, supplying the necessary information as required; however, the Management was not privy to information as to when the tender would be drafted, vetted, issued and awarded, as this was an ongoing process. It was therefore decided to continue using negotiated procedures as a stop gap measure until the tender process was awarded.*

c. *The matter was rectified as per NAO's recommendations. As from April 2021, invoices include annex of vehicles used and their registration details.*

Divergencies from Contracted Terms

The hire and lease of vehicles, including non-emergency ambulances, was at times not acquired in line with the terms of the applicable agreements. The below shortcomings relate.

a. Five non-emergency ambulances were hired on all Sundays falling within the months of July to December 2020. These were charged at the rate of €260 per ambulance per day instead of the contracted rate of €100 (VAT excl.). MFH stated that, during the said months, the ambulance garage "*was running out of staff*" and ambulances had to be procured with the drivers at the rate of €260 (VAT excl.)[6]. This resulted in an additional cost of €20,800 (VAT excl.) over the six-month period in question. Queries on whether approval was sought ahead of this procurement were left unanswered.

b. The two agreements pertaining to the lease of saloon cars stipulated that rental expenditure was payable per car, on a daily basis. However, instances were encountered whereby, on initial lease of the vehicles, MFH was not charged from the date of lease but also for additional days during which the vehicle was not yet collected from the supplier. Notwithstanding this, the respective invoices were still approved for payment.

[6] According to the prevailing agreement, this rate is only applicable during weekdays and on a Saturday.

Recommendation

MFH is to ensure that contracted terms agreed with the suppliers of hired and leased vehicles are invariably adhered to.

Management Comments

With a view to deploying resources as effectively as possible, the contract was drawn up with the supplier to enable the provision of standalone ambulances on Sundays. In instances of staff shortages, the ambulances were hired with a driver.

The request to the Department of Contracts and the contract were drawn up assuming that on every possible day, the ambulances are hired with a driver and a porter to ensure that a failsafe mechanism is available in the eventuality of staff being transferred[7].

A circular is being drawn up for the purpose of notifying users on the process to be adhered when vehicles are leased or rented.

Incomplete or Incorrect Information in the Fleet Management System

Various shortcomings in the recording of data and information in the Fleet Management System were noted. This hindered the necessary controls expected on transport expenditure.

Recommendations

MFH is to ensure completeness and accuracy in the recording of data in the fleet system. To achieve this, the respective officials need to be aware of contract details and related approvals.

Management Comments

NAO's comments have been taken on board and a refresher circular will be issued to provide guidance and ascertain that the data entered in the system is reliant, accurate and timely.

Performance Guarantees not in place

As per the two contracts signed by the Department of Contracts in October 2014, on behalf of the procurement arm of MFH (CPSU), for the leasing of saloon cars, performance guarantees, equivalent to 10% of the contract value, had to be submitted. However, these were neither found at CPSU nor within the other MFH departments.

Recommendation

MFH is to comply with pertinent circulars and ensure that performance guarantees are in hand for the duration of the contracts, to provide adequate safeguard in case of default by the contractor. The central management of procurement of services will facilitate the necessary monitoring to ensure that contracts are covered by performance guarantees.

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[7] Despite this statement by MFH, no formal documentation was provided to substantiate this claim. While the hire of ambulances, including driver on a Sunday, was not specifically foreseen in the approval of the Department of Contracts, the prevailing agreement also clearly stated that hire, including driver, was applicable only between Monday and Saturday.

Management Comments

As already stated, CPSU do not have the resources to implement a centralised contract management function to cater for Ministry wide contracts. Internal discussions are underway with a view to explore resourcing routes for the creation of such a central structure, also for the processing of guarantees in public procurement. This structure may not necessarily be under the remit of CPSU.

Ineffective Reconciliation of Fuel purchased

The audit revealed instances whereby the fuel volume procured, as indicated on the original requisition form raised from the Fleet Management System, was manually modified, with such adjustment being reflected in said system which also allows the fuel volume field to be left blank and updated following refuelling. This approach does not mitigate the risk of abusive activity which also cannot be identified through the monthly reconciliation process.

Recommendations

Considering that enhancements to the fleet system fall within the remit of its administrators, MFH is to liaise with the responsible Directorate within MFE to address the risk of increasing the actual fuel intake.

In the meantime, MFH is to introduce additional levels of control wherein an independent officer approves divergencies from original fuel requisitions and reconciles them with invoices and fuel chits issued from the supplier. This would result in stricter controls and minimising the risk of possible fuel misuse.

Management Comments

Fuel requisitions are manually modified as the system only prints one original requisition. One must note however that requisitions are always amended (downwards) by reducing the amount of fuel, this is done in cases where the vehicle is full, therefore unless the requisition is modified, the fuel either has to be left at the station or the tank overflowed. If the requisition is not modified, the fuel invoices cannot be paid. MFH is of the opinion that as long as modifications can only be done to reduce the amount of fuel, there is no risk of fraudulent activities.

MFE has been informed of NAO's opinion in relation to the enhancements of the pertinent system.

The suggested level of control is being looked into as fuel requisitions are issued in each and every entity within MFH.

In the case where fuel chits were dated ahead of fuel requisitions is in the instances where a vehicle's period in the system expires and is awaiting clearance from MFE. MFH now have the administrative rights to amend this date anomaly as soon as the vehicle is authorised by MFE.

Lack of Monitoring of Fuel Supply

The audit revealed that internal controls over the monitoring of fuel were at times lacking. Hence, several instances were encountered when the established quotas were exceeded.

Recommendation

Management is encouraged to monitor its fleet to restrict potential abuse in fuel consumption and make optimum use of its vehicles.

Management Comments

On a bi-annual basis MFE analyse the fuel consumption reports from the Fleet Management System and alert Ministries of any vehicles which are consuming excessive fuel, or underutilised, or expensive to maintain.

Mater Dei Hospital - Non-medical Equipment Facilities Management

Expenditure

An audit on **Non-medical Equipment Facilities Management** at **Mater Dei Hospital** revealed instances whereby Public Procurement Regulations, as well as contracted obligations, were not duly respected. Amongst others, this included retrospective or lack of approval for negotiated procedures and when procurement was made by direct order. A number of service contracts were also not covered by a performance guarantee.

Background

Being the main hospital-based service provider in Malta, Mater Dei Hospital (MDH) offers an extensive range of services, including emergency, day care, outpatient, diagnostic and specialised services. Driven by the citizens' ever-increasing demand and expectations, the Government is continually allocating a substantial amount of its annual budget to MDH for it to be able to operate efficiently; investing in both medical and non-medical equipment, as well as the maintenance and servicing thereto.

For financial year 2020, the budget earmarked for Line Item 5506, which relates to expenditure incurred on preventive and remedial maintenance of non-medical equipment and facilities at MDH, stood at €8.6 million, with actual net expenditure aggregating to €8.1 million.

Audit Scope and Methodology

The main scope of the audit was to establish whether services procured from the foregoing line item were acquired in line with the provisions of the Public Procurement Regulations (PPR). Audit checks also sought to assess adequacy of audit trail and that verifications by MDH, including confirmation of invoiced amounts against contracted rates, were carried out ahead of effecting payments.

The audit was conducted in accordance with generally accepted auditing standards. Audit procedures were performed in order to obtain reasonable assurance on the effectiveness of the internal control systems adopted by MDH in relation to the area under review. To this effect, qualitative sampling techniques were applied to ascertain compliance with applicable regulations, as well as with contracted terms and conditions and identify ways through which current practices could be improved. Hence, conclusions reached in this write-up only relate to areas that were examined.

Expenditure incurred during 2020 on non-medical equipment and facilities management was ranked by the total value of transactions effected with each supplier (highest to lowest). Amounts were grouped in accordance with a set of pre-established thresholds and a random sample of suppliers was selected from each category. The procurement procedure applied in relation to the sampled amounts was thoroughly reviewed to verify compliance with the PPR. A sample of 16 transactions collectively amounting to €1 million, was then selected to obtain the required audit evidence. The sample represented 12% of net expenditure incurred during 2020 from the line item in question.

Control Issues

Negotiated Procedures

Provision of Mechanical, Electrical, Building and Furniture Maintenance Services

Following a call for tenders for the provision of mechanical, electrical, building and furniture maintenance services in 2012, a three-year contract ending 31 July 2015, with a value of over €10.6 million was awarded to a local service provider. The contract allowed for the possibility to extend the term for a further two periods of one year each; thus, maximum up till July 2017. Review of the pertinent file revealed that the agreement continued to be renewed on a yearly basis, up to 31 January 2021[1]. The following matters were noted:

a. Approval from the Direct Orders Office of the Ministry for Finance, to enter into a negotiated procedure for the year ending July 2018, was granted retrospectively; over four months later.

b. The agreements with the service provider for the two years starting August 2016 and August 2017 were also signed belatedly in May 2017[2] and June 2018[3] respectively. Similarly, the one-year agreement starting August 2018 was also signed retrospectively in November 2018.

c. In aggregate, extensions not covered by the original tender, i.e., from August 2017 onwards, amounted to over €14.6 million. Approval granted by the Department of Contracts for two-yearly extensions[4] not covered by the original tender was on the grounds of absent competition due to technical reasons. In the other two instances[5], this was granted for reasons of extreme urgency brought about by events unforeseeable by the contracting authority. Considering that the services in question had been ongoing since August 2012, granting approval on the latter basis is highly questionable.

Provision of Landscaping and Water Irrigation Services

Following a request from the Central Procurement and Supplies Unit (CPSU), the Department of Contracts approved a negotiated agreement[6] for the provision of landscaping services at MDH and other health care entities. This covered a three-year period, as from January 2015 and amounted to €294,000. However, at least up to date of audit fieldwork[7], these services were being provided by the same service provider, by direct order, justifying the requests as an interim measure until a new tender is awarded. Total payments for services rendered from January 2015 up to February 2021 were €573,533[8].

The following shortcomings were also observed:

a. During the period 1 January 2018 to 25 June 2018, these services were being provided without approval from the Department of Contracts and with the absence of a covering agreement. The services rendered between 25 June 2020 and 24 June 2021 were also not covered by an agreement[9].

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[1] The last agreement entered into by means of negotiated procedures was renewed for a period of six months; i.e., 1 August 2020 to 31 January 2021. This was then used up till 8 December 2020 since it was replaced by a new agreement entered into with effect from 9 December 2020 following a call for tenders for the service in question.

[2] Covering period 2 August 2016 to 1 August 2017.

[3] Covering period 2 August 2017 to 1 August 2018.

[4] Agreements for the period 2 August 2018 to 31 July 2019 and 1 August 2019 to 31 July 2020.

[5] Agreements for the period 2 August 2017 to 1 August 2018 and 1 August 2020 to 31 January 2021.

[6] This was granted in line with PPR; namely when for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the services may be provided only by a particular economic operator.

[7] July 2021.

[8] Payments effected up to September 2021.

[9] CPSU confirmed that due to other commitment during the COVID-19 pandemic the contract was not drafted.

b. While the initial direct order approvals were granted for technical reasons, that covering the year commencing 25 June 2020 was granted for reasons of extreme urgency occasioned by unforeseeable events. Notwithstanding that the tender was sent for publication to the Department of Contracts by CPSU on 22 November 2019, in actual fact it was not published.

c. Subsequently, as from 26 June 2021[10], the services continued being provided without approvals and covering agreement.

Upgrade and Maintenance Services on the Building Management System

On 19 October 2015, the Department of Contracts granted approval to enter into a seven-year negotiated procedure for upgrade and maintenance services on the building management at MDH, at a total estimated cost of €6,201,545 (VAT excl.). Following this approval, the global cost was renegotiated with the supplier and the letter of acceptance[11] stipulated that, cumulatively over the seven-year period (till December 2022), the contract could not exceed a total value of €5,250,000 (VAT excl.). Notwithstanding, the initial amount as approved by the Department of Contracts; i.e., €6,201,545 (VAT excl.), was quoted by MDH as the official contract limit in the payment record sheet.

Recommendations

PPR are to be invariably adhered to. In cases where procurement is effected by means of negotiated procedures, MDH is to invariably ensure that approval from the responsible authority is sought ahead of commitment. Approval is also to be sought in instances of renegotiations resulting in a different contracted value from that originally approved.

Moreover, in addition to being supported by valid justifications, procurement by means of negotiated procedures is to be effected with due diligence, especially vis-à-vis repeat suppliers, thereby reducing, to the least extent possible, any inherent risks associated with procuring goods and services from an uncompetitive market.

Management Comments

In general, procurement carried out by MDH, through CPSU, is already in line with the National Audit Office's observations. As for service contracts that are essential for the day-to-day operations of MDH (provision of maintenance to engineering systems) and services which, if not rendered, will result in MDH incurring additional costs (as in the case of landscaping), it is acknowledged that, at one point or another, some shortcoming may arise owing to the lack of sufficient resources to monitor and manage these complex contracts and related procurement processes.

It should be noted that unfortunately, MDH resources dedicated on liaising with CPSU on procurement are practically none. In the Engineering Section, this function is performed by one Accounts Executive, supported by two part-time contracted clerks. This function is one of many other duties related to validation of invoices concerning contracts which sum up to circa €6 million. The issue of human resources was already highlighted in a previous audit write-up in response to which MDH and CPSU had presented cogent justifications in attestation of the difficulties encountered during numerous attempted recruitment processes which failed to yield a single successful applicant, let alone the required number.

Whilst both MDH and CPSU will make every effort to fulfill these functions, the current[12] *status in the human resources complement make the attainment of tangible milestones in the area indeed very challenging. Both entities have made requests for the allocation of additional human resources, to enable the fulfilment of these functions in line with the observations made by this Office.*

[10] As per MDH's reply of 19 July 2021.
[11] Dated 22 December 2015.
[12] Management comments submitted on 18 October 2021.

Supporting Documentation lacking necessary Details

Documentation showing the fulfilment of contractual obligations concerning maintenance on the Pneumatic Tube System was, at times, either not available or not appropriately maintained. The following were noted:

a. Preventive maintenance service sheets lacked the dates as to when maintenance was carried out. Consequently, it could not be ascertained whether the servicing period was in line with contracted terms.

b. The aforementioned services sheets included a list of materials consumed; however, they lacked detail as to the type of maintenance performed. Supporting documentation, confirming that all goods and/or services included in the agreement were actually delivered, was also not available.

Recommendation

Documentation to confirm that contractual obligations have been delivered to the satisfaction of MDH is to be invariably maintained, also enabling audit trail and external verification.

Management Comments

In general, all maintenance carried out by contractors at MDH is done against a work order. As regards the Pneumatic Tube System – first line maintenance is carried out directly by MDH Engineering staff, supported by the contractor through an all-inclusive maintenance contract.

When, as per contract provisions, the supplier reports onsite for the purpose of performing system maintenance, MDH staff will likewise be in attendance to monitor and facilitate the works being done. Similar to other contractors, by March 2022, documentation on the maintenance undertaken by this contractor will be enhanced through the introduction of work orders, including a checklist of the tasks carried out.

Contracted Terms not complied with

As per the respective contract signed on 9 October 2019, the supply and installation of cables at MDH and Sir Anthony Mamo Oncology Centre[13], was to be fully completed within 18 weeks, i.e., by mid-February 2020. However, works were only completed in June 2020. No documentation was traced, justifying the delay and that penalties for the delay were actually applied.

Moreover, while the agreement required that 10% of the contracted amount was to be retained, with 5% to be released after one year from completion of works and the remaining to be retained for a further year, the relative amount was not retained.

Recommendations

Unless duly justified, MDH is to ensure that timeframes for delivery of works agreed to with suppliers are invariably maintained by the latter. In case of delays by the supplier, the respective penalty clause is to be applied. Moreover, monies are to be retained in line with contracted terms, thereby safeguarding the interests of MDH in the case of default concerning material supplied and works carried out.

[13] Supply, installation, testing and commissioning of canalization, cable laying and termination of same in electrical distribution boards at MDH and said Centre.

Management Comments

The delay between the contracted date and the actual date was mainly the result of MDH limiting the time when the contractor could operate, owing to complaints on the noise generated during excavation works and the delayed completion of the technical room where the switchgear for the third Magnetic Resonance Imaging suite had to be installed. Hence, no penalties were applied.

Going forward, MDH will retain documented evidence in instances of delay, including any justifications where penalties are contemplated as per applicable contract provisions and standard practice.

Service Agreements not covered by Performance Guarantees or Insurance Policies

Review of the service agreements falling within the audit sample revealed instances whereby these were not covered by a performance guarantee or insurance policy. The following relate:

a. No performance guarantee, in line with the respective Procurement Policy Note[14], was requested from the contractor providing preventive and remedial maintenance services on the Building Management System at MDH. The pertinent seven-year agreement, which was entered into by means of a negotiated procedure in December 2015, covered an amount of €6.2 million (VAT excl.). In this regard, MDH confirmed that the letter of acceptance, valid for a period of seven years, does not make reference to a performance guarantee.

b. The agreement covering mechanical, electrical, building and furniture maintenance services at MDH was extended by means of negotiated procedures, on a yearly basis, under the same terms and conditions of the original agreement, up till 31 January 2021[15]. While the original agreement required the contractor to furnish a performance guarantee equivalent to 10% of the contract value, only a period of one year from 1 August 2019 to 31 July 2020, was covered by a bank guarantee. MDH confirmed that it had no records of bank guarantees to cover the prior periods starting from 2 August 2012.

c. As per clause 12.4 of the contract for the provision of lifts maintenance services at MDH and Sir Anthony Mamo Oncology Centre, the contractor had to submit evidence of insurance policies, including that covering third parties, and provide copies of related certificates and of receipts showing premium paid. However, evidence of insurance covering 2020 was not made available for audit purposes.

Recommendations

MDH is to invariably obtain performance guarantees of 10% of the contract value for procured services exceeding €500,000 (VAT excl.), and of 4% in the case of contracts with values above €10,000 (VAT excl.) but below €500,000 (VAT excl.). This will ensure protection from financial losses should the service provider fail to perform the contractual obligations. Furthermore, a copy of the respective bank guarantees is to be maintained on file for future reference.

Moreover, MDH is expected to request and keep in file a copy of the related insurance policies and ensure that these are duly renewed upon expiration to mitigate exposure to unnecessary risks.

Management Comments

MDH and CPSU take note and will, by March 2022, align processes as necessary, to enable conformity with this recommendation.

[14] Procurement Policy Note No. 22 – 'The Performance Guarantee and the Single Bond (Single Performance Guarantee)' issued by the Department of Contracts on 30 November 2015.

[15] As previously noted, the last agreement concerning this service was renewed for a period of six months, i.e., 1 August 2020 to 31 January 2021. This agreement was actually exhausted by 8 December 2020 and a new agreement was entered into with effect from 9 December 2020, following a call for tenders for the service in question.

Procurement by Direct Order effected without Necessary Approvals

Procurement amounting to €21,835[16] was effected by means of a direct order. This was approved by the pertinent authorities within the Ministry for Health; however, approval from the Ministry for Finance as required in terms of the PPR was not sought.

Recommendations

MDH is to ensure that procurement is invariably carried out in line with the requirements of PPR, with the necessary approvals being sought ahead of commitment. Moreover, as much as possible, MDH is encouraged to plan ahead, thereby avoiding procurement by direct order with this only being resorted to in exceptional circumstances.

Management Comments

CPSU and MDH take note of this omission and will remediate through more rigorous checks and balances. Furthermore, MDH Finance will take all necessary steps to adopt adequate controls to ensure that all approvals are in place before a purchase order is issued. On its part, CPSU will ascertain that the necessary processes leading to the authorisation of direct orders are strictly adhered to.

Compliance Issue

Transactions recorded against the Incorrect Budget Line Item

The 2020 transactions posted in the Corporate Financial Management Solution (CFMS) system, against Line Item 5506, included legal costs of €569,678, payable by the Foundation for Medical Services following an Arbitral Tribunal decision in favour of a third party. Approval was granted by the Permanent Secretary within the Ministry for Finance to settle these fees from this line item[17]. However, considering that the Foundation for Medical Services is a separate legal entity, maintaining its own books of account, the respective funds were to be formally transferred to the foregoing and recorded accordingly, thus ensuring accurate presentation of financial records.

A few other expenditure items, not pertaining to non-medical equipment facilities management, were also erroneously recorded against the line item in question, resulting in funds not being utilised for their intended purpose.

Recommendations

Funds payable by other entities within the same Ministry in the course of their operations are to be transferred accordingly to the respective entity and reflected in the books of account of the latter, thereby ensuring fair presentation of the financial records.

Whilst recognising that 2020 was MDH's initial year of using CFMS as its accounting system, and thus certain errors were prone to occur, it is imperative to ensure that the correct line items are used when posting transactions.

Management Comments

Feedback has been noted in terms of funds payable by other entities within the Ministry for Health.

CFMS was adopted as the Ministry's accounting system in 2020. Since then, practice has facilitated the understanding and proper use of the system.

[16] Concerning the reprogramming of temperature regulation on existing ventilation and air-conditioning system for energy improvement.
[17] A further €270,000 was also paid from Line Item 5508 – Maintenance of Medical Equipment.

Foundation for Medical Services

Personal Emoluments

An audit at the **Foundation for Medical Services** revealed concerns regarding the engagement of officials whose positions do not feature in the entity's approved Human Resources Plan, as well as a number of irregularities in the appointment of persons on a trust basis. Other human-resource related shortcomings, pinpointing towards the need to enhance the entity's internal controls, were also identified.

Background

Set up as a public entity in 1990, the Foundation for Medical Services (FMS) has a project-management and technical services remit that extends across the public healthcare landscape in Malta. The Foundation's expertise, aiming at delivering high-quality and cost-effective projects, makes it the Ministry for Health's (MFH) main reference point in healthcare infrastructure. The professional services required for the entity to fulfil its mission are mainly provided in-house through the employment of a team of architects, engineers, project managers, as well as other professionals.

For 2020, the Foundation had forecasted a budget of €3.37 million to cater for its administrative costs; however only €2.85[1] million were approved by the Ministry for Finance.

The entity's personal emoluments were equivalent to 80% of its expenditure for the year.

Audit Scope and Methodology

The main scope of the audit was to assess the adequacy of the internal controls in place with respect to the payments of personal emoluments and their accuracy. The audit also sought to establish whether the entity is compliant, in all respects, with the provisions of the applicable rules and regulations, including Directive 7[2], pertinent collective agreements, the Public Service Management Code (PSMC), as well as internal standard operating procedures and policies relating to Human Resources (HR).

The audit was conducted in accordance with generally accepted auditing standards. Planning and audit procedures were designed with the aim of obtaining reasonable assurance on the effectiveness of the system of internal controls adopted by FMS vis-à-vis employment practices, as well as the payroll process. To this effect, qualitative sampling techniques were applied and testing was designed with the intention of identifying methods through which current practices could be improved. Conclusions reached in this write-up only relate to the documentation that was examined.

[1] Initial budget stood at €2 million with FMS's request for an additional €850,000 being approved by the Ministry for Finance in December 2020.
[2] Public Sector Entities: Delegation of Authority to effect Recruitment, Promotions and Industrial Relations.

In obtaining the required audit evidence, a sample of 13 out of the 55 officials on FMS's payroll (as at September 2020) was selected for substantive testing purposes. These officials were stratified according to their grades, and a random sample was selected from each category of grades, as well as from those four individuals whose position was not pegged to FMS's salary structure or not covered by the collective agreement.

Checks mainly centred on ascertaining whether:

a. salary payments were in accordance with the respective contracts of employment and, in case of architects and engineers, with the collective agreement;
b. sampled officers' entitlement to allowances and payment for overtime work was legitimate;
c. in the case of officers availing themselves of family friendly measures, that the respective requests and approvals were in place;
d. vacation and sick leave records were properly maintained; and
e. recruitment procedures, including those pertaining to persons of trust, were in line with the requirements of the PSMC and Directive 7.

Collection of documentation and audit fieldwork were carried out by the National Audit Office (NAO) between October and December 2020.

Limitation on Scope of Audit

Due to the limitations posed by the COVID-19 pandemic, during the period mid-March to June 2020, FMS officers were carrying out their duties remotely. As a result, this Office could not verify the attendance records of the officers falling within the audit sample for the period in question.

Key Issues

Officers carrying out Duties with other Health Entities pegged to the Foundation's Salary Structure

The Foundation's principal activity is that of "*holding a project-management and technical services remit that extends across the public healthcare landscape in Malta*"[3]. According to FMS, during the years, the Foundation has extended its services by becoming a recruitment vessel on behalf of MFH. Management claimed that such prerogative emanates from FMS's Statute which states that the Foundation is "*an autonomous body corporate … … with a distinct legal personality … … capable of entering into contract*" and has the power to "*enter into any agreement whatsoever with any person and/or any other entity in the exercise of its functions and in the attainment of its objective*". It is acknowledged that this has been the prevailing situation for a considerable number of years.

As at mid-November 2020, a total of 90 officers, pegged to FMS's salary structure, were deployed at other departments or entities within MFH. While 23 of these officers held headship positions, such as financial controllers and managers, the remaining 67 were pegged to grades ranging between 5 and 9 of FMS's salary structure. Although paid according to the Foundation's structure, these officers were not included in FMS's staff list and Management confirmed that they were "*paid from the respective department or entity where deployed and the respective department or entity has operational and administrative authority over the employee*".

Whilst it is acknowledged that, being a public entity, the Foundation has the power to effect recruitment under the delegation given to it by virtue of Directive 7, the above employments are not considered to be in line with the provisions of the said Directive. This is because, although pegged to the Foundation's salary structure, the foregoing positions do not feature in the entity's HR plan and are thus not approved by the Industrial Relations Unit (IRU) within the Office of the Prime Minister.

Accordingly, this Office considered that the recruitment procedure could be perceived as a means of bypassing standing Government employment practices.

[3] Source: FMS Annual Report and Financial Statements 2019.

Recommendations

The Foundation is expected to regularise its position with respect to such engagements. While the Statute is to be amended to better reflect the Foundation's remit to recruit on behalf of MFH, the positions in question are also to feature in a separate HR plan and approved by the IRU.

Management Comments

FMS's legal vires to recruit on behalf of MFH derives from the provisions of paras. 5.1(b) and 6(b) of the Statute of the Foundation for Medical Services. The practice whereby FMS recruits on behalf of MFH, on a trust basis, dates back a considerable number of years.

In response to NAO's recommendations, MFH immediately engaged in active preparations for the placement of this obligation on surer legal footing whereby, rather than an autonomous body corporate, FMS would be established as an entity with a separate legal personality - either by way of a dedicated Legal Instrument (Act of Law) or under the applicable provisions of the Public Administration Act.

In line with NAO's recommendations, MFH's proposed way forward is as follows:

Notwithstanding the legal vires that FMS enjoys by way of its Statute and unless extenuating circumstances necessitate otherwise – in which case the provisions of the Policy on the Engagement of Persons or Positions on a trust basis will apply – recruitment by FMS on behalf of MFH will proceed through the issuing of a call for applications and a subsequent selection process, in line with Directive 7.

Employees currently engaged on a trust basis will continue to enjoy their current contractual employment status until their contract is up for renewal. At that juncture, a call for applications for the filling of the respective positions will then be issued and a subsequent selection process undertaken accordingly, in line with Directive 7.

The proposed actions should bring MFH in line with NAO's recommendations without disrupting the continuity in employment contracts of key people who are responsible for the delivery of health services in Malta.

Appointment of Persons on Trust Basis

Audit verifications carried out revealed that a number of officers were appointed with the Foundation on a trust basis.

The following are common related concerns identified:

a. The PSMC Manual on Resourcing Policies and Procedures requires the engagement of officers as persons of trust to be justified and invariably endorsed by the Minister concerned and approved by the Ministry's Permanent Secretary. Management claimed that, following direction sought from the Civil Service, the engagement of the entity's person of trust could be done autonomously through FMS itself and its Board. However, no formal correspondence to this effect was made available. Hence, approval for the employment of sampled officers who were engaged on a trust basis, was not available for audit purposes.

b. The applicable manual stipulates that persons of trust may be engaged only for those positions for which calls for applications have been issued and were unsuccessful in recruiting suitable candidates. However, FMS confirmed that no external call was issued prior to engaging three of the sampled officials who were employed on trust basis.

c. On 15 January 2020, in view of changes occurring in the public administration, FMS officers holding a position of trust were initially instructed to submit a resignation letter. As a result, three officers employed on trust basis submitted a resignation letter. However, on 20 January 2020, a total of 59 officials working at departments or entities within MFH, including the three officers in question, were informed by FMS HR that their resignation was not accepted by the Minister concerned. However, formal correspondence to substantiate this was not provided for audit purposes.

d. While the employment contract of four officials was entered into with the Government of Malta, the signing party on behalf of the latter was FMS President rather than the respective Minister and Permanent Secretary.

Other individual concerns, relating to the officers employed on a trust basis were also noted as highlighted hereafter:

- An agreement, engaging an official on a person of trust basis at FMS was entered into on 4 August 2017 and effective from 4 September 2017. However, while the PSMC stipulates that, albeit temporarily being filled by a person of trust, calls for a vacant post were to continue being published until such time that the position is filled through the normal recruitment process, it was only on 4 December 2017 that an internal call for applications for that grade was issued by FMS, to which only the foregoing official applied. As from 1 January 2018, the officer was engaged with the Foundation on an indefinite contract by means of a contract of service in the same post. It also transpired that the interview for the said indefinite post was held on 18 January 2018.

  Following another internal call for applications issued on 1 March 2019, the officer in question was eventually promoted with the Foundation. It was again noted that the contract of service for the new post was effective as from 22 April 2019, while the interview was held on 29 April 2019.

  Subsequently, the officer was officially appointed by FMS with effect from 31 August 2020, thereby also attaining an indefinite status. This notwithstanding that the pertinent policy stipulates that persons engaged on a trust basis "*are not entitled to the attainment of indefinite status in the position in the Public Service or in the wider Public Sector*".

  Upon appointment in the permanent post with FMS, the officer's salary was pegged to the maximum of scale six. However, according to the salary structure as approved by the IRU, Management's prerogative to employ between the minimum and maximum salary scales is only limited to new recruits in scales 2 and 3.

- On 4 July 2016, an agreement was entered into to appoint a high-ranking official for a period of three years. The individual was initially appointed on a position of trust basis. However, documentation illustrating that the engagement was endorsed by the required parties, including the respective Minister and Principal Permanent Secretary[4], was not traced.

  Upon the expiration of the original agreement appointing this official on a position of trust basis, a new contract, now engaging the foregoing as a person of trust, was entered into with effect as from 4 July 2019, for a period of five years. While the pertinent policy dictated that "*the duration of the contract of a Person of Trust shall be of one year, renewable yearly*", the wording of the contract of the officer in question was not deemed to be in line with the requirements of the governing policy, which clearly stipulated that "*… positions which go through the Parliamentary Committee for Public Appointments are not to be considered as Person or Position of Trust. Engagement on a trust basis should not be tied to nor carry out duties within a department or entity and not enjoy executive powers on Government matters and personnel*".

[4] The policy on the engagement of positions of trust require these to be requested by line Ministries, invariably approved by the Principal Permanent Secretary and submitted by the line Permanent Secretary, as endorsed by the respective Minister, to the People and Standards Division within the Office of the Prime Minister.

Recommendations

In line with the PSMC, appointment of officers on a trust basis is only to be sought in the case where both internal and external calls for the related posts were unsuccessful. Moreover, these appointments are to be invariably approved as per the provisions of the pertinent policy. Officers occupying executive roles cannot hold such an appointment while simultaneously be considered as persons of trust. Thus, FMS is to rectify its position in terms of such contracts, thereby enhancing transparency.

Management Comments

Unless extenuating circumstances necessitate otherwise – in which case the provisions of the Policy on the Engagement of Persons or Positions on a trust basis will apply, recruitment by FMS will not be approached via the trust basis route but will proceed through the issuing of a call for applications and a subsequent selection process, in line with Directive 7.

Employees currently[5] *engaged on a trust basis will continue to enjoy their current contractual employment status until their current contract is up for renewal. At that juncture, a call for applications for the filling of the respective positions will then be issued and a subsequent selection process undertaken accordingly, in line with Directive 7.*

However, upon reference to a number of internal documents, one can safely conclude that engagement of the high-ranking officer via a contract of service that exceeds the three-year limit is sustained on the existence of specific past practices registered by Health.

As regards the discrepancy between date of contract of service and interview date, such practice is to be rectified.

The proposed actions should bring MFH in line with NAO's recommendations without disrupting the continuity in employment contracts of key people who are responsible for the delivery of health services in Malta.

Control Issues

Divergencies from the Terms of the Collective Agreement

During 2020, a non-warranted engineer earned a basic salary nearly equivalent to the salary he was to receive in 2022, being the maximum for the post following the related progressions. The salary during 2020 was also higher than the maximum scale applicable for the respective year as per collective agreement[6]. The officer in question also benefitted from a car cash allowance even though this did not emanate from the collective agreement. According to Management, such benefit was retained "… *on a personal basis*".

It was also claimed that both the Union and the IRU within the Office of the Prime Minister recommended for a side letter stipulating that although the officer "*will be included in the collective agreement and shall obtain any allowances which he did not have in original contract, he will retain his basic salary and continue to benefit from the increments … ... as stipulated in his original contract*". However, formal communication to this effect was not provided for audit purposes.

[5] Management comments submitted on 28 May 2021.

[6] The salaries of the warranted and unwarranted engineers of the Foundation are governed by a collective agreement entered into for the five-year period 2018 to 2022. This is the first collective agreement of the sort. The salary of engineers employed prior to the signing of this collective agreement was attached to FMS's salary structure.

The salary of another officer employed in 2020 in the position of warranted engineer was pegged to step three out of the six applicable salary points, resulting in a discrepancy of over €2,000 in his favour. While no formal approval was traced, this goes against the provisions of the collective agreement which states that warranted engineers are to be recruited on the minimum of the salary scale.

Recommendation

Management is to ensure that the terms of the collective agreement are duly followed, thereby avoiding unfair and inequitable treatment between employees.

Management Comments

The collective agreement cannot have the effect of reducing a compensation package paid to any specific employee prior to the coming into force of the said collective agreement. This fact was not disputed by the signatory Union.

Inadequate Control over Attendance Records

Audit verifications carried out revealed instances of lack of control over manual attendance records, including lack of proper certification, missing leave records and paid overtime hours not reflected in the manual attendance sheets.

Recommendations

Attendance records are to be adequately reviewed to ensure completeness and accuracy of the reported times. The Attendance Verifications Systems Policy and Guidelines should serve as an aid in this regard.

Management Comments

FMS is committed to ensure that proper processes and practices are in place and regularly monitored for compliance.

Employees of the Foundation performing duties at other Entities or Ministries

Employee performing Duties at another Ministry

Audit verifications carried out revealed that, while one of the officers falling within the audit sample was on the Foundation's payroll and pegged to its salary structure without a specific designation, he was undertaking duties within the Ministry for Family, Children's Rights and Social Solidarity (MFCS)[7]. The following shortcomings were noted:

a. Since commencement of employment with the Foundation beginning January 2003, the officer in question had never carried out any duties at FMS. In fact, the initial employment contract specifically stated that he was employed by FMS to carry out duties at Mater Dei Hospital (MDH).

b. Email correspondence dated February 2012 indicated that the officer was eventually deployed to carry out duties at St. Vincent De Paul Residence. This correspondence also revealed that up till the latter date, FMS was not aware of the officer's whereabouts.

[7] The salary of this officer is recharged to the pertinent Ministry be means of invoices issued by FMS.

c. As from 7 September 2017, the officer in question started to report at the Permanent Secretary's Office within MFCS. NAO's request for official documentation[8] illustrating that this Officer's deployments were effected in line with the provisions of the PSMC was not acceded to. FMS claimed that the initial recruitment file "*has been disposed as per FMS retention policy*"[9]. Moreover, although the PSMC allows for the temporary deployment or secondment of officers to perform particular duties for a given duration, this case cannot be considered as such, in view that the officer had been performing duties at other entities or Ministries since his commencement of employment with the Foundation.

d. In June 2018, the officer concerned made a formal request to be transferred from FMS to the Public Service, specifically to the Office of the Permanent Secretary within MFCS. While the officer's request was not acceded to, on 10 July 2019, the Foundation issued an internal call for a post on an indefinite basis at MFCS, with the officer concerned being the only applicant for this post. This individual was selected for the position. While accepting this new position, the officer requested FMS to consider granting him the maximum salary of the applicable grade rather than a gradual increase each year. This difference, amounting to almost €5,000 was approved by FMS.

e. Although the position of this officer was pegged to FMS's salary structure, it did not feature in the entity's HR plan. Accordingly, for audit purposes, this position was considered as not approved by the IRU.

Employee performing duties at Mater Dei Hospital

Review of the attendance records of a non-warranted engineer falling within the audit sample revealed instances whereby time records were lacking, on average once a week. FMS claimed that, in line with a verbal agreement, on a weekly basis, the officer concerned reported at MDH to be "*trained and exposed in the biomedical department*". However, no documentation to this effect was available.

Recommendations

The detailing of officers to perform particular duties in the public service is to be carried out in line with the provisions of the PSMC, with approvals being sought where necessary. Thus, the Foundation is to regularise its position with respect to its deployed officers. The training of FMS officers is also to be formally documented, with the related attendances being confirmed by the respective trainer.

Management Comments

The officer was recruited with FMS on 1 January 2003. Subsequently, in 2019, the officer was engaged by FMS on an indefinite basis at MFCS and as per FMS's salary structure. MFCS issues salary refunds to FMS. The latter is committed to ensure that such an instance is not repeated.

Regarding FMS's employee performing duties at MDH, FMS is committed to ensure that proper processes and practices are in place and regularly monitored for compliance.

Lack of Ministerial Approval for the Performance Bonus of a High-ranked Official

The employment contract of a high-ranked official stipulated that performance is to be assessed by FMS Board and the Minister. However, the performance appraisal and the payment of the performance bonus made to the officer concerned in February 2020 was only endorsed by FMS President. It was also noted that although Board

[8] Including calls for expression of interest in the case of deployment of officers and formal requests channelled through the respective Permanent Secretary in the case of secondments.

[9] The entity's retention policy requires personal files of employees including contracts of service, engagement and termination forms and various letters and communication to be retained for a period of 10 years from date of termination.

approval indicated that the performance bonus percentages were as recommended by the Minister concerned, documentation showing the specific recommendations in support of the above approval was not available; thus, the respective payment could not be validated.

Recommendation

Formal documentation supporting decisions taken with respect to the payment of performance bonuses, including any relevant endorsements, is to be invariably maintained by the Foundation, thereby enabling verification of the payments made while also enhancing transparency.

Management Comments

FMS is committed to ensure that proper processes and practices that ensure accountability and good governance are in place and regularly monitored for compliance.

Divergencies from Human Resources Plan

While FMS administrative officers are pegged to grade 7 of FMS's salary structure, it was noted that one officer occupying such position was instead pegged to grade 6 since, according to FMS, the foregoing officer was performing a role in the respective grade.

Furthermore, verifications carried out on the HR plan as approved by the IRU against FMS's staff list revealed an instance whereby while the HR plan indicated a 20-hour requirement for a particular post, this was filled by a full-time employee. In this regard, FMS claimed that "*the workload and requirements increased within HR department* …".

Recommendation

Prior to any departures to the entity's approved HR plan, formal approval is to be sought from the IRU.

Management Comments

FMS is committed to ensure that proper processes and practices are in place and regularly monitored for compliance.

Departures from Approved Salary Structure 2019-2022

The annual basic salary of a number of FMS officials occupying headship position exceeded the maximum salary approved by the IRU.

Moreover, an officer was being paid a qualification allowance for the attainment of a master's degree even though this did not feature in FMS's salary structure as approved by the IRU and in the respective officer's employment contract.

Recommendation

FMS salaries and allowances are expected to be paid in accordance with FMS's salary structure as approved by the IRU and with standing legislation.

Management Comments

NAO's observations and recommendations have been noted. Negotiated salary structures cannot have the effect of reducing a compensation package paid to any specific employee, prior to the coming into force of the said salary structure provisions. FMS is nevertheless committed to abide by the provisions of Directive 7. FMS is also committed to ensure that proper processes and practices are in place and regularly monitored for compliance.

Compliance Issue

Granting of Time Off in Lieu for Official Travel during Weekends

Audit verifications revealed that when FMS employees were abroad on official duties during the weekend, they were granted time off. This is not in line with the PSMC, which only allows for compensation[10] in the case of official engagements abroad during public holidays.

Recommendation

The Foundation is to invariably adhere to the requirements of the PSMC and other pertinent circulars regarding entitlements and compensation in connection with travel on official duty.

Management Comments

FMS is committed to ensure that proper processes and practices, that ensure accountability and good governance, are in place and regularly monitored for compliance.

[10] Such compensation is pegged to the maximum of salary scale 10.

Ministry for the Economy, Investment and Small Businesses

Malta Investment Management Company Limited

Expenditure

In spite of the various limitations faced during the audit, concerns over the operation of the Government Voucher Scheme, entrusted to the **Malta Investment Management Company Limited**, were noted. The audit also revealed a number of unreconciled redeemed vouchers.

Background

The first voucher scheme, with an investment of €45 million, was launched by the Government of Malta in June 2020[1] to boost the economic activity, impacted by the COVID-19 pandemic. Every resident in Malta who was over 16 years of age by 8 June 2020 was to receive five €20 vouchers by registered post. Four of these vouchers (red in colour) were to be utilised in hotels, accommodation, restaurants, bars and diving schools, while the remaining €20 voucher (blue in colour) could be redeemed in retail and services, such as hair and beauty salons, retail shops, sports clubs, museums and band clubs.

Businesses eligible to participate in this scheme were required to register their details and credit card through an application which was developed for this purpose. Once their online business account was activated, they were able to accept vouchers from clients. For each voucher redeemed, merchants were required to scan the respective Value Added Tax (VAT) receipt, the value of which should have been greater than or equal to the total value of the vouchers scanned. The system was designed not to allow businesses to redeem vouchers if a VAT receipt was not scanned. At the end of each day, an amount equivalent to the total value of the successfully scanned vouchers would then be transferred to the credit card registered with the business account, through one transaction.

Commercial entities were obliged to retain all vouchers claimed, together with the respective VAT receipts, for onward submission to the Malta Investment Management Company Limited (MIMCOL). The latter reserved the right to claim back the value of scanned vouchers if the physical documents were not presented upon request.

Initially, the expiration date for the use of vouchers was 30 September 2020; however, this was officially extended by a month, up to 31 October.

MIMCOL was the body appointed to administer the voucher scheme. During 2020, the company received a total of €45,329,238 from the Government of Malta to manage this scheme. These funds were utilised to cover both the expenses directly relating to setting up and operating the scheme, as well as for reimbursement of the vouchers themselves. According to MIMCOL, 2,225,760 vouchers were printed and sent out to beneficiaries. Information obtained during the audit revealed that by April 2021, 90%[2] of the vouchers were redeemed.

[1] A second round of vouchers was launched by Government in May 2021. However, this audit focused only on the 2020 scheme.

[2] This figure cannot be considered as final since, when the audit was concluded, a number of vouchers were still either at MIMCOL or at the software provider, waiting to be processed.

Audit Scope and Methodology

Whilst acknowledging the economic benefit of this initiative, the scope of the audit was to duly assess the management of the Government Voucher Scheme and to verify the extent and adequacy of internal controls in place.

An introductory meeting was held with MIMCOL's Chief Executive Officer, Senior Manager Finance, as well as the respective Permanent Secretary, to discuss the audit objectives. Various other meetings followed, targeted at obtaining information on the management of the scheme, and to address pertinent queries arising during the audit.

The National Audit Office (NAO) commenced the audit by carrying out an analytical review of the scheme. The Office intended to place reliance on MIMCOL's reconciliations on the voucher scheme; however, these were not comprehensive enough for audit purposes, and independent reconciliations had to be performed. These were aimed at ensuring that the correct number of vouchers was issued and that, in aggregate, payments to merchants were accurate. Thus, NAO requested supporting documentation on the number of beneficiaries entitled to receive the vouchers, together with the list of vouchers generated and bank statements pertaining to the account from which payments to merchants were effected. Reference was also made to the voucher business account activation guide issued by MIMCOL, to gain further insight on the operation of the scheme.

Limitations on Scope of Audit

The following instances were encountered which limited the scope of the audit:

a. Although the extended deadline for redeeming the vouchers was 31 October 2020, payments relating to the scheme were still being effected to merchants at least up to March 2021. Therefore, the data provided to NAO was continuously changing. This hindered audit testing, particularly to carry out reconciliations relating to vouchers reimbursed.

b. According to MIMCOL, verification was carried out to ensure that vouchers were issued only to eligible beneficiaries. Due to the delays encountered during the audit, especially in obtaining information, NAO had to place reliance on this claim and did not carry out its own checks in this respect.

c. NAO planned to obtain fiscal receipts to confirm the merchants' compliance with the scheme guidelines, issued by MIMCOL, as well as to verify whether all vouchers were redeemed by the stipulated deadline. However, given the delay in replying to audit queries and forwarding the necessary documentation, this test could not be performed.

d. In order to achieve the audit scope, a sample of physical vouchers was to be selected and traced to the software which held data on both generated and redeemed vouchers. Moreover, NAO intended to query on the procedure adopted by MIMCOL vis-à-vis the remaining uncollected vouchers. Once again, these verifications could not be carried out, mainly due to the setbacks encountered when requesting information.

Key Issues

Incomplete Data on the Number of Vouchers

At the start of the audit, NAO tried to obtain an insight on the number of vouchers issued, aggregate payments effected to merchants and unredeemed vouchers. During a meeting held in December 2020, MIMCOL claimed that reconciliations were being carried out on the voucher scheme, and therefore, NAO opted to wait until these were concluded to avoid duplication of work. After several reminders and extended deadlines, these reconciliations were finally forwarded to NAO in February 2021. As indicated under the Audit Methodology section, the exercise carried out by MIMCOL, which covered payments effected up to December 2020[3], was not sufficiently comprehensive for audit purposes[4]. NAO had no option but to carry out its own reconciliation.

Significant problems were encountered when NAO was performing this exercise, amongst which was the incomplete data on the number of vouchers issued and redeemed, as well as the processing of payments to merchants long after the expiration of the scheme. Since data continued to change, attempts to carry out reconciliations proved futile. NAO could not reconcile the number of vouchers issued to the aggregate payments made to the merchants and the remaining unclaimed vouchers. The resulting differences were brought to MIMCOL's attention in March 2021; however, the feedback, sent by the auditee a month later, was still inconclusive.

In the circumstances, NAO had to conclude the audit with the information in hand and forgo further testing which was planned to be carried out in order to meet the audit scope.

Recommendation

Particularly for an important and financially material scheme such as this, information and supporting documentation are expected to be accurately provided and within a reasonable timeframe. This would not only enable NAO in achieving the scope of its audit, but also the entity in rectifying certain shortcomings as early as possible.

Management Comments

Management is in full agreement with the recommendation presented. As explained during the audit, there were a number of payouts that had to be re-executed because of failed transactions. This re-execution then required MIMCOL to re-execute the reconciliations and hence the delay.

In so far as the claim of incomplete data is concerned, Management notes that the data on issued vouchers and redeemed ones was supplied in full in April 2021[5], whereby a detailed explanation was given on the number of issued vouchers.

Payments to Businesses beyond Scheme Official Closing Date

Merchants taking part in the scheme were required to scan vouchers upon presentation by customers. If these did not pass the validation test, they were not to be accepted and were to be returned to the latter. Reimbursements for accepted vouchers were supposed to run on a blockchain-based system, with each voucher invalidated once scanned and the transaction completed by the respective payment reaching the business on the same day.

Audit testing revealed that although the scheme officially closed on 31 October 2020, and MIMCOL claimed that no vouchers were accepted after this date, payments to merchants were still being effected up to at least end March 2021[6]. Bank statements indicated that almost €850,000[7] (equivalent to approximately 43,000 vouchers) were paid to merchants after closing date[8].

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[3] Given that payments to merchants were still being effected five months after the scheme expired.

[4] MIMCOL attempted to reconcile data from the payment gateway software (generated upon scanning of vouchers), with the corresponding instructions for MIMCOL's commercial bank to release funds to the individual merchants' commercial bank accounts. The scope of this reconciliation was just to ensure that all captured vouchers were duly redeemed by the commercial bank, whereas NAO intended to ensure that the correct number of vouchers was issued and that payments to merchants were accurate.

[5] By this time the audit was being concluded.

[6] The latest bank statement obtained during the audit was dated mid-April 2021.

[7] The merchants were paid €19.70 for each voucher with a nominal value of €20.

[8] From November 2020 to March 2021.

According to MIMCOL, the payments after closing date were a re-execution of transactions which were not successful when they were first effected. It was stated that these were because of banking problems encountered by some businesses[9], as well as scanning issues, mainly due to printing errors, in which case the businesses were risking being in possession of vouchers that had already been redeemed or were even counterfeit.

MIMCOL also partly attributed these prolonged payments to the fact that some businesses had a backlog of vouchers that were scanned after closing date. This implies that the respective merchants did not scan the vouchers on presentation by their clients. Towards the end of April 2021, when the audit was being finalised, MIMCOL declared that it had collected all vouchers from the merchants, and it was now responsible for their processing[10]. However, NAO was not in a position to validate these claims to ascertain that the delay in payment was not within MIMCOL's control or whether this was due to flaws in the operation of the scheme affecting related third parties.

Recommendations

On the basis of lessons learnt during this first voucher scheme, in the event of future schemes, MIMCOL is to ensure that payments to merchants are effected on a timely basis in order to close off the scheme and perform the necessary reconciliations without undue delays. It is also expected to take the necessary corrective action when there are delays due to lack of compliance by merchants.

Management Comments

The software used was indeed blockchain-based. Payments to merchants for vouchers scanned were processed immediately upon scanning and forwarded for execution to the payment gateway used, which then interacted with the commercial bank to execute the payments to the credit cards of respective merchants.

Furthermore, it has to be pointed out that the scheme closing date was respected fully and businesses were not allowed to continue transacting new vouchers beyond closing date. The payments noted by NAO reflected a re-execution of vouchers that were unsuccessful when first effected, primarily due to banking problems and scanning issues.

Note is also to be taken that delays in scanning will only come to MIMCOL's attention at the end of the scheme when merchants would come forth seeking assistance on what to do with the unscanned vouchers they have. It is otherwise difficult to identify merchant non-compliance other than via random compliance audits. The latter were carried out at the end of the scheme, where MIMCOL commissioned an independent audit firm to randomly check merchant compliance with the terms of the scheme, also with a view to ensure better administration during the second scheme.

MIMCOL agrees with the recommendations given, so much so, that it can confirm that similar practices in so far as payment monitoring and reconciliations are concerned are already being enacted by the start of the second scheme, and hence reflective of NAO's recommendations.

Control Issues

Concerns over the Operation of the Voucher Scheme

Information relating to the operation of the voucher scheme, obtained during the audit, was at times unclear and in certain instances even contradictory. Thus, NAO could not ascertain whether the controls in place over the scheme were sufficient and effective, and that the voucher scheme had actually progressed as intended. The following relates:

[9] A number of these were probably resolved by November 2020, since a volume of transactions were processed by the commercial bank during this month.

[10] A number of vouchers still needed to be scanned, while others were scanned or inputted manually, but required intervention from the software provider.

a. At times, where the original transaction was unsuccessful, vouchers were processed after the closing date of the scheme; however, it was unclear whether the corresponding fiscal receipts accompanying these vouchers were duly and timely scanned by the merchants, particularly when, at one point, vouchers were being processed by MIMCOL itself[11]. The merchants' adherence to the requirement of scanning the fiscal receipts, aimed at enforcing fiscal compliance[12], could not be confirmed by NAO.

b. Information made available during the audit indicated that it was normal practice for Government Printing Press (GPP) to communicate directly with the software provider and request the latter to generate vouchers. This goes against the process as identified in one of the flowcharts established by MIMCOL that clearly holds the latter responsible for sending the number of required voucher codes to the software provider, which then generated the codes and forwarded them to GPP for printing. Thus, the roles of these two entities were not distinct but, at times, even overlapping.

c. Given that the voucher scheme was to be run on a blockchain-based system, once the voucher was scanned and validated, all other processes up to payment were automatically generated. However, in giving details on vouchers which were still waiting to be processed in April 2021, MIMCOL claimed that a number of vouchers were inputted manually and were awaiting intervention by the software provider. This approach increased the risk of human error when processing transactions.

d. According to MIMCOL, all vouchers which were still at the merchants' end were to be processed by the former, so that the respective businesses were paid accordingly. Due to the delays encountered during the audit, NAO could not put further queries relating to this process and verify whether the handing over of vouchers to MIMCOL was duly supported by a document issued to each merchant, confirming the amount and value[13].

Recommendation

MIMCOL is to ascertain that, following a proper review, risks associated with the weaknesses mentioned above are mitigated in view of the second voucher scheme or any similar schemes launched by Government in the future.

Management Comments

a. *Management reiterates that even when payouts were being re-executed by MIMCOL, these had to also include a fiscal receipt. The system does not allow the conclusion of a scanning transaction unless there is a fiscal receipt. MIMCOL never scanned new vouchers following closure of the scheme. What the company did was re-execute failed payout transactions.*

b. *The process as indicated in the flowchart referred to by NAO was followed. It was always MIMCOL that communicated to GPP the number of vouchers required and the communication between GPP and software provider was in addition to this process. This communication was required as the software provider generated unique 'QR' codes that needed to be printed by GPP using a special software that turns the code into a visual 'QR' image; something that MIMCOL never had the expertise to do inhouse.*

c. *The process described in this section, i.e., the automatic generation of a payout request following scanning, is applicable irrespective of the way the scanning took place, be it from merchant's end or by MIMCOL on behalf of the merchant. Indeed, the only process after scanning and validation is the payment process which*

[11] After the audit was concluded, MIMCOL forwarded screenshots of some of the queries raised by merchants, indicating vouchers which were unsuccessful, and copies of the corresponding fiscal receipts. These showed that most of the merchants reported the problems encountered immediately after the closure of the scheme.

[12] According to the instructions given to the merchants, redeemed vouchers were to be accompanied by a scan of the respective fiscal receipts, and the receipt amount input with each transaction. The system was not supposed to allow merchants to redeem the value of the voucher if a VAT receipt was not scanned.

[13] The narration on the bank statements, indicating that payments were made to merchants, was the same throughout all transactions relating to the scheme, making it impossible to determine whether it was MIMCOL or the respective businesses who were effecting the transaction.

is based on systems communication that is independent of MIMCOL or the merchant. Moreover, it would be opportune to note that this facilitation of payout re-executions, even beyond the scheme's formal closure, were carried out bona fide with a view to ensure that the objective of the voucher scheme, which was to assist businesses hard hit by the closures imposed by Health Authorities, was reached. Had MIMCOL not adopted this flexible approach and failed to assist businesses redeem vouchers in their possession, the company would have effectively operated counter to the objectives for which the scheme was launched in the first place. Management does appreciate that merchants were expected to scan vouchers at each and every transaction, but MIMCOL also had to be mindful that it adopts a somewhat pragmatic approach in the implementation as well. MIMCOL did not allow the scheme to run post the set deadlines. However, it assisted businesses to redeem vouchers that were in their possession ahead of the deadline.

d. Irrespective of who is scanning, the payment process is an automatic one. MIMCOL did not collect vouchers from merchants but was given serial numbers for which transaction payouts had failed. In such a case, the first step was to confirm that such vouchers were not redeemed and then re-execute the payout.

In so far as recommendations are concerned, Management does concur that, notwithstanding any counter views that may have been expressed above, there is always room to include more controls to ensure improved operations.

Unreconciled Number of Redeemed Vouchers

On 24 February 2021[14], MIMCOL was asked to confirm whether there was any record of the total value of vouchers reimbursed to merchants from the launch of the scheme to this date. The reply, received two weeks later, stated that reimbursements totalled to €40,499,520.

NAO eventually obtained the bank statements covering transactions up to mid-April, which indicated that payments to merchants up to this date totalled €39,658,543[15], equivalent to 2,013,124 vouchers. On the other hand, data extracted from the software utilised to generate and record voucher transactions, obtained from MIMCOL during the same month, indicated that 2,009,743 vouchers were redeemed. This left a discrepancy of 3,381 vouchers, with an aggregate value of €66,606 which was paid to merchants but were not recorded as redeemed.

Recommendations

MIMCOL is to look into this discrepancy and ensure that all vouchers pertaining to the scheme under review are accounted for. MIMCOL is expected to be in a position to account for all vouchers issued in connection with similar schemes, through proper reconciliations on a periodical basis.

Management Comments

The observation made by NAO on the vouchers paid to merchants and not shown as redeemed has been looked into. Management ought to clarify that the issue at hand is not one where merchants were paid for vouchers not being shown as redeemed but a case of payments being re-executed more than once for a specific number of vouchers[16]. The cause has been diagnosed and MIMCOL has identified the merchants involved and is in the process of finalising the details down to the individual voucher level[17]. MIMCOL has also identified two possible approaches to claw back the funds. More importantly is that Management has been in discussions with the software provider to ensure that this is not repeated. MIMCOL has also increased the reconciliation efforts to further mitigate this risk. In this respect Management can confirm that NAO's recommendations have already been taken on board.

[14] On this date, NAO was given the impression that no other payments would be effected to merchants.

[15] Since merchants were paid €19.70 for each voucher, this was equivalent to €40,262,480 in terms of aggregate value.

[16] During an audit exit meeting, MIMCOL confirmed that the number of vouchers in question was in fact larger than that identified by NAO; however, the exact figure was not given.

[17] Management comments received on 5 October 2021.

Lack of Official Documentation supporting Eligible Beneficiaries

Documentation indicating the number of beneficiaries who were eligible to receive the Government vouchers, was not sufficient in order to reconcile this figure with the number of vouchers generated. Thus, NAO could not establish whether the vouchers were correctly issued to the entitled beneficiaries.

Recommendations

MIMCOL is to ensure that all vouchers generated in respect of such schemes are supported by an official list of eligible beneficiaries. It is also to keep track of all correspondence and instructions given in this regard. Related information is to be duly retained for verification purposes.

Management Comments

Whereas Management does not discount the recommendations given under this section, one is to note the circumstances within which the beneficiaries were communicated to MIMCOL. Beneficiaries were added on throughout the scheme and the company sought to ensure that whoever claimed to be a rightful beneficiary was indeed so. It was only once this confirmation was in hand that the individual was added as a beneficiary.

Whilst for the first scheme of Government vouchers, the data of eligible persons was requested from the electoral register, it was decided that data of eligible persons for the second round of vouchers was instead obtained from Identity Malta Agency. Hence action was indeed forthcoming to improve the soundness of data provided to MIMCOL before receipt of the Management Letter.

General Management Comments

In concluding, Management would refer to the fact that the solution for a Government voucher system for the first round of vouchers had to be implemented within 30 days. Such a system was not available off-the-shelf and had to be designed and programmed. This indeed posed a great challenge for MIMCOL, albeit it is believed that the scheme was successfully launched and implemented. Nevertheless, improvements have been made on the first system and more administration processes are in place.

Ministry for Education
and Employment

Education Department

Expenditure

The audit of contractual and professional services at the **Education Department**, revealed that the sampled contracts for various services were being renewed year after year by means of direct order approved by the Ministry for Finance, claiming that the services in question could only be provided by the particular economic operator. The Direct Orders Office had occasionally drawn the attention of the Department to this and had also advised that the latter should adopt procedures that promote a more competitive environment.

Background

As per Financial Estimates 2020, the Education Department under the then Ministry for Education and Employment (MEDE) comprised eight cost centres, namely Strategy and Support, Learning and Assessment Programmes, National School Support Services, Education Resources, Colleges, Digital Literacy and Transversal Skills, Education Gozo and Education Logistics Support and Administration.

The budgeted allocation for year 2020 under Recurrent Vote 15, Line Items 30 Contractual Services and 31 Professional Services, amounted to €4.2 million and €0.9 million respectively. This was allocated to three of the eight highlighted cost centres, a significant amount to Education Logistics Support and Administration (75%), followed by Strategy and Support (21%) and the remaining to Learning and Assessment Programmes (4%). As per Departmental Accounting System, the actual expenditure for year 2020 for the above line items increased substantially to €5,802,793 (38%) and €1,007,585 (12%) respectively when compared to the budgeted amounts. This aggregate shortfall was financed through the issue of warrants and virement from other line items.

Audit Scope and Methodology

The main scope of the audit was to determine the level of internal controls relating to the procurement of contractual and professional services, whilst ensuring efficient use of public funds. The National Audit Office (NAO) also aimed to verify that expenditure from the line items in question in year 2020 was in accordance with the pertinent regulations, circulars and policies, as applicable.

An introductory meeting was held with the Permanent Secretary, MEDE. At the initial stage of the audit, i.e., in end October 2020, files relating to the audit sample, which was mainly selected on the basis of materiality, were requested from the officers concerned. Detailed substantive testing was carried out to confirm adherence to pertinent regulations and that the internal controls in place were adequate.

Limitation on Scope of Audit

The file related to the provision of assistant clerical support workers within the schools was requested for audit purposes at end October 2020. The total contract value was €379,536 (VAT excl.), for a period of 12 months as from 4 November 2019, extendable by another 2 years on an annual basis[1]. However, the respective file was not submitted for audit testing[2]. Thus, NAO could not ascertain whether the tender was awarded to the right bidder. In the beginning of April 2021, this Office was provided with a file relating to the tender that was cancelled. However, given that by that time the audit was being concluded, this hindsight was not flagged to the auditee.

Management Comments

Upon reconfirming the documents provided on 9 April 2021, it was noted that these were not the ones requested by NAO, but related to the wrong contract of the same service provider. It is evident that this was a genuine mistake. Documents were and still are available to NAO for viewing.

Key Issues

Recurring Renewal of Contracts for Service

The audit sample included five service providers with a contract for service which had been renewed on an annual basis over a number of years, the first one as from year 2013, the other two in the subsequent year and the last two in 2015. The audit revealed that these were all awarded by means of direct orders approved by the then Ministry for Finance (MFIN). Justification given was that due to technical or artistic reasons, or due to the protection of exclusive rights, the services may be provided only by a particular economic operator. The following details refer.

Administrative Support Services

In 2010, three years prior to retirement, an employee within MEDE, who was providing administrative support services at that time, had shown the intent to continue giving the service. Thus, in mid-May 2013, following the retirement, approval for a contract for service was granted by MFIN for six months or until a replacement was identified, whichever was the earlier, for a maximum of 40 hours of service per week. Since then, various concerns were raised by MFIN, amongst which was the need to identify a public officer who would shadow the incumbent and eventually take over the respective duties, and strongly urging to find a more permanent solution.

However, MFIN continued to approve this procurement by direct order amounting in aggregate to €187,111, at least up to mid-December 2020.

In addition, as from December 2014 up to at least six years later, other annual contracts, for an aggregate value of €37,884, for an average of another 10 hours per week, were also entered into concurrently with the same service provider, following approvals from the Permanent Secretary MEDE.

Services of Task Officer

As from 24 March 2014, on instruction from the then Permanent Secretary, an individual was engaged on a contract for service, in charge of inclusive education placements. Up to mid-December 2020, this individual was paid an aggregate amount of €203,067. The respective procurement was always obtained by various direct orders, approved by MFIN, with the first approval given retrospectively on 9 April 2014.

Six years later, in the direct order approval dated 24 March 2020, MFIN stated that engagement of a full-time employee was to be taken on board in the subsequent year. Notwithstanding, in April 2021, preparations were underway to renew the contract again.

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[1] The contract was extended for another year as from November 2020, for the amount of €365,265 (VAT excl.), with the necessary approvals.

[2] The required documentation was sent to NAO after more than 8 months later, on 8 July 2021, together with the Management comments. However, since by that time the audit was concluded, it was too late for these to be reviewed.

Provision of Technical Services

In September 2014, an official at Schools Resources Department suggested to contract, on a temporary basis, an individual who was due to retire from a communications services company, to provide technical services, initially in view of MEDE consolidated telephony project. As from 29 October 2014, at least up to April 2021, approval for direct order was obtained on an annual basis, covering up till end 2021. The service provider was paid, in aggregate, €162,732 up to end 2020, for technical services, comprising telephony installation and maintenance.

Whilst acknowledging that on 5 November 2019, an expression of interest was issued and eventually awarded to the same individual, a year later, MFIN advised MEDE to adopt a more competitive procurement process.

Organisation of Adventure Programmes

Rather than MEDE issuing a call for proposals for adventure programmes for students, it was a relative of the service provider himself, who in November 2014 came with a proposal that instigated the Ministry to issue a direct order to the individual concerned who had just finished the studies. As from January 2015 up to end scholastic year 2019-2020, when services were stopped due to COVID-19 outbreak, total direct orders approved by MFIN in this regard were to the tune of €441,320, while actual aggregate payments amounted to €381,994.

Provision of Welding Courses

On 17 February 2015, the then designated Director General Corporate Service, sought approval from MFIN to enter a direct contract with a local company, for a period of four months up to May 2015, to train students participating in the Alternative Learning Programme in welding skills. MEDE kept on seeking approval from MFIN for the foregoing courses, covering at least till June 2020. While acknowledging that the market for the provision of such courses is limited, no attempts or efforts were made to acquire evidence of proper market research or that an expression of interest was ever issued to this effect. From inception of service until June 2020 the service provider was paid the total amount of €225,580 (VAT excl.); this covered tuition and all course materials, including electricity consumption.

Recommendations

Whilst this Office acknowledges that the initial procurement was made a number of years back, the Education Department is to strive to ensure that all potential service providers are given equal opportunity. Furthermore, as often stated by this Office, procurement by direct order should be an exception and not the norm and, when inevitable, the Department is to ensure that the best rates and conditions are obtained. Any market research is also to be documented.

In addition, NAO recommends the Department to issue public calls or use the services of public officers, whenever possible. The latter are expected to be trained well in advance to eventually replace those who retire, ensuring business continuity and avoiding instances of claims that the service is indispensable and that experience is unique.

Management Comments

The Ministry for Education (MFED) procures services according to the Public Procurement Regulations (PPR) (S.L. 601.03), clause 103 and Procurement Policy Note No. 32 – 'Direct Orders below the local threshold'.

The task officer is an expert in the field of inclusion and has vast experience as Head of Resource Centre which is a specialised school, the officer also has vast experience in handling particular logistics for students with different abilities. Thus, the experience and expertise of this officer, are considered as an added value to this very particular service essential to students with different abilities. It is to be noted that the task officer does not work in silo but works in a unit and together with other officers that are gaining direct experience in this very sensitive field of inclusion.

Technical service is for the manning of a complex telephone system that switched from single lines for every employee to a system connecting internally all telephone lines. System connects internally over 9,000 MFED employees. The necessary technical expertise needs to be available so that the complex system is maintained and kept running. Although MFED tried to issue calls for technical staff, these were unsuccessful in recruiting. Call to be reissued in 2021.

Due to the urgency of offering alternative programmes to thousands of students that were being excluded from a just education and schooling route, initially the service was procured through direct order in 2015 and as per PPR. The service provider registered and accredited the courses with the Department for Quality and Standards. To date, the service provider is the only registered service with the latter Department who provides such accredited adventure programmes. In the circumstances, there are no competing accredited service providers in this field and hence the service needs to be procured directly as per PPR. If other service providers register and accredit their programmes, MFED will procure the services accordingly and always by following PPR.

The alternative learning programme was introduced in 2014. The aim of this programme was to provide an alternative curriculum for students that were on the risk of being early school leavers. Welding was one of the hands-on courses offered. At the time, the service provider was the only one who could offer such programme to students. MFED had initiated talks with the Malta College of Arts, Science and Technology so that its welding labs are refurbished to cater also for the curriculum of students that attended compulsory secondary schooling. In fact, the agreement with the service provider was not renewed following its expiry for scholastic year 2019-2020 and welding courses for highlighted students started being delivered at the said College.

Use of Government Properties by a Third Party for Private Use not formalised

In 2015, a service provider started organising adventure programmes to students on behalf of the Education Department, using the premises of Government for the related activities, initially from the school at Mtarfa and then from an alternate location in Pembroke. This service was acquired following direct order approval from MFIN. However, the service provider was operating privately from the same public properties and running a business at a profit.

Whilst a number of contracts for service were entered into, no reference was made for the private use of said premises. As a result, it was not established who was liable to pay for costs related to the necessary upgrades[3] and whether the same properties may be used by the foregoing third party for services other than those stipulated in the respective contracts for service.

Recommendation

The private use of Government premises is to be covered by an agreement duly signed with the operators, clearly stipulating the pertinent conditions, including who is liable to pay for utility bills and who is responsible to carry out the necessary maintenance and upgrades, as well as payments thereof.

Management Comments

The premises pertain to Lands Authority and are rented to MFED. It is the responsibility of the latter to provide the premises to the service provider so that courses can be delivered as part of the wider curriculum. If the highlighted Ministry requires a service and procures it through a third party to be delivered in schools, the mentioned service provider is not charged with the usage of room, class and/or office.

[3] As per internal correspondence dated November 2020, lots of upgrading was done by the service provider, but one cannot exclude the possibility of an eventual request for reimbursement of the expenses incurred. According to the Strategy and Support Department, upgrading of the premises in Pembroke was carried out by employees of MFED.

It is to be noted that there is a MFED standard procedure for third parties to use Government properties for private practice[4]. The service provider has come to an agreement with MFED to utilise the premises for private use[4]. MFED shall ensure that the standard procedure is followed by all.

Control Issues

Original Contract extended due to Delay in awarding a New Tender

Following a call for tender for the provision of security services, MEDE signed a one-year agreement on 31 October 2017, with the possibility to extend for another year, for the aggregate consideration of €112,996 (VAT excl.).

Seven months prior to the expiration, i.e., on 21 March 2019, the necessary documentation was submitted to the Department of Contracts to issue a fresh call for tenders. By mid-February 2021, when the service provider was paid an aggregate of €180,499 for procurement of services by direct order, the tender was still at evaluation stage since it was cancelled twice[5] following publication.

In the meantime, the contract was extended on various occasions, with the latest extension date being 31 May 2021. MFIN expressed its concern with the prolonging of this contract, on more than one occasion.

Recommendation

More attention to tender management is to be given, especially at the planning, development and award stages, for the process to be successful and carried out in a timely manner.

Management Comments

MFED had planned well ahead for the tender for security services. In fact, documents for the publishing of security tender were sent to the Department of Contracts almost seven months before the expiry date of the contract. However due to tender being cancelled twice, MFED, through the Ministry for Finance and Employment, obtained the necessary approvals for the continuation of service until tender is awarded. Tender has now been evaluated and is currently in its awarding process[6]. All extensions to the service provider were given according to PPR and respective Policy Notes.

Payments to Education Malta Foundation exceeding the established Allocation

As per deed dated 28 October 2016, it was agreed that the Ministry responsible for Education, was to transfer annually the sum of €150,000 to the Education Malta Foundation. Funding required in excess of this allocation was to be covered from the activities of the Foundation and other contributions that may be received. However, in addition to the established allocation, the Chairman of the said Foundation requested an additional yearly amount of €4,000 to cover the annual invoice from The Malta Chamber of Commerce, Enterprise and Industry. It was claimed that this was in line with the agreement reached and approved in December 2017. However, the said agreement was not submitted for audit purposes. Only a letter from the Chamber was provided, indicating unresolved matters and requesting the approval from the then Minister for Education for such payment.

[4] Up to conclusion of this write-up, the procedures in question and the agreement substantiating such claims were not provided to NAO, despite various reminders.

[5] Due to issues related with the best quality price ratio award criteria and due to wrong tender format.

[6] Management comments submitted on 8 July 2021.

Recommendation

Payments in addition to the established financial allocation are to be duly approved from the appropriate level of authority.

Management Comments

Recommendation noted.

Care Services for Children not properly substantiated

Following the closing down of schools and childcare centres on 12 March 2020 due to measures taken in view of the COVID-19 pandemic, the Government started providing care services to the children of health professionals and members of disciplined forces, at San Ġwann Primary School, with effect from 16 March 2020 from 07:00 to 16:00 during weekdays. Whist NAO acknowledges the abnormal situation, the following payments, that were not properly substantiated, were noted:

a. Invoices amounting to €71,428, covering care services for children from mid-March to 2 July 2020, were endorsed and certified by the officers in charge. However, these were not supported with proper documentation, such as attendance sheets indicating the time in and time out of both staff and children. In such absence, amounts charged could not be corroborated.

b. Payments to a company, for disinfecting the required parts of the abovementioned school were based on square metres covered. However, NAO could not ascertain the actual area to be disinfected, as either the related records were not forwarded to the Office or those provided for audit purposes were either incomplete or indicated inconsistent data[7]. Thus, the amount of €35,332 paid in this regard could not be validated.

Recommendation

Payments are to be adequately backed up with official source documentation, ensuring that services were provided in accordance to exigencies. This enables verifications, as well as reconciliations where applicable, as it serves as the basis against which invoices are verified and authorised before processed for payment.

Management Comments

Due to closure of childcare centres and schools by the Superintendent of Public Health in March 2020, and in order to support essential services in particular health and security services, the need for a childcare centre service was necessary to pursue without difficulties for the common good of the nation. These services were provided to front liners' children so that the respective parents are aided as far as possible while serving the community. One needs to acknowledge that schools were closed on Thursday 12 March and the childcare centre was up and running on Monday 16 March 2020. Even though these services were urgently required (within one working day from closure of schools), MFED acquired all necessary approvals for all the procurement as per PPR and Policy Notes. With reference to NAO comments, it is to be noted that:

a. MFED applies the segregation of duties in payment processing. Head of Schools or College certifies that services, including hours and number of days, were carried out according to the invoices. On the other hand, verification by the Finance Office includes price per contract, that invoice was not already paid and that all documents stipulated in the agreement were provided and filed.

[7] Plan indicating the school's area was only submitted with the Management comments on 8 July 2021, following conclusion of audit.

b. *MFED verified that all payments carried out to the supplier were according to the request for quotation and the areas were confirmed and certified against the area plan by an architect. Upon the first day of the school's opening, the entire school was fumigated. Thereafter, in order to manage this cost better, areas which were not required were closed and thus were not fumigated until used.*

Other Matters

During the audit, the following other shortcomings were noted:

a. In spite that invoices related to various services[8] were endorsed and in cases even marked as certified correct by the responsible officers, a number of errors were still encountered. This lack of proper checking of invoices prior to effecting payments resulted in instances of overpayment.

b. The provision of cleaning services at the office of the Permanent Secretary and the services of scalp scanning, were not always covered by the necessary performance guarantees.

c. The Strategy and Support Department confirmed that the award of five particular direct orders relating to the sampled suppliers, were not published in the Government Gazette. The Direct Orders Office also specifically reminded MEDE with each direct order approval, of its obligation to publish accordingly.

Recommendations

Irrespective of any agreement reached and for control purposes, the number of hours invoiced should be based on those recorded on the attendance sheets, which are to be endorsed and certified correct accordingly following proper verification and before processed for payment. A comprehensive exercise is to be carried out to identify any overclaimed payments. Evidence of the recouped amounts is to be provided to NAO.

Performance guarantees are not to be released prior to the completion of the contract but extended as necessary, so that the purpose of this requirement is not defeated but upholds the applicable obligations. Furthermore, direct orders are to be invariably published in the Government Gazette in a timely manner, in line with pertinent regulations.

Management Comments

As part of the payment process, MFED applies the segregation of duties principle. Comments with regard to performance guarantees not covering the whole duration of the contract, and approved direct orders not published in the Government Gazette, have been noted.

Compliance Issue

Payments in Arrears

In the year under review, the amount of €1,296,672 was paid for cleaning services rendered in state schools in Malta between mid-May 2016, being the date when the contract became effective, and December 2019; some invoices were in fact dated July 2016.

Similarly, another company was paid €177,234 in year 2020 for cleaning services carried out in Gozo between August 2017 and December 2019; covered by invoices raised in December 2017.

[8] Including services for disinfection, assistant clerical support workers, welding training course, cleaning in state schools and educational facilities.

The applicable contracts both indicate payment term of 60 days, failing which, the provisions of the late payment directive will come into effect.

Furthermore, payments for risk assessments, as well as those for administrative support services, were not in line with the applicable credit terms of 30 and 7 days respectively. In the former case, one of the payments was even 143 days overdue, risking being charged interest at 12%.

Recommendations

As far as possible, invoices are to be settled on time, in order not to incur any potential late payment interest charges. Deferred payments are to be kept at the absolute minimum, limited to that which is unavoidable, as also spelled out in the standing regulations and the pertinent circular.

Management Comments

In line with the General Financial Regulations (S.L. 601.01), once statements and invoices are received, MFED conducts verifications through the internal control mechanism, and necessary verifications are carried out. The Finance Directorate ensures that all the necessary supporting documents are provided. If the required documents are not provided, invoices will not be processed, and this leads to delay in payments; however, not due to the Contracting Authorities' fault, hence no late payment interest charges apply. Once issues are cleared and pending documents are provided, payment is processed.

University of Malta

Expenditure

The National Audit Office unfortunately experienced a general lack of cooperation by the **University of Malta** during the audit of expenditure on contractual and professional services. Various documentation and clarifications, required during the course of the audit, were not provided and this limited the audit scope to a large extent, which rendered the assignment inconclusive.

Background

As mandated by Part VII of the Education Act (Cap. 327), the University of Malta was established as a separate legal personality, to serve as the main higher teaching institution. It is composed of 14 faculties, a number of interdisciplinary institutes and centres, three schools[1], as well as the Junior College. Besides the main campus in Msida, it also has three other campuses in Valletta, Marsaxlokk and Xewkija, Gozo respectively.

Most of the income received by the University of Malta is derived from Government allocation and grants. However, additional amounts are generated through externally funded projects, as well as from registration and tuition fees, amongst others. University's accounts, covering the financial year ending 30 September, are audited annually in line with the requirement of the Act.

The total allocation amounting to €92 million[2] during 2020, was entirely transferred by the Ministry for Education and Employment, through Recurrent Vote 14.

Audit Scope and Methodology

The main scope of the audit was to verify whether the procedures adopted by the University were in compliance with Public Procurement Regulations, applicable circulars, as well as standard operating procedures. The National Audit Office (NAO) also aimed to ascertain the effectiveness of the internal controls adopted over expenses incurred on contractual and professional services, as well as to establish whether resources were used prudently and in a judicious manner.

An introductory meeting was held with Management[3] to discuss the audit objectives, as well as to obtain a general understanding of the entity's operations. This was followed by a review of the management accounts[4] and nominal ledger for the year ended September 2020. The main categories of expenditure comprised staff costs (€88.1 million) and other operating expenses (€28.4 million).

[1] Doctoral School, International School for Foundation Studies and School of Performing Arts.
[2] This comprised €82 million in Line Item 6701 – University of Malta and a further €10 million in Line Item 6374 – Junior College under Contributions to Government Entities.
[3] This included the Ministry for Education's Permanent Secretary and the Director of Finance at University of Malta.
[4] The audited financial statements for year-end September 2020 were not available as at time of audit planning, i.e., November 2020.

It was the intention to focus the audit on contractual and professional fees paid by the University. A sample of 10 service providers was selected, by taking into consideration materiality, as well as different expenditure thresholds established by the procurement regulations. Selected transactions related to professional fees, consultancy, auditing, legal, security, as well as cleaning and sanitation.

Limitation on Scope of Audit

Throughout the audit, NAO experienced a general lack of cooperation from the auditee. Despite several reminders and a final deadline (which was also ignored), most of the documentation and clarifications requested for audit purposes were not provided. These included:

- authorisations to procure by direct order;
- quotations and other explanations regarding the procurement methods adopted;
- contracts or engagement letters, as applicable;
- fiscal documentation; and
- evidence of publication of procurement in Government Gazette.

As a result, the scope of the audit was hindered and the review in the respective areas was rendered inconclusive.

Control Issues

Shortcomings in the Main Contract for Cleaning Services

On 1 May 2018, University of Malta signed a contract with a cleaning services provider for a duration of one year, with the possibility of two extensions of twelve months each. The annual value of the agreement amounted to €970,527 (VAT excl.). The following concerns were noted:

a. Following the completion of one year, an extension to the aforementioned contract was signed on 8 July 2019, i.e., more than two months following the lapse of the original agreement (30 April 2019), notwithstanding that services continued uninterruptedly.

b. The fiscal receipt pertaining to services acquired during the sampled period, namely June 2020, with an aggregate value of €95,435, was issued on 13 April 2021, the same day when this was requested by NAO. Moreover, in such case, a tax invoice should have been issued instead.

Recommendations

In order to ascertain that contractor's obligations are met and to safeguard the University's interests, all contracted work should be covered by an agreement signed by both parties. Moreover, Management is to ensure that all payments are covered by appropriate fiscal documentation.

Management Comments

The letter of extension to the contractor was sent on 22 April 2019. However, the latter did not return the signed acceptance until 8 July 2019. Management will ensure to follow up on the signing of such documentation on time.

The contractor in question did not issue the invoice with the right details and was informed accordingly. The situation is being monitored for compliance.

Published Value of Contract for Security Services understated

The awarded security services contract was published in the Government Gazette with an incorrect contract value of €659,627 (VAT excl.), instead of €989,441 (VAT excl.). Moreover, the relative agreement, starting 1 September 2019, was signed 22 days later.

Recommendations

Contracts are to be signed in a timely manner. Additionally, effort is to be made to ensure that information sent for publication in the Government Gazette is correct.

Management Comments

The tender published specified that the maximum timeframe of the service required by the University was of three years. Following various appeals and court procedures, separate contracts were signed with two companies for an amount of €989,441 each (excluding VAT and cost of living adjustments), covering a period of 18 months of service. It is true that the last signature by the Director of Contracts was 22 days later[5]; however, this was agreed after various discussions with the two awardees. As a result, the two companies were listed on the Government Gazette with the amount of €659,627 (VAT excl.) which was the original price quoted for a period of one year.

No evidence showing Preauthorisation for Security Services Costs

During financial year ended September 2020, University of Malta paid an aggregate of €10,509 for security services by the Malta Police Force, mainly performed during November 2019. This Office could neither establish on what basis the required service hours were determined, nor confirm on whose authorisation these were acquired, due to lack of supporting documentation provided for audit purposes.

Recommendations

Management's approval is to be obtained before commitment to acquire the respective services. Moreover, an adequate audit trail is to be maintained supporting the number of service hours required and subsequently charged.

Management Comments

During graduation time, the University of Malta usually requests the services of the Malta Police Force during the ceremonies held in Valletta, in order to keep certain areas clear of cars and to ensure good order when rowdy graduates visit the various campuses in a celebratory mood. To this end, the University has left the planning and execution of such services in the hands of the Malta Police Force.

Going forward, besides requesting a quotation for the services rendered, the University of Malta intends to discuss and negotiate the terms of the service to enable better planning and monitoring.

[5] The contractor signed the contract on 5 September 2019.

Compliance Issue

Late Submission of Audited Financial Statements

Article 73(7) of the Act states that the audited financial statements, as well as the auditors' and annual activities reports, are to be submitted to the Minister responsible for education, within three months from the end of the financial year. However, audited accounts for the year ending September 2020 were finalised and submitted on 18 February 2021, i.e., six weeks later.

Recommendation

Statutory submissions are expected to be made within the established deadline.

Management Comments

The University is a complex and large entity. The period stipulated within the law for the submission of the audited accounts to the Minister is difficult to attain in practice in view of the lengthy and complex process which is required from the closure of the accounts until the final approval of the financial statements. Additionally, accounting and auditing work has to be performed in line with the various requirements of international standards.

In view of this, Management will suggest the University Council to propose a change to the Education Act such that the stipulated period of three months is extended to five.

St. Patrick's Industrial School

Personal Emoluments

An audit of **St. Patrick's Industrial School**, which focused on payroll, revealed errors in salary calculations, as well as weaknesses in the verification and maintenance of timesheets.

Background

St. Patrick's Industrial School is run by the Salesians of Don Bosco and provides a supportive learning environment that allows students, who have been through traumatic personal experiences, to prosper both academically and socially. It provides its students with an educational programme within the National Curriculum Framework and in line with current educational policies. Although the school is acknowledged as an independent church school, it has a separate service agreement with the Education Directorate.

As an integral part of this school, residential care services are also given, to provide a better environment to the children entrusted in its care. These services are given through a community home in Balzan, called Don Bosco House.

At the end of 2020, St. Patrick's Industrial School and Don Bosco House had a total of 75 employees on their payroll.

Financial Information

In line with the agreement between the Government and the Salesians of Don Bosco covering the years 2018 to 2021, in consideration for the purpose of meeting the related costs of running the school and the general costs that the mission of the latter demand, the Government is bound to furnish the annual sum of not less than €1.7 million to St. Patrick's Industrial School.

According to the unaudited financial statements of St. Patrick's Industrial School and Don Bosco House for the year ended December 2020, total income for the year amounted to €1,744,189; in addition to the Government allocation, the remaining funds were collected through donations, child in-care social security benefits, as well as reimbursements of school expenses. Salaries and other employee benefits accounted for the majority of expenditure during 2020.
Audit Scope and Methodology

The scope of the audit was to determine whether controls were in place in relation to the calculation of salaries paid by St. Patrick's Industrial School during 2020, as well as to ensure that such payments were in line with general good practices and underlying agreements.

Data Analysis

Following an initial understanding of the systems in place in relation to salaries, further information was requested.

a. Data showing all the salary payments made in 2020, totalling €1,697,353, was provided to the National Audit Office (NAO). Of this amount, €1,250,534 related to basic pay, whilst other main components included overtime (€96,771), public holiday and Sunday duty allowance (€76,782) as well as various other allowances (€71,002).

   Overtime was considered to be substantial for some individuals, at times even higher than their respective basic salary. This mostly related to residential care staff and was particularly high during 2020 because of the closure of schools due to the COVID-19 pandemic. During this period, students had to be taken care of even after school hours, hence the need to resort to overtime.

b. The data was analysed and it transpired that the majority of salary payments were made to care workers, whose aggregate cost to the employer amounted to €711,501, followed by €627,891 paid to teachers and €357,961 paid to administrative staff.

Audit Sample and Testing

Ten individuals were selected for the purpose of audit testing, on the basis of salary materiality as well as their job description. Gross salaries paid in 2020 to the sampled individuals amounted to €288,017, with a total cost to St. Patrick's Industrial School of €303,775[1]. These costs covered four care workers, three teachers and three administrative staff.

As part of audit testing, the amount paid to the selected individuals was verified against the pertinent collective agreements, timesheets showing the actual hours worked, as well as with the respective vacation and sick leave records.

Key Issue

Lack of Verification in the Payroll Process

Around 50 residential care workers who worked on a shift basis were employed with St. Patrick's Industrial School during 2020.

Hours worked were recorded on manual timesheets by each employee, which clockings were then transferred onto weekly worksheets for the purpose of calculating overtime, as well as amounts due for work on Sundays and public holidays, for which the respective individual receives extra compensation. However, evidence of verification was neither marked on the manual timesheets nor on these worksheets. Several errors were noted during the audit.

a. Errors in Salary Calculations

A recalculation of the salaries paid in 2020 to the four sampled residential care workers revealed both overpayments and underpayments in salaries. These mainly resulted from discrepancies between the actual hours worked as reflected in the timesheets and those in the calculation spreadsheet.

[1] The difference between this amount and the gross salaries relates to employer's national insurance (€15,273) and maternity fund contributions (€485).

b. Weaknesses in the maintenance of Timesheets

An analysis of timesheets for the four sampled care workers showed that there was no clear policy (along with procedures) on how hours actually worked were to be recorded. Some resorted to tick marks to show their time-in and time-out under the appropriate hour boxes, whilst others simply drew a line. Notes scribbled at the side of the timesheets to denote hours worked were also noted. This made it very hard to ascertain the actual clockings since certain time records could be easily misinterpreted, ultimately leading to errors in the amounts paid.

Recommendations

The process of calculating the salaries on the basis of these timesheets is to be scrutinised by at least two people in order to ensure accuracy of the payroll.

Timesheets are also to be maintained in a way that ensures that there is no space for different interpretation as to when the employees started and ended their working days.

As far as possible, manual intervention in the working of the payroll should be minimised.

Management Comments

NAO's comments in relation to this finding were noted. With regard to points outlined under point (a), the following also refer:

The payroll for year 2020 of the four employees in question was reworked and similar discrepancies to those discovered by NAO were noted. The whole reprocessing exercise of year 2020 salaries is being done[2]*, so that any further adjustments which may be required, can be rectified accordingly.*

As of January 2021, the payroll process has been transferred to a new software and necessary changes in the related process and procedures have been implemented. Furthermore, from January 2021, all leave is processed entirely online. By May 2021, in an effort to streamline the clocking process (punch in and punch out) and reduce possible interpretations, all timesheets, less those of teaching grades, were replaced by a new electronic clocking system to reduce manual intervention. The system sends clockings directly to the payroll software for processing.

[2] Management comments submitted on 6 September 2021.

Investment Fund for Private Schools

Expenditure

An audit on the **Investment Fund for Private Schools** revealed that disbursements effected were entirely based on data submitted by the applicants. No onsite inspections were carried out by the Ministry for Education and Employment to verify that the related works were actually executed. Shortcomings with regard to the assessment of claims submitted were also identified.

Background

Education is considered a basic pillar of the Government's priorities. Indeed, with the aim of providing present and future generations with the necessary skills and talents for citizenship and employability, throughout the years, public funds were heavily invested in this sector.

In July 2012, the Government introduced the Per Capita Assistance Scheme to Independent Schools related to Services and Facilities required for the Implementation of Educational Reforms for All Children to Succeed[1]. As from its inception, the scheme has supported the independent sector to continue thriving and keep improving its educational provision by injecting direct investment proportionate to the respective school's student population. In line with the scheme, schools are refunded certain costs incurred, up to the maximum eligible amount which is worked out per capita basis as disclosed in Table 1.

Table 1: Allocation of Funds per Capita

Educational Stage	Amount per Capita €
Kindergarten	95
Primary	145
Secondary	170

The Ministry for Education and Employment, through letter circular dated 12 May 2015, informed the independent schools that works of a capital nature could also be claimed under this scheme. Moreover, by means of another letter circular dated 20 April 2020, the eligible expenditure was temporarily expanded to include the physical infrastructure of the school; continuous professional development opportunities for educators and educational leaders, educational resources, specialised psychosocial and educational professional services or any other expenditure related to sustaining the educational provision to learners during the COVID-19 pandemic and consequent closure of schools.

For financial year 2020, the respective budget allocated to the pertinent Ministry under Recurrent Vote 14, Programmes and Initiatives Line Item 5632 – Investment Fund for Private Schools stood at €1,000,000. This was later revised upwards to €1,034,040. Disbursement to a total of 16 independent schools during the financial year under review amounted to €1,023,589.

[1] Hereafter referred to as Per Capita Assistance Scheme or just scheme.

Audit Scope and Methodology

The main scope of the audit was to determine the level of internal controls over payments effected from the foregoing line item and to assess whether the established Standard Operating Procedure (SOP) and applicable circulars issued by the responsible Directorate were followed.

To achieve the audit objectives, between June and August 2021, desktop research and a number of meetings were held with key personnel, namely the Director General and Director Finance at the Department of Strategy and Support.

The audit was conducted in accordance with generally accepted auditing standards. Sample selected was qualitative, thus not designed to gather data on the frequency of error in the population as a whole, but to ensure that the scheme was mastered in line with the procedures published in the Government Gazette and to identify ways through which current practices could be improved.

Testing was carried out on grants paid to eight schools, in aggregate amounting to €441,240 and representing 43% of total disbursements effected during 2020.

Key Issue

Reimbursement effected under Expired Scheme

The Per Capita Assistance Scheme was initially introduced in 2012, by means of a notice published in the Government Gazette. It was to remain in force until 31 December 2014, with the option of either being terminated before this date or to be renewed for further periods, following the publication of a similar notice.

Since 2012, a standard annual allocation of €1,000,000 was budgeted for the continuous operation of this scheme; however, evidence substantiating its formal renewal was not traced. This also implies that independent educational institutions set up after 2012 may not be aware of this scheme and hence are losing out on such opportunities.

Recommendation

The scheme is to be formally renewed and notice of its renewal is to be published through the Government Gazette.

Management Comments

Management confirms that following the budget estimates allocation for the respective year, an annual circular is in fact issued through the Directorate for Quality and Standards in Education (DQSE), to inform all independent schools, including newly licensed institutions, about the renewal of the Per Capita Assistance Scheme.

Notwithstanding the above, DQSE accepts the recommendation and shall also publish the renewal of the scheme in the Government Gazette.

Control Issues

Total Reliance on Data provided by Applicants

The application for reimbursement of expenditure in line with the Per Capita Assistance Scheme was submitted by the eligible schools in retrospect, after the work or project was carried out. Onsite inspections were not performed to verify that claims that were eventually honoured represent expenditure on eligible work that was actually carried out for the provision of educational services. The Ministry has totally relied on the data and declarations submitted by heads of schools in their application.

Recommendation

To ensure that the scheme is fulfilling its purpose, and that public funds are utilised in the most efficient manner, the Ministry is expected to carry out random spot checks to ascertain that the respective goods were received, and services were actually rendered prior to effecting reimbursements.

Management Comments

The application forms are signed by the heads of schools which in their capacity certify that the works have been carried out. Together with the application there are also the invoices and fiscal receipts which are also a confirmation of the work carried out and paid.

Nevertheless, the Ministry, through DQSE, shall start doing sample spot checks in independent schools to verify in person, apart from the administrative verification, that respective goods and/or services have been received.

Reimbursements supported by Inadequate Fiscal Documentation

Article 3(b) of the Per Capita Assistance Scheme require that eligible expenditure is supported by original fiscal documentation authenticated by the head of school. However, a number of sampled applications, totalling €20,475, were not validated by adequate fiscal documentation as required by the prevailing Value Added Tax (VAT) legislation.

Despite such lack of compliance, reimbursements were still effected in full.

Recommendation

The Ministry is to ascertain that supporting fiscal documentation is submitted by the schools. This should be in conformity with both VAT regulations and the criteria set out in applicable scheme.

Management Comments

Point not addressed.

Applications not duly evaluated

The following shortcomings, which were encountered during audit testing, indicate that applications were not always evaluated in a thorough manner.

a. Overpayment undetected

A particular school paid an invoice dated 12 September 2019, amounting to €6,224 in two equal instalments, one in October 2019 and the other on 20 January 2020. This school submitted a claim for the full invoiced amount in 2019. Subsequently, another claim equivalent to 50% of the same invoice was again submitted by the school. All claims were honoured by the Ministry. Eventually, when this was brought to the attention of Management during the audit, the amount overpaid was recouped by the Ministry.

b. Generic Cash Register Chits or Invoices not issued in the School's Name

Two of the sampled claims were substantiated by an invoice issued to an individual rather than the respective school's name. In other instances, the purchases were supported by a generic cash register receipt which was not even itemised, instead of a tax invoice showing the VAT registration number of both the supplier and the respective schools. In such cases, it was difficult to ascertain that the procured items were duly utilised for the provision of educational services.

c. *Online Payments not supported by an Invoice*

Article 3(b) of the Per Capita Assistance Scheme states that in the case of items not purchased from Malta, applications are to be accompanied by the original invoice issued by the supplier together with the delivery note/s, the original documentation of the final payment and clearance from Maltapost or Customs as may be required. However, three sampled claims, referring to items purchased from an online shopping site were supported solely by the proof of payment.

d. *Clarifications not sought*

Clarifications as to why the procurement of a cluster of platform software licences exceeded the registered students by 96, were only obtained by the Ministry during the audit, i.e., in July 2021, and not prior to effecting the reimbursements to the respective schools in the preceding year.

Recommendations

The Ministry is to ensure that documentation supporting the application is scrutinised thoroughly to identify any duplicate claims, highlight any anomalies or shortcomings, and subsequently obtain timely clarifications in order to accept or reject as applicable.

Moreover, claims relating to foreign payments are to be invariably supported by the required documentation, otherwise these are not to be accepted by the Ministry.

Management Comments

The Ministry has recouped the amount overpaid to the school referred to in the first point.

Where the invoice was issued on an individual rather than the school, during the evaluation of applications, DQSE verified with the school that the person was in representation of the school. Furthermore, the invoice and claim were authenticated by the head of school and declared that the procured items were duly utilised for the provision of educational services.

Recommendation with regard to online payments is noted and independent schools shall be informed accordingly.

As regards the last point, during the evaluation stage the evaluators clarified with the head of school; however, it was not in writing. This was rectified during the audit. All clarifications will be sought in writing.

Compliance Issue

Standard Operating Procedure not followed

Certain practices outlined in the undated SOP, as detailed hereunder, were not complied with.

a. Schools were not provided with receipt, countersigned by head of school or representative, for each application.
b. Invoices and fiscal receipts were not signed and stamped by the respective head of school.
c. In a number of instances, rejection of claims was not supported by a justification.

The Ministry claimed that SOP was updated in January 2021 and that such obligations were not applicable in 2020. However, a copy of the previous version was not provided.

Recommendations

SOP issued by the Ministry is to invariably include the effective date; thus, informing the users to which period it relates. The Ministry is also encouraged to keep a copy of previous versions of SOP in file for future reference.

Management Comments

SOP being referred to by the National Audit Office is an internal process introduced in 2021, following an internal evaluation of practices by DQSE. There are items in SOP that were enhanced by DQSE for better evaluation of the applications. Since the audit sample was for 2020 there are items in SOP that in 2020 were not followed due to SOP being introduced in 2021.

Ministry for Energy and Water Management

Automated Revenue Management Services Ltd

Revenue

The recoverability of long outstanding material amounts due to **Automated Revenue Management Services Ltd** was uncertain or difficult to recoup.

Background

Automated Revenue Management Services Ltd (ARMS) was registered as a private limited liability company on 19 January 2009. Its main objective is to develop, set up, operate, administer and manage an integrated utilities business system with automated metering infrastructure for the purpose of billing services and management of information on related customers. ARMS collects revenue on behalf of its two shareholders, Enemalta p.l.c. and Water Services Corporation, and all amounts collected are transferred to the respective entities accordingly.

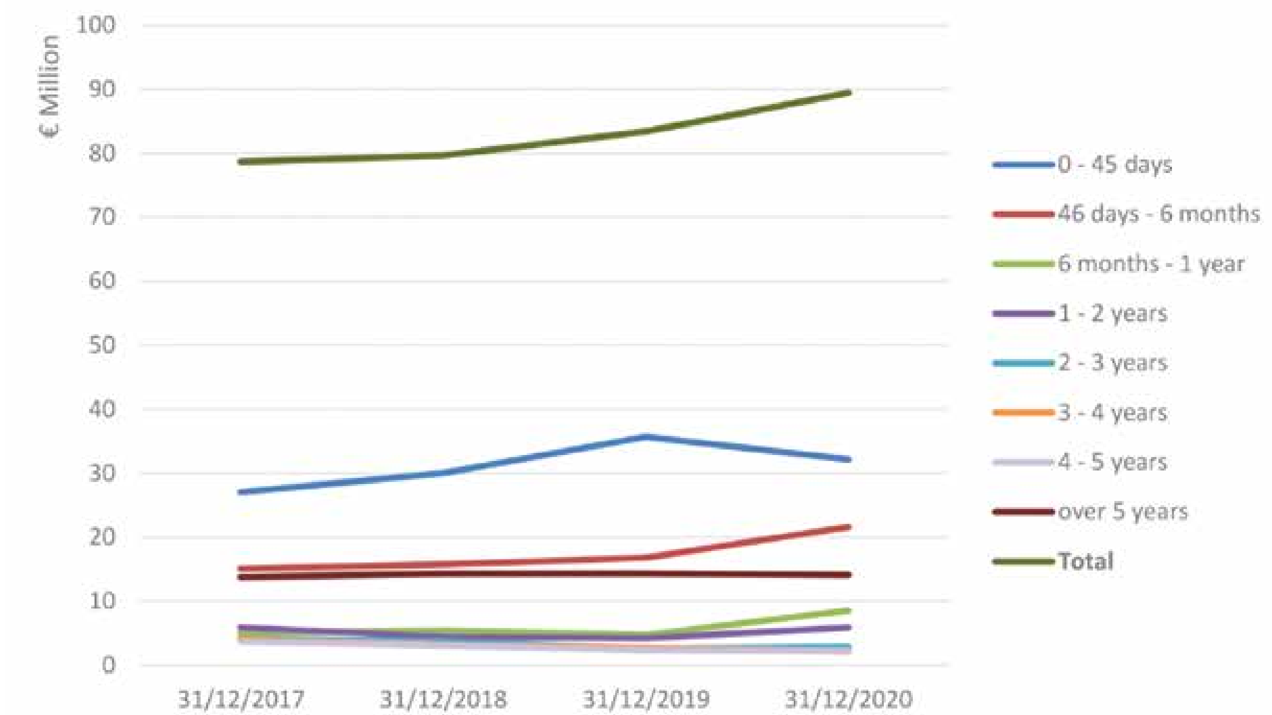
Financial Information

As per information provided by ARMS, debtors as at 31 December 2020 stood at €89,428,481. Of this amount, €21,262,367, i.e., approximately 23%, was due for more than two years. A detailed analysis of the debtors ageing is provided in Chart 1.

Chart 1: Debtors' Ageing as at 31 December 2020

Ageing information provided by ARMS with respect to the last four years, i.e., 2017 to 2020, showed that total debtors increased by around 14%, from €78,668,056 at end 2017 to €89,428,481 by the end of 2020. The main increases related to those due within one year, while significant decreases were noted in debtors outstanding between two and five years. Amounts falling due between one and two years, as well as those over five years remained relatively the same. Movements in ageing debtors for the aforementioned four years are depicted in Chart 2.

Chart 2: Movement of Ageing Debtors between 2017 and 2020



Audit Scope and Methodology

The main scope of this audit was to evaluate the adequacy of ARMS' policies and procedures in place for the collection of revenue from utilities, as well as to ensure that income received was duly recorded in a timely manner. The audit also sought to verify whether appropriate action against defaulters was taken in a fair and adequate manner.

Discussions were held with ARMS to outline the audit objectives and obtain a general understanding of the revenue collection process, as well as to identify the relevant policies and procedures adopted by the company.

The National Audit Office (NAO) also obtained information on the company's operating environment and its major plans, particularly with respect to the collection of revenue from utilities on behalf of its shareholders. To this effect, ARMS' Legal Office Policy and Write-off Policy, both implemented in 2019, were also reviewed.

The samples selected were qualitative rather than quantitative, designed to verify the effectiveness of internal controls. Testing in the form of systems overview, analytical reviews and substantive testing was carried out to address the combined risks.

With respect to the billing process, a list of all bills issued during 2019 was categorised according to the month of issue, the contract account number, and the type of account[1]. A sample of 24 accounts from different account holders was randomly selected for audit purposes.

To review collection procedures, especially in the case of defaulters, two additional samples were taken as follows:

- A sample of 24 transactions totalling €1,271,115 was selected, mostly depending on the materiality of the outstanding bills due to ARMS. In fact, 15 of such debtors had outstanding amounts due to ARMS totalling €4,144,890 as at end December 2020.
- An aged analysis of amounts due by customers to ARMS as at 30 October 2020[2] was obtained. This data was used to categorise debtors between high and low ageing. A total sample of 20 debtors, totalling €147,296, was then randomly selected from both categories. Enquiries were made in their respect to verify what action was being taken by ARMS to recoup the outstanding amounts.

Compliance with internal policies and procedures were checked to confirm adherence to established practices.

Implementation of New Policies

In 2019, ARMS issued two important policies, namely the Write-off Policy and the Legal Office Policy. The former, which came into effect in June 2019, aimed to establish the scenarios when a write-off was to be considered and the procedures to be followed in such cases. On the other hand, the Legal Office Policy, implemented in November 2019, laid down clear guidelines to be followed for all legal cases relating to the recouping of dues owed by utility customers.

NAO acknowledges that the implementation of these two policies was a step in the right direction which helped ARMS exercise further control over its debt collection process.

Control Issues

Uncertain Recoverability of Long Outstanding Material Amounts

A total of 78% of sampled debtors, amounting to €3,249,505, had substantial amounts owed to ARMS as at 31 December 2020, with insignificant amount of repayments registered during the last two years, i.e., 2019 and 2020.

NAO was informed that since the outstanding balances were considered highly material, legal action was being taken by ARMS to try and recoup the amounts in question by taking appropriate action, where permissible. However, it is acknowledged that a number of these debtors are difficult clients and ARMS may not be in a position to suspend the service.

Recommendation

Whilst continuing with its regular monitoring over its debtors and current enforcement procedures through its Legal Section, ARMS is also to explore alternative remedies, such as administrative arrangements, for the recovery of pre-2019 dues.

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[1] These included Non-residential, Residential and Domestic, together with the type of customer (example residence, hotel, garage and commercial).
[2] Although this was the established cut-off date for the purpose of sample selection, testing covered all transaction activity as at end December 2020.

Management Comments

Management agreed with the recommendation put forward and will continue with its effort to control outstanding debtors' amounts, whilst taking the necessary action with respect to write-offs of long outstanding defaulters.

The structured and automatic triggering of legal action has been instrumental in securing the recovery of debt, especially during the past year, 2020. By way of an update, payments on account were received in respect of two sampled debtors, while another debtor's balance was written off.

There may be instances where ARMS would not be able to suspend the services of defaulters, such as social and humanitarian cases, non-Governmental organisations, educational institutions, hospitals, political parties and media houses. Such realities accentuated the need for the implementation of a robust, efficient and effective legal and debt recovery mechanism, which has proven to be an essential and pivotal tool that ARMS has in the recovery of debt.

Accumulation of Outstanding Amounts unlikely to be recouped

In 2018, ARMS embarked on a task to review all cases which were deemed to be unrecoverable. To this effect, outstanding debtors' amounts started being reviewed, in line with the new policy adopted with respect to write-offs.

However, from the sample selected, this Office still noticed some instances whereby further action could be taken by ARMS to prevent the accumulation of outstanding amounts in the future. In all cases, judicial letters and garnishee orders were duly issued by ARMS, but some cases were not followed up immediately. The latter confirmed that, following the suspension of meters and subsequent legal action, its automated system did not prompt any other action, such as reminder letters. This resulted in interest accumulating over time on outstanding amounts which were unlikely to be recouped.

Recommendation

ARMS is to ensure that whenever legal action is resorted to, this is immediately flagged and followed up in order to avoid the unnecessary accumulation of interest on the outstanding amounts.

Management Comments

Management agreed with the recommendation put forward. The internal systematic overhaul of its policies and procedures has enabled a better approach towards customers and the reduction of unnecessary bureaucracies.

Notwithstanding the effects of the COVID-19 pandemic, ARMS still managed to achieve optimal results, even when faced with a proliferation of defaulters who were and still are caught in financial difficulties. By adopting a fair and reasonable approach, the company managed to secure payments through agreements, to ensure that debt is kept at the lowest possible and under strict control, while being firm with those who tried to evade their obligations.

Street Lighting and Other Services

Expenditure

An audit on **Street Lighting and Other Services** showed that the Ministry for Energy and Water Management relied mostly on the service provider for data and pertinent documentation on the subject matter. Independent checks to identify irregularities were not carried out on a regular basis. The necessary approval from the Department of Contracts prior to entering into the agreement for the provision of public lighting was not traced.

Background

On 2 October 2014, the Government of Malta entered into a 10-year agreement[1] commencing 1 November 2014 with Enemalta P.L.C.[2], whereby the latter, as the sole distributor of electricity in the Maltese islands was to provide public lighting services, including supply of electricity, provision of infrastructure, as well as inspection and maintenance thereto.

During 2020, the Ministry for Energy and Water Management (MEWM) embarked on a project to update the respective contract in line with the country's current consumption requirements. The key stakeholders[3] were consulted and a new Act of Entrustment, which was expected to come into force as from the beginning of 2021[4], was drafted. With the exception of the provision of public lighting, this agreement covers all other services as in the previous agreement but also includes all arterial and residential roads in Malta[5], except any decorative lights. These will remain the responsibility of Local Councils.

For financial year 2020, under Vote 16, Programmes and Initiatives Line Item 5401 – Street Lighting and Other Services, MEWM was allocated the budget of €8.5 million. This amount was later revised to €8,638,070, which was equivalent to the expenditure incurred in this area by end of December 2020.

Audit Scope and Methodology

The main scope of the audit was to determine the level of internal controls over expenditure incurred out of the aforementioned line item. In this regard, the procedures in place were analysed to assess adequacy and compliance with the current agreement between the Government and Enemalta P.L.C.

Moreover, given that during the audit, the new Act of Entrustment was in drafting stage, this was scrutinised and compared to the agreement in force to identify potential improvements that could be made thereto.

[1] The agreement is titled Supply of Services Agreement for the Provision of Public Lighting. Throughout the write-up this will be referred to as the agreement.

[2] The Government holds only 67% of the shareholding of Enemalta P.L.C., whilst the other 33% are held by a private company.

[3] Comprising the Local Government Division, Local Councils Association, Department of Contracts, the Budget Office, the State Aid Monitoring Board, the Attorney General and the Energy and Water Agency.

[4] By the time this write-up was concluded i.e., end of February 2021, the Act of Entrustment was not yet finalised.

[5] Does not include Gozo and Comino.

To achieve the audit objectives, between November 2020 and January 2021, desktop research and a number of meetings were held with key personnel including the Permanent Secretary, Director Corporate Services and Assistant Director Finance and Administration.

The audit was conducted in accordance with generally accepted auditing standards. The sample selected was qualitative, thus not designed to gather data on the frequency of error in the population as a whole, but to ensure compliance with the pertinent agreement and to identify ways through which current practices could be improved.

Sample testing was carried out on all the four services provided by Enemalta P.L.C. The materiality factor was only applied when selecting the sample in respect of invoices covering costs for new infrastructure. This was not a determining factor in the other areas due to the reasons outlined hereafter:

a. **Street light consumption** – there were two invoices during 2020, one covering the actual consumption of electricity for six months, while the subsequent invoice for the remaining six-month period was an estimate based on the previous one, thus with similar values.

b. **Charge for maintenance services** – these were invoiced at fixed price on a biannual basis, therefore the two invoices for 2020 were of the same amount.

c. **Payment for inspections** – only one invoice was recorded in the Departmental Accounting System during the year under review.

A total of five transactions, aggregating to €5,229,623 and representing 61% of the total expenditure during the financial year under review, were analysed.

Limitations on Scope of Audit

Due to the lack of detailed documentation available at the Ministry, in-depth testing could not be carried out. Thus, it was not possible to determine:

a. whether the unit charge applied for electricity consumption in the case of street lighting was in line with those disclosed in the Electricity Supply Regulations;

b. whether inspections charged for were actually carried out; and

c. the nature and extent of maintenance services performed.

Key Issues

Ministry lacked Pertinent Data on the Subject Matter

The Ministry was not fully aware of certain initiatives undertaken in this area by other entities and which could directly or indirectly impact the agreement in place, as well as the Act of Entrustment which was intended to become effective in the near future.

Correspondence received during the audit process also indicates that the Ministry was not in possession of data and pertinent documentation necessary for the smooth, transparent and efficient operation of the agreement. Certain queries raised during the audit had to be referred back to the service provider for a reply. Examples of such instances are outlined hereafter:

- Number of active meters recording street lighting consumption.
- Date when last manual readings of non-automated meters were taken.
- Consumption readings on which invoices were based.
- Data on inspections and maintenance services carried out.
- Fixed assets records in relation to infrastructure.

Issues mentioned above will be reported upon in more detail further down in this write-up.

Recommendations

For the sake of good governance and accountability, not only is the Ministry expected to take a more active role in the operation of its contracts, but it also needs to keep itself abreast with the initiatives undertaken by other Government entities. This will ensure that ultimately resources are used in the most efficient and effective manner to the best interest of citizens.

Management Comments

The Office of the Permanent Secretary has identified the Corporate Services Directorate to perform regular audits (independent) and close monitoring on the processing of funds. The findings of the audit commissioned in 2019 were communicated to the Permanent Secretary within the Ministry for Finance and Employment.

Lack of Independent Regular Checks

Section 4.2.1 of the agreement stipulates that a breakdown and explanation of the fees being billed are to be presented with each invoice which is forwarded by Enemalta P.L.C. to the Government of Malta. However, this requirement was not always being satisfied. This implied that independent regular checks, to ensure the correctness and reliability of the invoices raised by the service provider, were not carried out, notwithstanding that the Ministry still honoured in full the respective bills.

Every three years, a private audit firm is engaged by the Ministry to carry out agreed upon audit procedures and provide advisory services in connection with the public lighting charges levied by Enemalta P.L.C. to the Government. A review covering 2014 to 2016 was carried out during 2018, whilst that for the period 2017 to 2019 was planned to be conducted in 2021. The Ministry confirmed that it relies on these reviews (which are carried out on a sample basis), to highlight any shortcomings or potential overcharges.

Besides the delays in executing these reviews, the timeframe of three years is considered excessive and raises concerns on the effectiveness and the value added of the respective exercise.

Recommendations

Adequate internal controls are to be implemented. Invoices are not to be paid before these are thoroughly verified. It is to be made clear to all officers that, as also outlined in the General Financial Regulations, when endorsing a document and/or certifying invoices, one is assuming the responsibility that the data, including the amounts contained in that document, is correct. To be able to carry out this task, it is important that the Ministry is provided with documentation, substantiating the basis on which invoices are raised.

Furthermore, reviews and verifications are expected to be carried out on a more frequent basis so that remedial action is taken as necessary without undue delays. To this effect MEWM is to consider that a clause requiring an annual audit review is disclosed in the new Act of Entrustment.

Management Comments

In agreement with the National Audit Office's (NAO) recommendation, Ministry for Energy, Enterprise and Sustainable Development (MESD) will consider to include the requirement of an annual audit review in the new Act of Entrustment.

Approval not traced

Being the sole body that possesses unique resources and technical know-how specific to the Maltese islands, particularly in view of the fact that it acts as the latter's distribution system operator for electricity, Enemalta P.L.C. was appointed following a negotiated procedure. The latter was expected to provide the services outlined in Table 1 for a period of 10 years, commencing 1 November 2014.

However, despite the amounts involved, no evidence was traced confirming that approval from the Department of Contracts was sought for this direct appointment.

Table 1: Services provided by Enemalta P.L.C.

Details	Charges
Street Lighting	Consumption as per meter readings charged at the rates stipulated in the Second Schedule for non-residential premises in the Electricity Supply Regulations
Infrastructure	Rates to be agreed upon following a quote issued by Enemalta P.L.C.
Maintenance	€600,000 annually – rate revised every two years to reflect the Harmonised Indices of Consumer Prices
Inspections	€150 per inspection

Recommendation

Public Procurement Regulations are to be adhered to and clearance from the right level of authority is to be obtained prior to the signing of the related agreements. This will enhance transparency, accountability and good governance.

Management Comments

Following June 2017, the new administration took the initiative to update the audit reports without delays, a copy of which was forwarded to the Ministry for Finance and Employment.

Control Issues

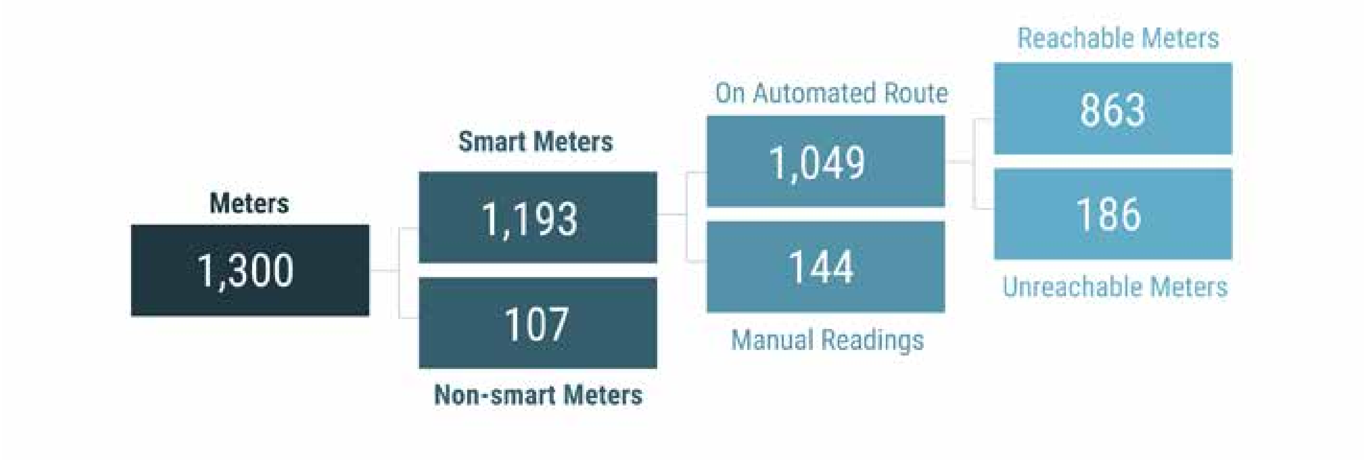
Street Lighting

Manual Street Lighting Meters Readings

The Ministry had to revert to the service provider to identify the number of meters in place across the islands, which information was requested by NAO for audit purposes, since this data was not available at MEWM. The following also relate:

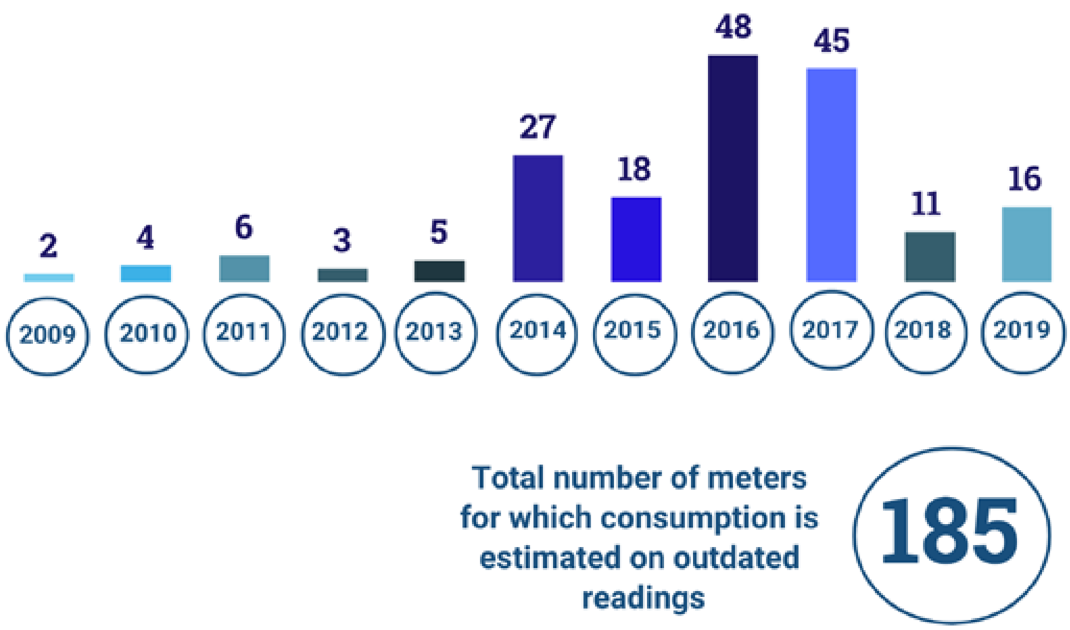
a. As exhibited in Diagram 1, 34% (437 meters) of the street lighting meters were still not connected to the electronic reading system, known as the Automated Meter Management, and thus readings had to be taken manually.

Diagram 1: Configuration of Current Meters[6]



b. From the information provided, it was noted that manual meters were not being read on a regular basis and thus, in such cases, invoices were continuously based on an estimated consumption. As indicated in Diagram 2, the last reading taken in case of 185 meters ranged between more than one and eleven years. This also hinders the accuracy of the debtors in question.

Diagram 2: Number of Meters pending Manual Reading for more than One Year[6]



Although responsible for the related payment, MEWM was not provided with copies of the invoices issued by the Automated Revenue Management Services Ltd to Enemalta P.L.C. for the consumption of street lighting. The only documentation available in this regard was limited to a spreadsheet prepared by the latter, illustrating generic details on the respective meter and the related charges in line with the Electricity Supply Regulations; however, the corresponding meter readings were not disclosed.

[6] Data as provided by the auditee.

Recommendations

It is in the interest of the Ministry to have at its end a copy of all the meter readings, together with the invoices originally issued by the Automated Revenue Management Services Ltd. In the absence of this data, adequate verifications cannot be carried out. Consequently, MEWM is recommended to carry out the necessary amendments to the Act of Entrustment so as to reflect this specific requirement.

In consultation with Enemalta P.L.C., Management is also to devise a plan on how all meters would gradually be converted to smart meters and thus be placed on the Automated Meter Management system, to ensure that invoices reflect actual consumption. Until such plan materialises, alternative verification methods are to be adopted.

Management Comments

With respect to the gradual conversion to smart meters, efforts will be made for this recommendation to be included in the new Public Service Obligation Agreement.

Anomalies in the Devolution of the Street Light Function in Gozo

Through a Devolution Agreement entered into with the Gozo Regional Committee on 1 September 2015, the responsibility for the provision and maintenance of any public lighting in Gozo was delegated to the latter. This agreement was also endorsed by Enemalta P.L.C. and the then Director Local Government.

The Devolution Agreement divested MEWM from its control over the infrastructure implemented in Gozo. It also does not identify which Ministry[7] is actually responsible to honour payments since the term Government referred to in section 15 was not defined. However, although not even aware of such agreement, MEWM was still financing the electricity consumption utilised through this infrastructure.

Recommendation

The Ministry is to consider escalating this issue with higher authorities so that all services, including consumption, with respect to street lighting in the island of Gozo will be fully devolved to the respective Regional Council.

Management Comments

Recommendation will be taken on board. The Ministry can also confirm that the new Public Service Obligation will not incorporate Gozo.

Infrastructure

Record of Infrastructure Inventory not readily available

Section 3.2.2 of the agreement prescribes that any infrastructure constructed, installed or provided by Enemalta P.L.C. for the benefit of the Government shall be the property of the latter.

However, documentation on the respective inventory was not available at the Ministry. The latter was also not aware of the actual infrastructure in place. Reply to audit queries confirmed that as per feedback from Enemalta P.L.C., data of what is installed and relative information can be obtained from the latter's system.

[7] Whether it is MEWM, the Ministry for Gozo or the Ministry responsible for Local Government.

Recommendation

It is in the Ministry's interest to ensure that it maintains an updated record of the aforementioned assets for its perusal.

Management Comments

Recommendation will be taken on board.

Inspections

Ministry not informed beforehand of Planned Inspections

In line with the agreement in place, Enemalta P.L.C. is expected to carry out periodic inspections to ensure the proper functioning of public lighting and infrastructure. A fixed price of €150 is charged to MEWM for each inspection.

MEWM confirmed that inspections are planned by Enemalta P.L.C. and are carried out on the basis of a roster amongst Local Councils. Yet, the Ministry was neither provided with quarterly reports indicating the actual inspections in the preceding quarter, nor was it informed with the inspections planned for the subsequent quarter, as required by the applicable agreement.

This also implied that no verifications were carried out in this area. According to Management, the method to confirm that inspections are carried out is through the audit which was to be carried out in 2021.

Recommendations

Management is to ensure that reporting requirements emanating from the applicable agreement are fully adhered to. In case of failure, the service provider's attention is to be drawn without undue delay.

Management Comments

Quarterly reports are being referred to MESD as requested. There are two types of inspections, one planned and the other is for urgent inspections. Recommendation will be taken on board.

Concerns on Invoices raised

As per standing agreement, invoices are to be issued biannually, mainly at the end of March and September respectively. It transpired that invoices at end of March 2020, which ought to cover services carried out between 1 October 2019 and 31 March 2020, were raised on an estimate basis. The Ministry claimed that this was due to the COVID-19 pandemic. However, NAO could not understand the rationale behind this if the inspections were actually carried out. There is also no comparison between the 13,755 estimated inspections and those actually executed throughout 2020 which totalled 8,131.

Recommendations

MEWM is to ensure that it is only invoiced for services received in line with the respective agreement. In case of any errors, invoices are to be referred to the service provider concerned for the necessary revision. Payments are to be processed only following submission of the updated invoices.

Management Comments

As communicated from Management, this was presented as an estimated basis due to the COVID-19 pandemic. The communicated version indicated that an adjustment was to be carried out later in the year, which has now occurred.

Shortcomings with respect to Maintenance Services

Maintenance and repairs related to the infrastructure are also provided for in the agreement, at the fixed annual charge of €600,000. The following shortcomings were encountered:

a. As per section 3 in schedule 2, the aforementioned charge does not include maintenance for the infrastructure devolved to Local Councils[8]. However, a list of residential roads falling within the scope of this clause was not disclosed.

b. Invoices submitted by Enemalta P.L.C. for this specific service were not substantiated with relevant reports or details indicating the nature of defect, its complexity and whether any parts were replaced.

Recommendations

For the sake of good governance, the Ministry is to request a copy of the maintenance reports, including a detailed record of all works carried out. These can then be analysed to assess whether the amounts charged for are justified and whether these are yielding the desired results. This data can then be used when negotiating future agreements.

Management Comments

The Office of the Permanent Secretary (MESD) took note of the recommendation. A copy of the maintenance report will be requested to Enemalta P.L.C. as recommended. Again, together with the onsite requirements to vet such requests requires a new head count with engineering knowledge to mitigate these requirements.

Inconsistencies in the VAT Rates applied

Whilst reconciling the amounts invoiced with the applicable rates as quoted in the agreement, the following issues with respect to Value Added Tax (VAT) were encountered:

a. No reference was made in the agreement as to whether the charges quoted therein were inclusive or exclusive of VAT element. This should imply that VAT is inclusive. However, a flat rate of 5%[9] was applied by Enemalta P.L.C. over and above the contracted amount.

b. For the calculation of the revised maintenance service charge, the rate of €600,000 as disclosed in the agreement was taken to be VAT inclusive, thus resulting in an inconsistency in the application of indirect taxation.

Recommendations

MEWM is to ensure that entities falling under its portfolio apply the correct VAT rates. Thus, to minimise ambiguity and misunderstandings, it is important that the agreement clearly specifies whether the charges disclosed therein are inclusive or exclusive of indirect taxation. In case of any difficulties, in assessing the correct VAT rate to be applied, these are to be clarified with the Commissioner for Revenue.

[8] According to Management, two-thirds of the residential roads in Malta fall under the remit of the respective Local Council.
[9] The VAT rate applicable for inspection and maintenance services is that of 18%.

Management Comments

The Commissioner for Revenue will be consulted prior to the signing of the upcoming agreement, if deemed necessary.

General Management Comments

In addition to the specific comments disclosed under the related observation, throughout its reply Management repeatedly emphasised the following points:

a. *The Public Service Obligation Agreement was signed in 2014, under a different administration. MESD inherited this agreement from the then Ministry within the Office of the Prime Minister which was responsible for Energy and Projects and followed the terms specified therein.*

b. *The manpower required to increase internal controls is not currently*[10] *available. It is humanly impossible to carry out all these tasks on a regular basis but can only be done randomly. The Corporate Services Directorate is being assisted by a warranted engineer from the Energy and Water Agency to certify invoices correct. Furthermore, MESD human resources requests to increase the cohort of technical employees, including financial experts to specifically undertake these roles, were never approved by the Ministry for Finance.*

c. *The Office of the Permanent Secretary at MESD has been working on an improved Public Service Obligation Agreement for the last*[10] *six months. During these six months, it can be confirmed that MESD consulted the Budget Office, the Department of Contracts, the State Advocate and the State Aid Monitoring Board. The final version will only be signed following all the necessary approvals, including communication with the Commissioner for Revenue if so necessary.*

[10] Management comments submitted on 15 April 2021.

Enemed Co. Ltd.

Revenue and Receivables

An audit conducted at **Enemed Co. Ltd.** revealed that the provision for doubtful debts for its largest debtor was insufficient. Lack of formal repayment agreements, long outstanding receivables, as well as inconsistent or non-adherence to credit policy were also noted.

Background

Enemed Co. Ltd. is a limited liability company registered under the Companies Act (Cap. 386). The company was incorporated on 19 August 2014[1]. In October of the same year, the company purchased the petroleum business from Petromal Company Ltd.

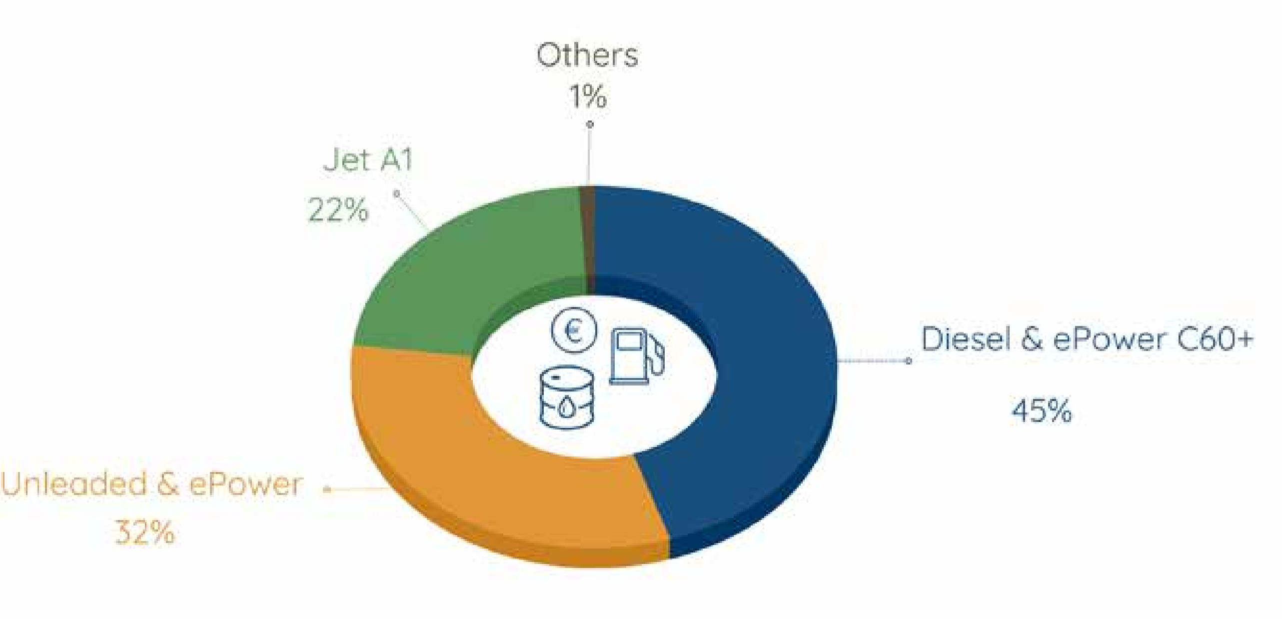
Enemed is ultimately owned and controlled by the Government of Malta[2] and falls under the responsibility of the Ministry for Energy, Enterprise and Sustainable Development[3]. The principal activity of the company is to purchase and distribute petroleum products, currently distributed to 79[4] petrol stations in Malta and Gozo. Furthermore, Enemed sells petroleum to aviation companies and is in the business of renting fuel storage facilities to third parties.

While the company is the only player in the petrol market, there is a competitive market for diesel and its ancillary products. In order for Enemed to continue operating in this challenging environment and increase its market share, in 2017, it introduced a franchise concept with a number of petrol stations in order to exclusively supply them with diesel products. As a result, Enemed had a three-year agreement with 29 petrol stations, which expired end January 2021. A new set of agreements was then issued to those petrol stations which had concluded the refurbishment process.

The December 2020 management accounts showed that the company's revenue for the year under review amounted to around €241 million; a decrease of almost €107 million over the prior year, primarily due to pandemic related matters. Revenue during 2020 was generated from the sale of an aggregate of around 295 million litres as shown in Chart 1.

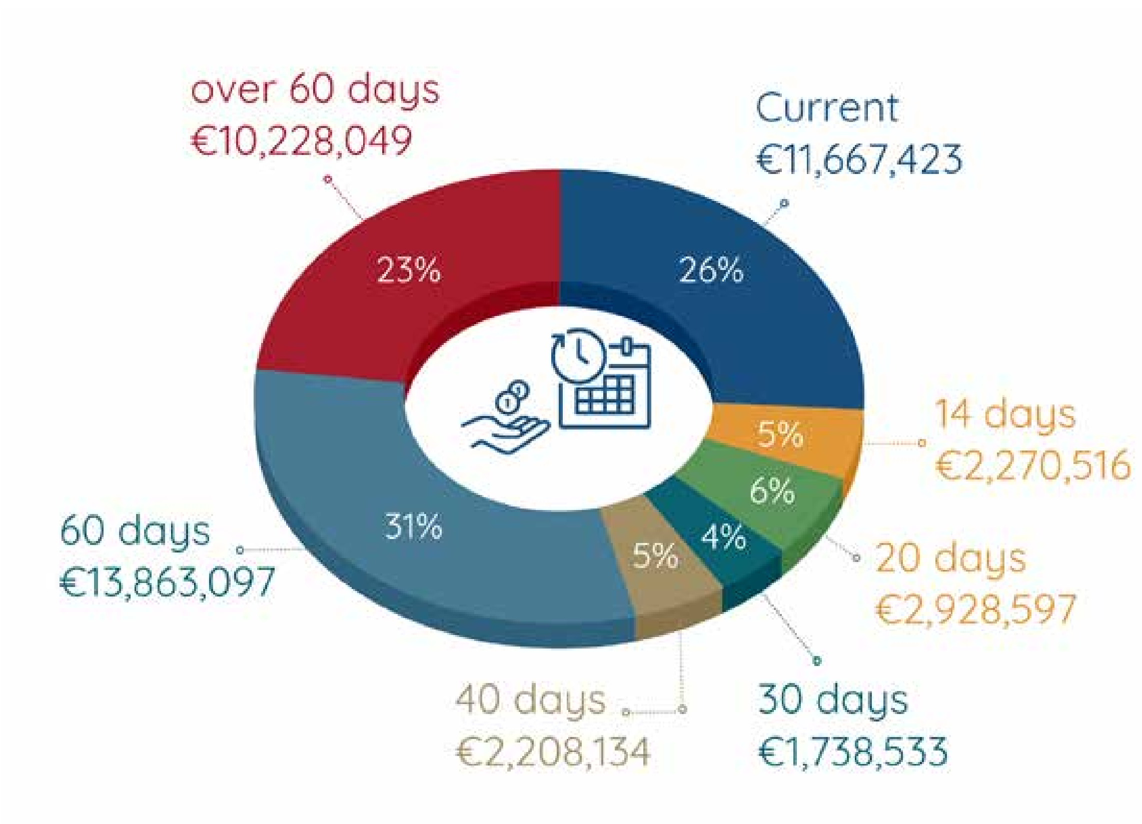
[1] The first day of the company's operation was on 1 September 2014.
[2] Enemed is a wholly owned subsidiary of the state-owned Petromal Company Ltd. Its Board of Directors, made up of an executive Chairman and six other Board members, is appointed by the Government, who is the company's sole shareholder.
[3] Previously known as the Ministry for Energy and Water Management.
[4] As per information obtained on 27 January 2021.

Chart 1: Revenue Analysis during 2020



According to the ageing of receivables for the year ended December 2020, from a total of €44.9 million receivables, €20.8 million (46%) were considered as recent balances (due for a period of up to 40 days). An analysis of the debtors' ageing is provided in Chart 2.

Chart 2: Debtors' Ageing as at 31 December 2020



Audit Scope and Methodology

The main objective of the audit was to determine the level of existing internal controls over the collection of revenue, ensuring that revenue was correctly recorded and processed.

Revenue

Since the company's revenue was very high, consisting of a large number of monthly transactions, the National Audit Office (NAO) opted for a system-based testing procedure. Detailed walkthrough procedures were performed for the sale of fuel, both in relation to petrol stations and jobbers[5], as well as for the sale of aviation fuel and income from storage facilities. This was supported by testing on a number of sampled transactions to confirm the systems in place.

The stock levels' monthly reconciliations, prepared and reviewed by two different officials within Enemed, were reviewed by NAO. Figures included in the monthly reconciliations were confirmed against the sales, as well as with the opening and closing stock figures as per the management accounts for 2020.

During year 2020, Enemed performed random inspections on the various petrol stations, by testing the samples for the brand marker[6] and the national marker[7]. NAO obtained the list of inspections carried out during the said year in order to verify that this procedure was being done by the Quality Assurance Department.

Receivables

Given that the company's receivables were deemed material, NAO went through the process of the different credit terms given by Enemed to various customers.

A number of queries were put forward regarding Enemed's largest debtor, including amongst others, whether a repayment plan was agreed upon by both parties in order to recoup the outstanding balance. Further testing was carried out on transactions for the period 2018 to 2021[8] to identify when payments were actually effected. Related information can be found in Chart 3 under Key Issue.

Due to their materiality, a sample of four debtors, each having a balance greater than €500,000, which was outstanding for a period of 40 days or less, was chosen. The remaining €24.1 million, being relatively long outstanding debtors (due for over 40 days), were identified, from which all the balances greater than €50,000, comprising 14 debtors, in aggregate amounting to €8.7 million, were selected for detailed substantive testing.

NAO also carried out an exercise to identify whether balances that were still outstanding at year-end were paid in the subsequent year. Information was obtained for the selected debtors up to 22 March 2021.

Additionally, the minutes of four Credit Control Board meetings, held between September 2020 and March 2021, were reviewed, whereby it was established that Enemed was in fact chasing the long outstanding debtors, often resorting to a repayment plan agreed with the debtor concerned.

Reference was also made to internal policies and procedures, including Petroleum Procurement Policy, Sales Receivable Cycle Procedure, Purchases and Payables (Petty Cash) Cycles Procedure and Credit Policy.

[5] Jobbers are those sales relating to fuel for industrial consumption, such as generators, bunkering or for quarries.

[6] These brand markers, invisible to the naked eye, provide the peace of mind that the end user is buying genuine Enemed fuels, and not any of the cheaper product mixes found on the market.

[7] The national marker confirms that duty has been paid on fuel.

[8] Up to 15 April 2021 when testing was carried out.

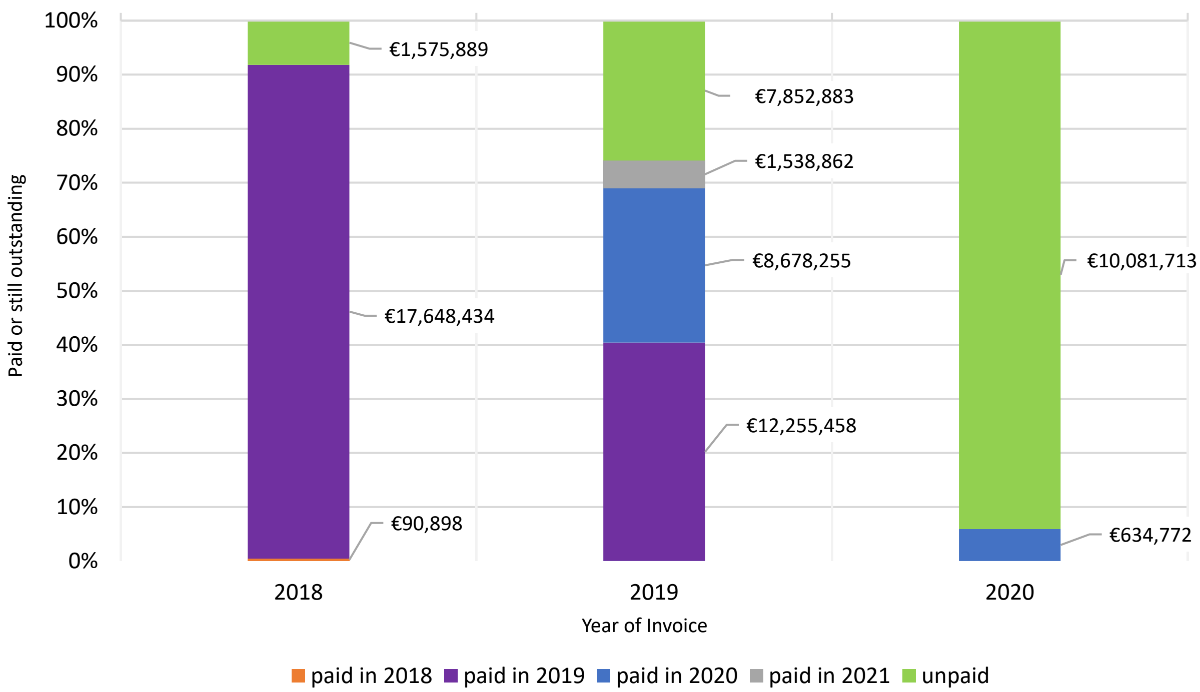
Key Issue

Insufficient Provision for Doubtful Debts

Enemed's largest debtor had a balance of €22,863,569 at year-end 2020, which represented 50.9% of the company's total debtors, relating to the period between 2014 and 2020. According to Enemed, both parties were in discussion with Government, being the debtor's shareholder, in order to obtain funding to settle its overdue balance.

It was observed that the debtor in question experienced a significant decrease in its payments during the year under review; the amount of €9.3 million was settled in 2020, while related payments in prior year totalled around €30 million. Chart 3 refers. Moreover, by mid-April 2021, only €1.5 million were in fact paid after year-end to clear the pending balance.

Chart 3: Debtor Invoices and Related Payments for the years 2018 – 2020



Notwithstanding this scenario, at end 2020, Enemed provided a total of €2,865,751[9] for doubtful debts pertaining to this debtor, representing around 12.5% of the balance due, which was considered substantially low.

Recommendation

Besides the impairment assessments that were being made vis-à-vis amounts due from this debtor, Enemed was encouraged to increase its related provision accordingly.

Management Comments

From discussions with Enemed's private auditors and following workings related to the International Financial Reporting Standard 9 – Financial Instruments, it was decided that the provision for doubtful debts had to be increased by around €500,000, thus bringing the total provision balance to around €3.3 million.

[9] This amount has been provided for between 2018 and 2020, including a monthly provision of €100,000 which has been taken since January 2020.

Control Issues

No Formal Repayment Agreements with Debtors

Enemed did not provide a list to substantiate all debtors having a repayment plan during 2020 and 2021. Only correspondence relating to three of its debtors, with all of them setting their own payment intention plans, was made available. However, the relative repayment terms were still not formalised by means of an official agreement, nor were any formal approvals given in this regard by Enemed.

Recommendation

Terms and conditions agreed upon with customers are to be clearly documented in a formal agreement approved by Enemed and signed by the other party, and subsequently filed accordingly.

Management Comments

A standard agreement, together with a formal repayment plan, will be drafted and implemented when any issues with late payments arise with a debtor.

Commission paid not covered by Agreement

A jobber received from Enemed an additional commission for every litre of fuel purchased from the latter. This represented a compensation for refuelling in his own bowsers rather than using Enemed's bowsers. No agreement was signed in this respect.

Recommendation

Special arrangements with customers are to be formalised for audit trail purposes.

Management Comments

The situation with this customer will be regularised through an agreement.

Agreement not signed

The three-year agreement between Enemed and a private company, covering the purchase of diesel with effect from 1 October 2019, was yet unsigned by end May 2021 when the audit was in progress. The reason given was that the new power of attorney from the client's end was still pending. Notwithstanding this, all invoices were processed and paid accordingly.

Recommendation

Agreements are to be duly signed and dated, in case of any future litigation.

Management Comments

This contract has been signed and the situation was thus rectified following the audit.

Non-adherence to Credit Policy and Inconsistent Credit Terms

Testing revealed that customers were not always paying within the period established by the applicable credit policy since, apart from the dues from Enemed's largest debtor as mentioned above, at end 2020, Enemed still had an additional €5.3 million[10] that had been outstanding for more than 30 days.

NAO also observed that the credit period on certain invoices did not reflect the terms of payment agreed upon between Enemed and the respective customer.

Recommendations

NAO acknowledges Enemed's efforts to take action on problematic debtors, also engaging a credit controller towards the end of 2020. However, Enemed needs to update its credit policy procedures ensuring that it covers all possible credit terms and when these are to be applied, following which, the established credit policy is to be invariably followed. Inconsistency in credit terms needs to be invariably avoided.

Management Comments

The company's credit policy is currently being reviewed. Once the policy is concluded, this will be presented to the Board of Directors for approval and will be followed accordingly with no exceptions. A review of all the contracts in place will be performed to ensure there is consistency between contracts and invoicing.

Long Outstanding Receivables

An analysis of the ageing of debtor balances as at end 2020 revealed three long outstanding receivables amounting to €2,249,470. According to Enemed officials, the respective debtors were either discussing a repayment plan or disputing certain invoices dating back to 2017.

Furthermore, although certain amounts were considered doubtful, a provision in this respect, in line with the matching and prudence concept, was not taken.

Recommendations

Enemed is to ensure that repayment arrangements are closely monitored. Any decision to withhold credit terms is expected to be applied to control outstanding amounts.

Management Comments

Significant efforts have been made to clear old balances and disputed invoices. The credit policy will include guidelines on actions that will need to be taken for similar situations.

Interest Rates for Late Payments not applied

Various franchise agreements and customer invoices stipulate that either 5% or 6% interest rate will be applied for late payments, starting from the day the amount becomes due till the payment is made, while the standard operating procedures for credit policy just mentioned a rate of 5%. However, testing showed that no interest was being applied for late payments.

[10] Made up of €1.87 million due for a period of up to 40 days, €2.3 million for up to 60 days, while the remaining €1.1 million were due for over 60 days.

Recommendation

The standard operating procedures should reflect the chargeable interest for late payments which is also to be included in the respective contracts. This will encourage customers to pay on time and avoid debt collection costs further along the line. Otherwise, when customers realise that interest is not being charged, they will abuse of their credit limits and postpone payments, with the risk of not being recouped.

Management Comments

This is a commercial decision which will be discussed internally and with the Board of Directors. Moving forward, any issues with debtors which may warrant the charging of interest will be discussed with the Board of Directors, and the customer will be charged accordingly. This will also be included in the credit policy.

Stock Reconciliations

Enemed officials verbally stated that the monthly stock reconciliations were prepared and reviewed by different individuals; however, this could not be verified since no proof of evidence was provided.

Furthermore, the reconciliations are prepared on the same spreadsheet month after month; thus, the risk of error or possibility of editing data.

Recommendations

It would be more appropriate if the monthly spreadsheet is signed independently by the preparer and the reviewer, by means of the signature setup function within the spreadsheet itself. This would ensure segregation of duties; while the preparation of the reconciliation helps prevent error and fraud, it is the review step that makes this procedure an internal control.

Once signed as reviewed, the document is to be dated. Any further changes would indicate that the document was edited and should be supported with an adequate explanation.

Management Comments

Recommendation will be taken on board and will be implemented as part of the management accounts process.

Ministry for Finance

Tax Relief Measure

Expenditure

An audit on the **Tax Relief Measure** operated by the Treasury in collaboration with the Office of the Commissioner for Revenue revealed that respective total expenditure in Financial Report 2020 was inadvertently not reported accurately by the former. Moreover, limited checking was carried out when calculating tax refunds that were triggered by complaints from individuals.

Background

A tax relief measure was announced each year since 2018, by the Minister for Finance. This measure was in the form of a tax refund given to all those employees who were working in the Maltese islands, including self-employed, and was based on the income of the individual, in relation to specific income brackets. The refunds were calculated according to the taxpayers' data provided by the Office of the Commissioner for Revenue (CfR). The highest amounts were granted to those with the lowest income levels.

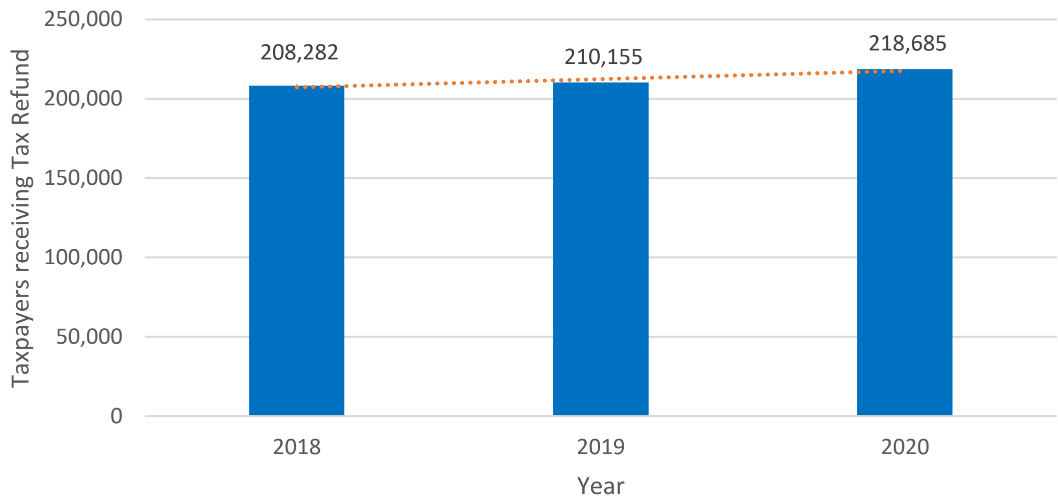
For 2020, the respective budget estimate under Vote 19 Line Item 5908 – Tax Relief Measure, amounted to €11,700,000, whilst actual expenditure in this regard totalled €11,894,046[1]. The aggregate shortfall was financed through the issue of a warrant and virements from other line items.

The data presented by the Malta Information Technology Agency to the Office of CfR during 2020 indicated that total taxpayers benefitting from this measure amounted to 211,887, comprising both filers and non-filers of tax returns. There were additional claims, totalling 6,798, received[2] by the Office of CfR which were also eventually issued with a tax refund. These mainly related to taxpayers who did not submit their respective return when the original set of data was generated.

The number of taxpayers receiving the tax refund during 2020 increased by 4% over the prior year, as can be further analysed in Chart 1. The annual increases over the last three years[3] reflect the progress experienced by the local economy in the preceding year due to increase in employment, including additional foreign workers who were also entitled to this measure.

[1] As later explained in more detail under the first Control Issue, total expenditure in the Financial Report 2020 was erroneously reported as €12,361,254 since cancelled cheques in aggregate amounting to €467,208 were mistakenly not deducted from this total.
[2] Data given as at 10 May 2021, being date when respective report was forwarded to NAO by the Office of CfR.
[3] Tax relief measures were based on the taxpayer's previous declared income and thus the 2018 to 2020 measures were computed on basis years 2016 to 2018.

Chart 1: Number of Taxpayers receiving the Tax Refund



(Source: Data provided by the Office of CfR)

Audit Scope and Methodology

The main scope of this audit was to assess the adequacy of the internal controls in place with respect to the estimation of amounts paid out as refunds in connection with the tax relief measure for year 2020.

The audit was conducted in accordance with generally accepted auditing standards. Planning and audit procedures were designed with the aim of obtaining reasonable assurance on the effectiveness of the system of internal controls adopted by both the Office of CfR and the Treasury in processing the respective refunds. To this effect, all data available relating to this measure was obtained from the foregoing two entities.

A reconciliation prepared by Treasury as at year-end 2020 was checked by the National Audit Office (NAO) against supporting documentation, including the reports from the accounting system, namely Corporate Financial Management Solution (CFMS) and the Financial Report 2020, as well as with data provided by the Office of CfR.

Statistics published by the National Statistics Office were also used to compare the above data with an independent source. Statistics[4] showing the average number of gainfully occupied (full-time) individuals during 2018, in addition to the average number of employed persons whose part-time was their primary occupation, were compared against the number of taxpayers who received the tax refund. No statistics were available showing how many of these gainfully occupied individuals exceeded the €60,000 threshold, thus not entitled to the tax relief compensation; so this data was obtained from the Office of CfR. The unreconciled difference was not material and was deemed reasonable.

Using the data provided by the Office of CfR, a uniqueness test of the taxpayer reference was carried out to identify any existing duplicate taxpayers in the dataset used for testing purposes. No anomalies were encountered.

Since there were no resulting exceptions in the filtered lists, the population was sorted by amount and three random payments were selected for testing from each of the different nine criteria[5] (amount of refund). A total of 27 payments from the original data set and 27 payments triggered by complaints were examined.

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[4] Obtained from NSO News Release 116/2020, including statistics as revised in July 2020 and being the latest release in this regard.

[5] The lowest amount of refund which amounted to €40, was paid in respect of two different criteria (single with income between €30,001 and €59,999, as well as parent with income between €30,001 and €59,999). A sample of six (double than for the other criteria) was selected from this group of individuals, since from the database available, NAO could not distinguish between these two different criteria.

Detailed checking included a confirmation that the tax return for year of assessment 2019 was submitted by the respective taxpayers. Details of the individuals, including their address, were verified. It was also confirmed that only one cheque per taxpayer was issued[6]. Moreover, the total income reported in the respective tax return, as well as the tax status of the sampled individuals, were checked and the tax refund was verified for accuracy. In cases of complaints, the reason for raising such claim was also examined.

Control Issues

Total Expenditure in Financial Report 2020 not accurately reported

Total expenditure for Line Item 5908 – Tax Relief Measure in the Financial Report 2020 was mistakenly reported by Treasury as being €12,361,254 instead of €11,894,046 since cancelled cheques totalling €467,208 were inadvertently not deducted from this total.

Treasury upheld NAO's observation and confirmed that there was an issue with CFMS' structured query language reports not capturing all the required data which resulted in the cancellations not being included in the figures used for the Financial Report 2020. Treasury eventually raised this concern with the service provider to resolve this issue.

Recommendation

Treasury is to ensure that the necessary checks are performed before the respective figures are published.

Management Comments

Treasury has always published the correct figures as generated from the accounting system. The figures have been captured from the cash-based reports. During the compilation of the Financial Report for 2020, some discrepancies were encountered which had to be analysed further and adjusted accordingly. Such revisions will be eventually reflected in the next Financial Report under the column previous year. These discrepancies were caused by a software issue related to CFMS' structured query language reports which failed to capture all the required data which resulted in the cancellations not being captured in the figures used for the Financial Report 2020. This issue has now[7] been resolved.

Limited Checking during Processing of Individual Payments

Limited checking was being carried out by the Office of CfR when calculating tax refunds deriving from complaints by individuals.

Substantive testing revealed that the parent rate was used instead of the married rate when calculating the tax refund related to one of the sampled complaints. Although not material, this error could have been avoided had double checking of the tax refund amount been done. The Office of CfR upheld this observation, stating that limited checking was due to lack of adequate human resources.

[6] If more than one cheque was issued, it was ensured that the previous one was cancelled.
[7] Management comments submitted on 2 September 2021.

Recommendation

Controls are to be enhanced to mitigate human error. The four eyes principle[8] is ideally to be applied by the Office of CfR to ensure accuracy of the amounts paid.

Management Comments

The Office of CfR agrees with NAO's recommendation and it will adopt this approach going forward.

General Comments

Documentation requested was always submitted in a timely manner and officers involved during meetings and onsite visits, both at Treasury and the Office of CfR, were very cooperative and knowledgeable on the respective area of work.

No issues were noted with respect to tax refunds issued through the normal refund procedure.

[8] The four eyes principle means that each procedure or checking must be approved by at least two officials. This controlling mechanism is used to facilitate delegation of authority and increase transparency.

Customs

Revenue

An audit on revenue collected by **Customs** revealed lack of timely enforcement on amounts outstanding. Furthermore, inaccurate balances were reported in the Arrears of Revenue Return submitted to Treasury.

Background

The Department of Customs within the then Ministry for Finance[1], is entrusted with the control of imports and exports of goods, as well as for the collection of the respective taxes and duties, as mandated through the relevant legislation. It also has a multi-functional border agency role with specific focus on trade facilitation, alongside security and safety borders controls.

Financial Analysis

According to the Financial Estimates, in 2020, approximately €350,140,000 was to be collected from import and excise duties. However, repercussions of COVID-19 pandemic on the economy, had a material negative impact on general consumption. This also affected the actual revenue which, as per the Departmental Accounting System was €264,415,649, 41% and 31% of which derived from excise duty on petroleum and machine-made cigarettes respectively. Comparison against the income generated in the prior four years, is shown in Table 1 and Chart 1.

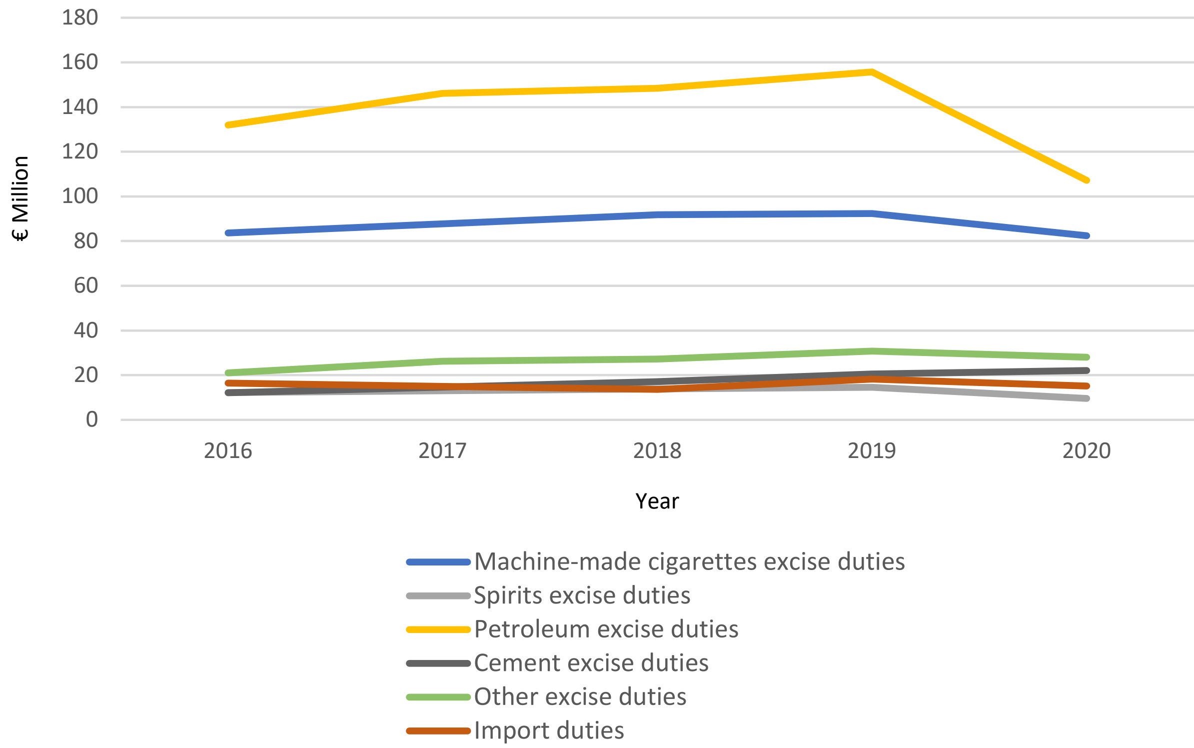
Table 1: Trend Analysis of Excise and Import Duties Revenue (2016 to 2020)

Revenue Item	2016	2017	2018	2019	2020
	€	€	€	€	€
Total Excise Duties	**261,038,870**	**288,027,020**	**298,509,130**	**313,887,190**	**249,294,322**
of which:					
Petroleum	131,944,794	146,221,970	148,411,071	155,722,299	107,196,383
Machine-made cigarettes	83,729,033	87,802,844	91,861,147	92,346,339	82,423,588
Total Import Duties	**16,467,538**	**15,059,414**	**13,632,817**	**18,235,968**	**15,121,327**
Grand Totals	**277,506,408**	**303,086,434**	**312,141,947**	**332,123,158**	**264,415,649**

(Source: 2016 and 2017: Financial Report 2017 page 6; 2018 and 2019: Financial Report 2019 page 6; 2020: Departmental Accounting System)

[1] As per Financial Estimates 2021, known as the Ministry for Finance and Employment.

Chart 1: Trend Analysis of the major Revenue Items (2016 to 2020)



(Source: 2016 and 2017: Financial Report 2017 page 6; 2018 and 2019: Financial Report 2019 page 6; 2020: Departmental Accounting System)

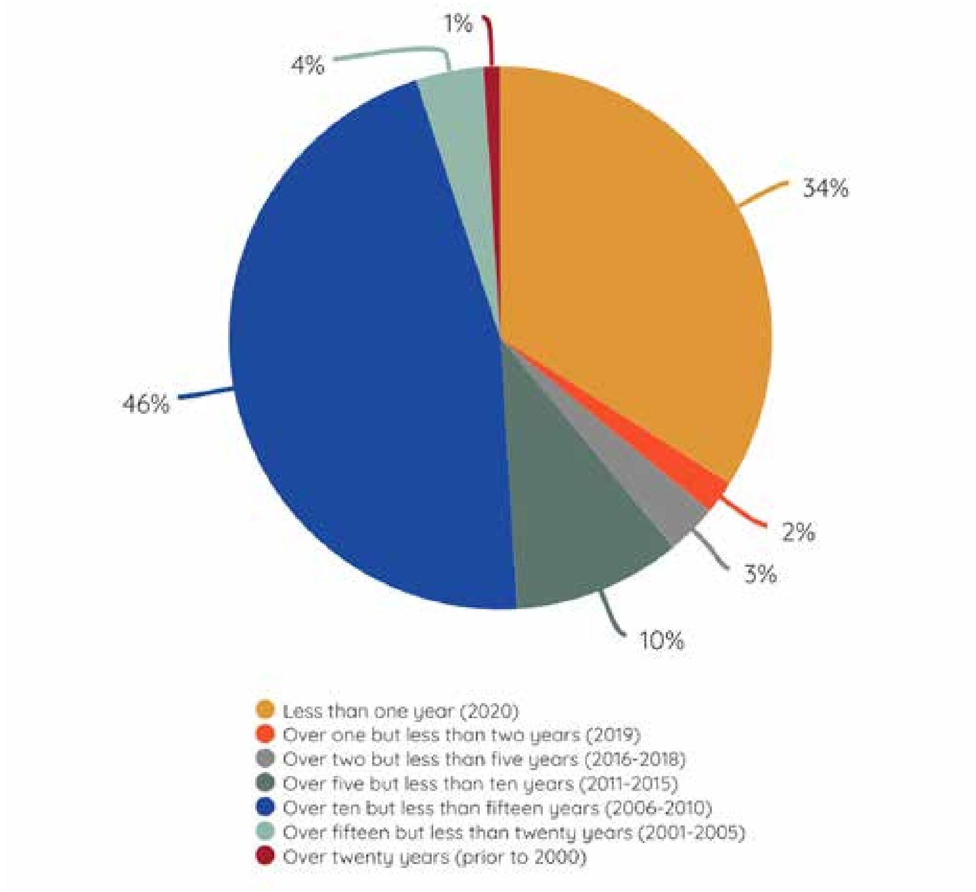
Amounts Receivable

An audit conducted by the National Audit Office (NAO) on the debtors and prepayments reported by the Customs at year-end 2019 revealed an inadequate record-keeping system by the latter. Thus, the opening balance of amounts payable was not deemed to be reliable. Moreover, certain debtors' balances could not be validated during the foregoing audit.

This Office observed that for the first time, to compile the 2020 Arrears of Revenue Return (ARR), initial meetings were held towards the end of year in question, between the Accounting and Finance Section within Customs and each of the respective Unit Heads, during which the former explained what information needs to be reported during the compilation of ARR.

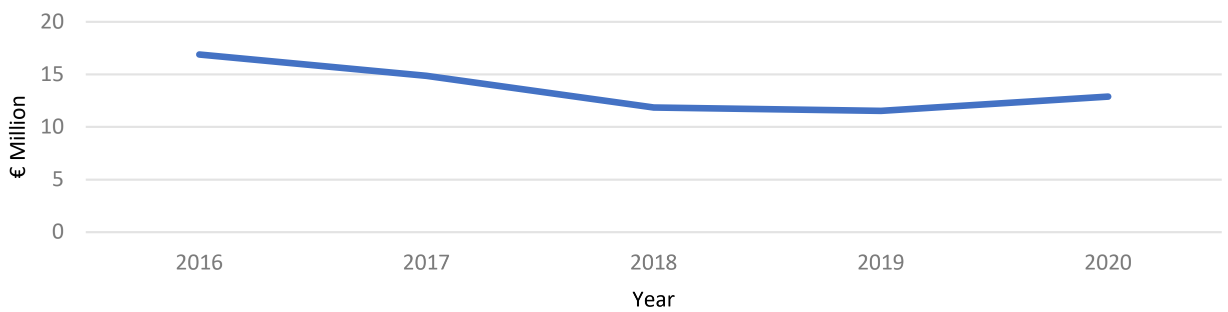
The net closing balance reported by the Department in its ARR at year ending 2020 amounted to €12,886,815. Of this amount, €5,906,743, i.e., 46%, was due between 10 and 15 years. An analysis of the ageing of the net collectable amounts is given in Chart 2.

Chart 2: Net Collectable Arrears' Ageing as at 31 December 2020



The balance of net collectable arrears as at 31 December 2020 increased by 12% when compared to prior year, following three yearly decreases between 2016 to 2019. The net closing balance against the previous four years is presented in Chart 3.

Chart 3: Trend Analysis of Net Collectable Arrears (2016 to 2020)



(Source: 2016 to 2019: Reports by the Auditor General on the Public Accounts 2016 to 2019; 2020: ARR submitted by Customs to Treasury)

Accrued income as at 31 December 2020 amounted to €49,822,360, the major part of which related to excise duty on fuel due from the Department's biggest customer.

Audit Scope and Methodology

The main scope of the audit was to determine the level of internal controls over the collection of revenue due to Government from import and excise duties, ensuring that this was being maximised.

An introductory meeting was held with the Director General, Director Finance and Administration, Officer in Scale 6, as well as Customs' Advisor to discuss audit objectives and to obtain a general understanding of the revenue cycle across different sections within the Department in connection with import and excise duties. Several other meetings were held with senior officials to obtain a good understanding on the following areas:

- Compliance and systems, including import duties
- Excise duty on energy products
- Rebates on energy products
- Excise duty on manufactured tobacco, including machine-made cigarettes
- Excise duty on alcohol products
- Excise duty on non-harmonised goods
- Enforcement
- Cash office
- Information technology systems in place[2]
- Arrears of revenue and accrued income

A systems overview for each main procedure was conducted to assess the internal controls in place and to identify any potential risks and concerns in relation to revenue collection. A total of 20 standard operating procedures in place at the Department were also reviewed.

Detailed substantive testing focused on all revenue falling in arrears. Areas where amounts were considered material and for which several inherent and controls risks have been identified, were recommended for specific future audits.

Key Issues

Amounts due from Merchants remaining Outstanding

In line with the Department's official practice, the latter is reimbursed for services rendered by its officers where the goods are presented to Customs for checking at a place other than an approved landing place[3]. Containers are subsequently released following a request for payment either through settlement immediately or through a demand for payment being sent thereafter.

On average, there is approximately €700,000 of newly accrued revenue in this respect every year. Total amount due at end 2020 was €898,360, out of which €196,115 was due for more than one year, some of which were due for more than 20 years.

According to the Department, chasing of overdue amounts is first done through telephone calls and emails, followed by three official reminders, with the last one notifying the debtor of legal action[4]. However, Customs does not compile statistics or reports of collection efforts made in this respect.

[2] NAO Information Technology Section has assisted the audit team during such meeting.

[3] Selected consignments are inspected by Customs for control purposes. Services rendered before or after the official office hours, during weekends or public holidays, or at any time or day of the year where the goods are presented to Customs at a place other than an approved landing place, as shown in the First Schedule of the Customs Ordinance (Cap. 37), are carried out at the expense of the economic operator by making an application in writing on the approved Customs Form No. 12 (Merchant's request). This function applies for imports, exports and any other Customs procedure.

[4] The Enforcement Section in collaboration with the Legal Office may also perform official visits at the trader's address.

The Department managed to curtail the risk of defaulters where merchants request service outside normal hours, by amending Regulation 45 of the Customs Regulations (S.L. 37.05) on 16 April 2021 through the Budgetary and other Measures Implementation Act (Act XVIII of 2021). The Commissioner for Revenue may now take the necessary administrative and procedural measures if the payment for the service of attendance of a Customs official remains unpaid after notification is sent by registered post in the last known address in Malta. This may also include not giving Customs service to the debtor in the case of repeated defaulters.

Recommendations

Customs is to consider the introduction of online payments to be made instantly before a container is released. Moreover, enforcement is to be made in line with the new regulation in a timely manner to recoup all amounts outstanding. Keeping a record to this effect is also recommended.

Management Comments

The end of year 2020 balance is the result of the COVID-19 pandemic scenario whereby traders may have finished the year seriously cash strapped. The situation is returning to normal during 2021[5] *even through the enforcement measures applied by Customs.*

Online payment arrangements are not yet commonly used by traders. This notwithstanding, the Department has opened another account with each of the main five commercial banks in Malta for the purpose of receiving internet banking settlement of dues of merchants' requests. The respectve bank account number is being featured in the request for payment sent by Customs to traders.

In the meantime, it is being ensured that enforcement, in line with the recent Customs Regulations' amendment, is conducted in a timely manner, thus ascertaining that dues by the same defaulters do not occur.

Inaccurate Estimation of Amount considered as not Collectable

From the gross aggregate receivables of €12,895,364 at end 2020, only an amount of €8,549 was indicated under 'estimated as not collectable' in ARR, notwithstanding that 64% of the closing balance has been due for more than two years and over €8.3 million is under contestation. NAO did not deem that this provision for doubtful debts as adequate since it did not even cover the balance that has been outstanding for over 20 years.

According to the Department, all amounts pending court cases are considered as collectable unless otherwise decided by the courts. However, this approach goes against the prudence concept.

Recommendations

An analysis of the amounts in question is to be carried out, establishing the likelihood of collectability. A full provision is expected to be taken to cover outstanding balances pertaining to deceased persons, companies which are defunct or have been struck off, companies in liquidation, as well as for those amounts that are time-barred. When all avenues for recoupment are exhausted, Customs is to seek legal advice and discuss the way forward with the Ministry for Finance and Employment (MFE).

A policy detailing a procedure for the structured and controlled clearance of arrears certified as uncollectable is then to be prepared and circulated. The provision for doubtful debts should be based on the established management policy, in line with international accounting requirements. This provision is to be reviewed periodically in order to assess its adequacy and amended accordingly.

[5] Management comments were received on 28 September 2021.

Management Comments

All cases, in respect of which no remedy remains available for the Department to recoup arrears, are classified as uncollectable. These are either written off by Customs Director General, in the event the amount does not exceed €2,500 or sent to MFE with concrete argumentation and background requesting write-off approval. In such cases, it is at MFE's discretion whether approval is granted.

Since Customs does not operate on commercial basis, unless it is so directed to do, it does not classify dues which may still possibly be collected as uncollectable. The Department argues that, where amounts are reported and classified as not collectable, the danger exists that the efforts for collection may possibly be reduced or eliminated. Hence, in the Department's opinion, it is not correct to report, for example, contestations and court cases as not collectable amounts.

Lack of Timely Enforcement Action

A total of €245,279[6], not marked as pending court action, pertained to excise duty from six different debtors, ranging between 10 and 20 years earlier. Files in respect of four of these cases, in aggregate amounting to €161,121 were not traced by Customs; thus, could not be investigated and appropriate action taken. Lack of timely enforcement action was noted in respect of the other two balances, amounting to €72,679 and €11,479, dated 2005 and 2002 respectively.

Testing also revealed two other outstanding balances, totalling €8,679, classified under the Administrative Support and Investigations Unit[7], which were due for over 20 years. According to the Department, the respective files were forwarded to the Attorney General, back in 1998 and 2008 respectively, to initiate legal proceedings to recoup the amounts due, but no further details were made available.

Recommendation

Timely enforcement action is to be taken by Management to avoid additional amounts falling in arrears.

Management Comments

The Department, apart from intensifying its efforts to recoup existing arrears, is also embarking on legislative amendments that either deter traders from defaulting (preventive measures) or lead to early recoupment of arrears, even in the event that traders persist in non-settlement (corrective measures).

In this regard, apart from the amendment to the Customs Regulations, further legislation amendments have been drafted authorising Customs to seize and dispose of defaulting traders' merchandise to compensate for the amounts due to the Department. These amendments are intended to feature in the new Enforcement Measures Regulations, within the Import Duties Act (Cap. 337). To date, such provisions only existed in Article 38 of the Excise Duty Act (Cap. 382). These new enforcement measures are being evaluated by MFE.

Inaccurate Arrears of Revenue Return

Prompted by the review conducted and the ensuing queries made by NAO, it transpired that the net collectable arrears of revenue amount of €12,490,293, originally quoted at the end of 2020, was understated by €396,522. This comprised €414,630 on account of 15 cases which had not been included in past returns, €1,402 which had been settled on 15 November 2019 but still reported as revenue in arrears, as well as €16,706 which was double

[6] Out of which a balance of €1,735 was written off in January 2021 as this was erroneously declared as part of arrears in the past years.
[7] This Unit was functioning till 22 March 2021, after which its operations were absorbed by other sections within Customs.

reported by different sections. The necessary adjustments were subsequently carried out and the revised figure was eventually reported accordingly.

Recommendations

Proper periodic review of arrears of revenue data is to be performed to ensure accurate balances are reported to the Treasury. New procedures need to be introduced within the Department, to ensure that a particular case cannot be simultaneously accounted for by more than one section.

Management Comments

Action has already been taken to ensure that no amount or case is reported simultaneously by different sections. A set of guiding principles has been circulated to be included in the standard operating procedures of the respective units, thereby rendering them as part and parcel of the procedure practiced by the sections involved in the compilation of the annual ARR.

Control Issues

Clearance of the Suspense Account not performed

Any tax due on merchandise that is on hold for inspection is allocated to a suspense account until the goods are released. Once the merchandise is inspected and the status of the merchandise is updated in the Customs National Import System, the amount of tax due is then calculated and transferred electronically to the Cash Office System and eventually recorded as revenue once it is collected. The Customs officer is obliged to inform the Cash Office to settle the amount pertaining to the released declaration against the respective suspense account. The duty paid is then transferred to the appropriate revenue accounts (import duty, excise duty, VAT).

No further checking is being made to ensure completeness of the process when then there is the go ahead that the goods can be released for free circulation. Consequently, several entries in the suspense account are overlooked and the respective amounts paid remain pending therein. This implies that the amounts in question are not accounted for as revenue in the appropriate categories in the accounting system. Furthermore, the amounts in question do not feature in the Consolidated Fund but are transferred to a below-the-line account as Other Deposits. These amounts totalled to €5,452,995 as at 31 May 2021, with some declarations dating back from 2008[8].

Recommendation

Whilst NAO acknowledges the difficulties encountered to complete this exercise, Management is to pursue its plans to resolve the existing impasse.

Management Comments

The Department has set up a new Section responsible for the monitoring of the suspense account and unsettled declarations in the Accounting Module of the Customs Electronic System and is already functioning. It is currently[9] run by one person and the Department is committed to add new personnel at the beginning of 2022. Due to the complexity of these tasks, the individuals selected need to be experienced Customs officials with a general knowledge of all sections and Customs' processes.

[8] The observation here is of transactions posting (amounts have not passed to revenue yet), not about actual cash.
[9] Management comments submitted on 28 September 2021.

The main functions and responsibilities of this Section are:

- *To ensure that amounts paid in the traders' suspense accounts are transferred to the Government revenue account following the release of the goods.*

- *The monitoring of all Customs imports declarations to ascertain that all applicable taxes have been collected after release of the consignments.*

- *To confirm that all entries submitted are effectively in goods released status after completion of the temporary storage procedure.*

- *To ensure that goods placed under temporary storage do not exceed a period of 90 days and to ascertain that, when this period ends without the goods being placed under a Customs procedure or re-exported, the goods are taken over by Customs.*

In respect of already existing cases, an encouraging progress has been already achieved in the short time during which the Section has been up and running.

Guarantees not sufficient to cover Potential Unpaid Duty

Article 10(1)(a) of the Excise Duty Act (Cap. 382) states that an authorised tax warehouse keeper shall be required to provide a guarantee as part of the process for the statutory registration. The guarantee amount is dependent on the trader's throughput[10] and is calculated following the scrutiny of the required documents. The final guarantee amount is endorsed by the Director General. Existing guarantees relating to excise duty totalled 160, with an aggregate value of €18,839,405 and representing 8% of revenue collected from excise duties in 2020.

During the audit, the Department raised concerns with NAO that guarantees, especially those old dated, may not be sufficient to cover the unpaid duty, in particular the excise due on energy products. To this effect, Customs was in the process of performing an exercise through which long standing guarantees were being revised to reflect the present financial turnover of the respective traders.

The Department is also in the process of setting up a unit to be responsible for monitoring the amounts specified in the respective guarantees and to examine if operators satisfy the conditions mentioned in the legislation to benefit from a level of reduction in the guarantee value or waiver thereof and, where necessary, to revise and/or adjust the guarantee amount accordingly.

Recommendations

Customs is to continue with the exercise through which long standing guarantees are being revised to reflect the actual financial turnover of applicant traders over a particular year.

The setting up of the specialised unit should also help in the timely collection of debts thus avoiding amounts due by traders remaining unrecouped.

Management Comments

The Department has already revised and updated many old guarantees which were not sufficient to cover endangered taxes. This is an ongoing process. In addition, where a company is no longer in operation and where no taxes were due, the trader was authorised to retrieve the amount indicated on the bank guarantee.

[10] Throughput is the amount of a product or service that a company can produce and deliver to a client within a specified period of time.

The setting up of the specialised Guarantees Section, which is envisaged to start its operations at the end of the first quarter of 2022, should assist in avoiding amounts remaining due to the Department and follow up any penalties imposed on traders. Bank guarantees and bonded warehouses are to be segregated from one another to be more fluid, accurate and for the sake of transparency. This unit will be composed of two Customs officials. The Guarantees Section is meant to:

- *be the sole authority on all matters relating to guarantees;*
- *be responsible for establishing the reference amount of a comprehensive guarantee; and*
- *monitor this reference amount.*

It is the task of this Section to ascertain whether operators satisfy the conditions mentioned in the legislation, thus benefitting from a level of reduction or waiver of the reference amount and, where necessary, to revise and/or adjust the reference amount. In preparation thereof, thorough training is intended to commence at the end of the third quarter of 2021.

Lack of Control over Consignments held at the Local Postal Service Company

Customs is present at the local postal operator's main office to perform inspection and release parcels arriving from outside the European Union, but only between 07:00 and 20:00[11], although work at the post office is still ongoing after such time. Since the operator is a public limited company, the Department has no control over the consignments held at the former and thus cannot scrutinise all items. Moreover, the operator's tracking system was not made accessible to the Department and no audit trail was available, thus increasing the risk of incompleteness of revenue from duty. Furthermore, given that the parcels are not always registered, traceability is lacking.

The Department tried to address these issues with the operator quite a few times in past years, but the situation prevailed. NAO was informed that a meeting was also held in 2016 between the then Ministry for Finance, the local postal service company and Customs. Officials from the Department confirmed that as from beginning July 2021, the operator's system[12] was fully integrated with the Customs National Import System; thus, from there on, all declarations can be made electronically.

Recommendation

The Department is now to ensure that the benefits derived from the new integrated system are being delivered to the full and the necessary checks and monitoring are performed.

Management Comments

The local postal service company has made a full commitment, and is honouring this commitment, to ensure that, from 1 July 2021, the system-to-system concept was introduced for low value consignments. This means that the operator's system is now fully integrated with the Customs National Import System. It implies that, to some extent, Customs is more confident that all imported goods are declared. However, admittedly, there remains an element of lack of adequate audit trail. For example, there was a case where taxes were collected by the operator from the consignee. However, an import declaration was never declared and therefore the taxes collected were not forwarded to the Department until the latter brought the matter to the attention of the operator. Customs is constantly on the alert on such issues and in such circumstances.

[11] Until end of year 2020, operating hours were from 06:00 to 22:00; however, these have changed at the request of the operator due to a change in flight schedules. The purpose of the change was also to ensure that, during the core hours, Customs was represented by more staff.

[12] Messages from the system are used to communicate attribute information about postal items. An origin postal operator collects postal item data and transmits this in electronic data interchange messages to the destination postal operator, to be used for transport security and Customs clearance purposes.

It is imperative to point out that the Department exerts every effort to ensure the best possible monitoring and audit trail. However, unfortunately, the Department may never put its mind at rest that all the goods are presented to Customs because that is something totally beyond the Department's control. This notwithstanding, Customs may make sure that the goods reported in the Customs National Import System are presented to the Department if they are selected by Customs for inspection. Nevertheless, the Department may never know if certain shipments are not declared.

No Internal Audit Unit within the Department

Within the Department there is an Internal Audit Board chaired by the Director General. Its aim is mainly to oversee that the main procedures of the Department, that is to ensure that they are documented, and according to law. The Board's work is pro-active and does not audit any events which have taken place. Any concerns which need to be investigated further are then forwarded to the Internal Audit and Investigations Department. Thus, even though revenue from the collection of import and excise duties is a major source of revenue for Government, Customs does not have its internal audit unit.

As stated by the Department, in December 2020, the foregoing formally requested the Internal Audit and Investigations Department to carry out an internal audit specifically on the functions of the Cash Office. Internal audits within the Accounts Section and Parcel Post Section were also proposed.

Recommendations

The Chairman of the Internal Audit Board is expected to be independent from the Management.

It is also recommended that Customs considers the setting up of an internal audit section to help protect assets under its possession and reduce the possibility of fraud, improve efficiency in operations, increase financial reliability and integrity, ensure compliance with laws and statutory regulations, as well as to establish monitoring procedures.

Management Comments

Taking on board NAO's suggestion regarding the chairmanship of the Internal Audit Board, the Department intends to restructure the composition of the Internal Audit Board so that, apart from the Customs Director General not retaining the chair, as much as possible, no member of Customs Management will be represented on the Internal Audit Board. The newly structured Board may come into place toward the beginning of 2022, following the filling of all Managerial posts, since Customs intends to exclude all Customs Management from forming part of Customs' Internal Audit Board, thus going beyond NAO's recommendation of only the Chairman of the Internal Audit Board to be independent from Management.

As regards NAO's recommendation that Customs should consider the setting up of an internal audit section, the Department believes that the existing Board, as differently set up will suffice and there is no need for, additionally, such a specific unit. Customs believes that the creation of yet another section within the Department is not justified, given that a fully-fledged Verification and Audit Section already exists for the purpose of post-clearance auditing of economic operators' declarations. In addition, the regular Management meetings, involving all Directors, Assistant Directors, Chief Inspectors and information technology senior officials, and held without fail under the chairmanship of Customs Director General, may address the other purposes being indicated by NAO in respect of the suggested new section.

Malta Stock Exchange

Revenue

The procedures and internal controls in relation to the areas tested at the **Malta Stock Exchange** were found to be adequate and in sound operation.

Background

The Malta Stock Exchange (MSE) is a public limited company run on a commercial basis, with full shareholding ownership by the Government of Malta. The Exchange aims to facilitate capital formation in the public and private sector by developing and operating a liquid, efficient and fair securities market for the ultimate benefit of issuer and investors, whilst adding value to its shareholder.

According to the management accounts provided, MSE recorded a revenue of €7,008,220 for the year 2020, against a budgeted total income of €6,878,900. Revenue reported by the Exchange in its audited financial statements for the preceding year amounted to €7,060,281.

Audit Scope and Methodology

The main scope of the audit was to determine the level of existing controls over the collection of revenue from listing and register fees, ensuring that amounts collected are correctly recorded and processed by MSE, as well as that the amendments[1] to the Central Securities Depository (CSD)[2] are properly recorded.

An introductory meeting was held with MSE Management to discuss the audit objectives, as well as to obtain a general understanding of the operations of the Exchange. During the audit, further meetings were held, and information was obtained from various officials as necessary. Minutes of the Audit Committee meetings of the past two years were also reviewed.

Systems overview and walkthrough tests for each major revenue item, which included manual intervention, were conducted to assess the internal controls in place and the risks involved. Revenue items reviewed included annual listing fees, initial register fees, deeds of donation, releases of estate and off-market transfers. A total of five accounting entries were reviewed, comprising two fees and twenty-two transfers.

[1] Off-market transfers (such as amalgamation of MSE's accounts of same client and transfers between spouses), deed of donations and release of estates.
[2] CSD provides a number of specialised securities administration and related corporate services, including new issue registration and custodial services.

Annual Listing and Initial Register Fees

The National Audit Office reviewed the documentation relating to one annual listing fee and one initial register fee to confirm that the amount paid by the customer was in accordance with Exchange Notice 1[3], and that the four eyes principle[4] was applied by the Finance section during its calculation and process of the respective invoices. The related payments were traced to bank statements.

Deeds of Donation, Releases of Estate and Off-market Transfers

Ascertained that all required documentation in respect of the sampled 22 transfers were submitted by the clients or their representatives, and that CSD's procedures in place, including the four eyes principle, were followed. Fees due on these transfers were also recalculated and traced to the respective bank statements. It was also verified that the applicable registration advices were issued to all the transferors and transferees, and that CSD's register was updated accordingly.

Following walkthrough testing, no further tests of control were deemed necessary since no major risks were identified.

General Comments

Documentation requested was always submitted in a timely manner and officers involved during this audit assignment were very cooperative and knowledgeable on the respective area of work. This Office satisfactorily noted that detailed standard operating procedures, covering the processes within the Exchange, were in place.

No internal control weaknesses or other concerns were noted during the testing carried out.

General Management Comments

MSE satisfactorily noted the conclusions set out in the Management Letter. It is the intention of the Exchange Board and Management to ensure that its systems, controls and procedures remain robust, as well as, ensure that these controls are maintained and strengthened where necessary through proper monitoring on a continuous basis.

[3] Latest fees and charges issued by MSE in March 2019, in exercise of the powers conferred on it by the Financial Markets Act, and publicly available on its website.

[4] Each transaction must be approved by at least two officers. This controlling mechanism is used to facilitate delegation of authority and increase transparency.

Ministry for Tourism

Ministry for Tourism

Expenditure

An audit of the **Ministry for Tourism** covering contractual and professional services revealed that, amongst other issues, the Public Procurement Regulations were not always followed. Several amounts of expenditure in the nominal ledger were also misallocated, thus rendering the respective data unreliable.

Background

The Ministry for Tourism (MoT) is responsible to establish and execute a tourism policy, based on the principles of sustainable tourism development, that not only supports economic growth but also respects the heritage and environment of the Maltese islands. Hence, MoT plays a crucial role in formulating, implementing and reviewing tourism policies in collaboration with key stakeholders, as well as in promoting the country as an international tourism destination of choice.

To carry out its functions, for financial year 2020, the respective Ministry was allocated an overall budget of €123,213,000 under Vote 24 as detailed in Table 1.

Table 1: Estimate Amount of Expenditure

Recurrent Expenditure	Amount €
Personal Emoluments	2,845,000
Operational and Maintenance Expenses	3,042,000
Programmes and Initiatives	18,896,000
Contributions to Government Entities	98,430,000
Total	**123,213,000**

This Ministry was one of the pilot projects which, as from the beginning of financial year 2020, started accounting on accrual basis using the new accounting package, namely Corporate Financial Management Solution (CFMS).

Audit Scope and Methodology

The main scope of the audit was to determine the level of internal controls over expenditure incurred on contractual and professional services which, by end of September 2020, amounted to a net figure of €2,397,059[1]. Other audit objectives were to assess:

[1] As per data posted in CFMS under professional and contractual services, covering period January to September 2020, for the two cost centres under MoT, namely 114 (Ministry) and 115 (Permanent Secretary's Office). Data was filtered by work order Z999-99.

- that public funds were utilised in a cost-effective manner;
- the reliability and adequacy of information available for decision-making purposes, ensuring that expenditure is accurately posted; and
- accountability and compliance with standing laws, regulations, policies and procedures.

To achieve the audit objectives, desktop research and a number of meetings with key personnel were held between October and December 2020, in order to obtain an understanding of the relevant policies in place and procedures adopted.

The audit was conducted in accordance with generally accepted auditing standards. Sample selected was qualitative, thus not designed to gather data on the frequency of error in the population as a whole, but to ensure compliance with standing regulations and to identify ways through which current practices could be improved.

A total of 86 transactions, bearing an aggregate value of €1,036,812[2] (i.e., 76% of the entire expenses recorded under professional and contractual services accounts) were scrutinised and audit trail was analysed from inception up to the final payment.

The Ministry is registered as exempt without credit for VAT purposes. Hence, it is also responsible to pay VAT on services rendered by companies established overseas. Payments, totalling €149,977, forwarded to the Commissioner for Revenue in respect of such services were assessed.

During 2019, the Ministry launched a process to investigate alleged cases of injustices with Air Malta employees which had taken place specifically between 2014 and 2017. In this regard policies in place for the composition of the Grievance Board and the procedure that ensued up to the settlement of the 10 sampled transactions, reflecting compensation to the respective individuals totalling €80,221[3], (9% of the aggregate amount of recompenses paid during 2020) were tested.

The audit sample also comprised transactions pertaining to another 12 service providers selected randomly following stratification, on the basis of materiality.

Limitation on Scope of Audit

Prior to the reshuffling of Ministerial portfolios in January 2020, the Bureau of Air Accident Investigation was under the remit of MoT but was subsequently reallocated under the Ministry for Transport, Infrastructure and Capital Projects. However, for 2020, the financial allocation provided to the Bureau was still incorporated under MoT's vote, thus the respective payments for expenditure were effected by the latter. However, a copy of the sampled invoices related to the Bureau of Air Accident Investigation and reply to audit queries were not provided by the Ministry concerned for verification purposes.

Disclaimer

During the audit process a substantial amount of misallocations were encountered. MoT confirmed that unless funds were available in the respective nominal account, an invoice could not be posted. Thus, since the transfer of funds between accounts in CFMS could only be executed by the Treasury, the Ministry was bypassing this feature to hasten the process by posting expenses in accounts where funds were available, irrespective of the nature of expenditure incurred. Hence, it could not be ascertained that the audited population was complete, since related expenditure could have been posted to other line items which were not under review.

[2] Selected sample was based on a data set provided by the Ministry since, at the time, NAO did not have access to CFMS.
[3] Compensation paid out of the Professional Services account up till end of September 2020, as per data provided by the auditee, aggregated to €882,498.

Key Issues

Non-adherence to Public Procurement Regulations

From a sample of transactions reviewed, it was noted that the Public Procurement Regulations were not always followed and despite that in certain instances the total amount expended merited a public call for tenders, the related services were covered solely by three quotes, which quotes were not sought through the e-procurement platform.

Furthermore, the Ministry was incorrectly applying exemptions emanating from Article 7 of the cited regulations for the procurement of general legal services. Consequently, in such cases, approval from the Ministry for Finance (MFIN) was not sought to cover procurement above €10,000 (VAT excl.) acquired direct from the open market.

In addition, security services were procured under an expired agreement, while a valid contract was also not in place for cleaning services.

Specific details on the above shortcomings will be disclosed further down in the write-up.

Recommendations

Management is to invariably acquire goods and services following a competitive procurement procedure in line with the applicable regulations, thus ascertaining transparency and fairness in the selection process.

Furthermore, the engagement of the successful bidder is to be duly backed by an agreement, signed by the parties involved and supported by bank guarantees, where applicable, reflecting the actual contract value. Both the conditions of service and the duration of the agreement are to be clearly spelled out.

Management Comments

Whilst the Ministry takes note of NAO's recommendation and the Director of Contracts' interpretation of Article 7 of the Public Procurement Regulations, it also contends that said Article is not explicitly clear that such provisions do not apply for a retainer fee, and it is the Ministry's opinion that a retainer is just a fee arrangement, capping it at the retainer level. The Ministry is of the opinion, that the cited Article does not relate only to court cases but also to official representations on behalf of the Ministry by a legal advisor in matters involving tribunals, complaints lodged with the Ombudsman, appeals lodged with the Public Contracts Review Board and official representations with the European Commission, amongst others.

As regards the cleaning and security services, this matter has already been solved by the Ministry following the publication and award of two tenders through an open tendering procedure. These two tenders took longer than initially forecasted to be awarded due to a number of factors, including the fact that appeals were lodged on both tenders (which appeals were both not upheld). This led to the delay of contract signatures for a number of months, also when considering the fact that following Public Contracts Review Board's decision, there was a further 20-day period allowed to the appellant by law to decide whether s/he shall pursue the case in court. Therefore, the Ministry, through circumstances beyond its control, could not regularise its position earlier.

Misallocation of Transactions

Analytical procedures, carried out on the transactions posted in the nominal accounts reviewed, revealed a number of misallocations, thus rendering the data unreliable, as explained hereunder.

As indicated earlier on under Disclaimer, payments were not always posted in proper nominal accounts, but in any account where funds were available.

According to MoT, unlike the Departmental Accounting System, within CFMS virements can only be processed by the Ministry following the necessary approvals by the Budget Office. Moreover, invoices cannot be posted unless the respective nominal account holds the related funds. Consequently, MoT officials were bypassing this procedure and posted expenses in accounts where funds were available, irrespective of the nature of the respective expenditure.

Recommendation

Unless transactions are charged to the proper account, it would be very difficult to exercise control and determine the total cost of the respective expenses. In addition, this will increase the risk of distorted and misleading financial information. Hence the Ministry is encouraged to liaise with the Treasury for the necessary transfer in order to ascertain that sufficient funds are available under the related nominal account enabling proper recording thereof.

Management Comments

There were instances where the Ministry posted expenses in accounts where funds were available in order to be able to process payments. If these payments were not processed, a situation would have been created whereby the Ministry would have unutilised funds in various accounts while having a number of unpaid invoices that were to be carried forward to the following year, thus absorbing the fund allocation for the year, and ultimately would provide for a negative impact on the available funds. Also, it is to be noted that irrespective to the requested budgets submitted to the Budget Office and MFIN, the financial allocation provided to the Ministry was way lower than the submitted request.

This was the only possible solution to process payments especially towards year end.

Control Issues

Services not covered by a Valid Agreement

The procurement of the following services was not covered by a valid formal agreement.

Cleaning Services

Besides that the agreement for cleaning services provided for audit purposes did not cover MoT, it expired on 28 August 2019. It only related to the provision of cleaning services at the Office of the Parliamentary Secretary for Reforms, Citizenship and Simplification and the Office of the Advisor at the Office of the Prime Minister. Total payments forwarded by the Ministry to the respective contractor for services rendered between 20 January and 31 August 2020 totalled €11,678.

Moreover, the related invoices were not substantiated by certified timesheets to ensure that the number of hours charged for were actually worked. Thus, the amount in question could not be validated.

On 27 August 2020, MoT signed a new service contract with another service provider who was appointed following a public call for tenders.

Photography and Filming Services

In January 2020, a quote was sought from three different service providers for photography and filming services, whereby the cheapest quote was selected and the respective procurement throughout the year under review was effected accordingly. Till end December 2020, the amount of €24,928[4] was paid on this service. The amount involved required a direct order approval from MFIN; however, this was not sought. A formal agreement was also not entered into with the respective service provider.

[4] Testing carried out was only based on €14,821 as per data provided by the auditee. The difference of €10,107 related to expenditure which was incorrectly posted under nominal account E2160 - Advertising falling under Information Services in the Chart of Accounts and hence was outside the audit scope.

Recommendations

The amount required for goods and services is to be determined at an early stage, allowing enough time to follow the appropriate procurement procedures for the sake of transparency and fairness. Moreover, a valid agreement, formalising the terms and conditions binding the contracting parties is to be in place.

Management Comments

In relation to cleaning services, the Ministry accepts this recommendation and has already started implementing it, as evidenced by the publication and award of a tender for cleaning services through an open tendering procedure, and the signature of the related contract agreement and relevant conditions.

As regards services specifically related to filming, the Ministry accepts the recommendation put forward.

Shortcomings in the Procurement of Receptionist Services

On 1 November 2018, the Ministry entered into a one-year agreement with a private security services company for the procurement of receptionist services. The following inconsistencies were noted:

a. The agreement, which was a fee-based contract, lacked to indicate the total value of the contract but a performance guarantee of 4% equivalent to €3,745 was requested.

b. The number of officers required and the shifts they were expected to work were also not specified.

c. Following its expiration on 31 October 2019, receptionist services continued to be provided, for another year, up till end of October 2020, from the same service provider under the same terms and conditions for an aggregate of over €70,000[5].

d. This latter amount was neither covered by a direct order approval from MFIN nor by an addendum to the contract and an extended performance guarantee. The Ministry justified such course of action by claiming that a 30% variation (€28,086) for the repetition of services was approved by the Permanent Secretary. However, besides that such extension does not constitute a variation, the aforementioned amount was already exhausted by 21 February 2020. This was later regularised following a public call for tenders, whereby a contract with a new service provider was entered into on 30 October 2020.

e. Formal request and prior approval covering overtime hours worked by subcontracted employees were not traced.

f. Although it was noted that the manual attendance sheets were certified correct by Management, the date of endorsement was not shown and thus it could not be ensured that these were checked in a timely manner.

g. The contract provides that when an employee is unavailable due to sick or vacation leave, replacement workers are to be provided within two hours. However, it was noted that there were instances whereby no replacements were given.

h. Section 16.4 of the special conditions attached to the applicable contract stipulates that the contractor was to provide the contracting authority with a recent police conduct of the officers engaged for the purpose of this service. However, the respective police conduct of two of the ten subcontracted receptionists was not traced.

[5] Data was obtained from CFMS. This amount does not include services provided between 18 April and 17 May 2020 as the respective invoice was missing.

Recommendation

Management is to ensure that internal controls are operating effectively and are not being bypassed. This can only be achieved if the relevant regulations and guidelines are invariably complied with.

Management Comments

The Ministry accepts this recommendation and shall ensure that it is adhered to with immediate effect.

Documentation not filed for Future Reference

Discussions, as well as justifications forming the basis of decisions taken, were not formally documented, thus hindering audit trail as outlined hereunder:

a. Following the Prime Minister's request for a thorough stocktake of where the nation stood with Steward Health Care in relation to the Hospitals Project, in January 2020 a number of professionals were engaged[6] directly from the open market to analyse the legal, financial and technical aspects on this case. Formal justifications for the direct appointments to which MoT was responsible were not traced. The latter claimed that these professionals were appointed on the basis of their knowledge and expertise, and because of their previous involvement in the project, which in fact could have resulted in potential conflict of interest.

   Upon appointment, through correspondence dated 27 January 2020, the respective professionals were informed that their analysis was to be delivered by 12 February 2020, ideally through a simplified presentation. Sample testing revealed that legal services amounting to at least €23,242[7] (VAT excl.), covering up to 6 March 2020, were charged in this respect. Although no further communication on any extensions was traced on file, the aforementioned amount included €5,805 (VAT excl.) for services rendered between 13 February and 6 March 2020.

b. Conclusions reached with the Malta Tourism Authority on the added value that was perceived to be attained by the engagement of an advisor for the marketing campaign on East Europe were not formalised. The respective services were specifically aimed to attract tourists from non-traditional markets, which task fell within the remit of the Malta Tourism Authority, but the cost of €21,988 covering a one-year agreement was fully borne by the Ministry. Moreover, notwithstanding that for payment purposes the service provider was to send a signed detailed record of work, the payment for the last quarter was solely backed up by a one-page report.

Recommendation

For the sake of transparency, as well as to ensure completeness and audit trail, decisions reached are to be made in writing, and filed in an organised and systematic manner for future reference.

Management Comments

The Ministry accepts this recommendation and shall ensure compliance with immediate effect.

[6] Some of these professionals were appointed by the MoT whilst others were selected by the Ministry for Health.
[7] This excludes any other amounts that might have been posted in other accounts.

Anomalies in connection with alleged Cases of injustice by Air Malta Employees

During 2019, the Ministry re-launched an investigation on the alleged cases of injustices with Air Malta employees[8]. Up till end of September 2020, settlements to this effect paid out of the Professional Services account, as per data provided by the auditee, totalled €882,498. A sample of 10 out of 286 cases were reviewed and the following shortcomings were noted:

a. Despite that it was clearly pronounced from the outset that "*cases that occurred before or after the period 2007 and 2014 will not be considered*", three out of the ten reviewed cases related to the investigation of alleged injustice which occurred before the specified timeframe.

b. As indicated earlier on, the aggregate compensation paid out to the 10 sampled individuals from MoT's Vote amounted to €80,221. The most material amounts were paid to two separate individuals who claimed that, since at the time Air Malta failed to set Key Performance Indicators, they were not paid their performance bonus entitlement. Following conclusion of the respective investigation, the two individuals concerned were paid an aggregate amount of €48,861[9] out of the Ministry's funds. This represented the maximum performance bonus as allowed in the relevant contract agreements.

Recommendations

The Ministry is to ensure that reviews carried out by specific Boards do not go beyond the scope for which the foregoing are established as this could lead to discrimination against alleged victims not falling within the established timeframe.

Entities falling under the Ministry's portfolio are expected to have the necessary controls in place to fulfil their commitments in a timely manner. The Ministry is not expected to be held liable for any defaults committed by other entities.

Management Comments

The Ministry takes note of NAO's comments and accepts the recommendations. With respect to the first point, it should also be noted that the role of the Accounts Department within the Ministry was only that of processing payments according to the Grievance Board's rulings. The Ministry rested on every decision which was taken independently by the Board, as is customary procedure.

Deferment of Payments

Seventy-four percent of the transactions falling within the audit sample related to payments effected during the year under review for services rendered in the preceding year. As indicated by MoT this was mainly due to lack of funds, delays in the delivery of the invoices by the respective suppliers and the resignation of the officer who used to approve certain invoices.

[8] In view that this initiative was undertaken by the Ministry, the related settlements, in line with the Grievance Board's rulings, were to be honoured from the Ministry's funds.

[9] These were the highest compensations paid, one of which, amounting to €26,761, was actually paid in 2019. Erroneously, the auditee recorded it again in 2020 through account E2980 - Other Support Services Account and reversed it back through a different account, namely E2840 - Management and Operational Services Account.

Recommendations

Claims spilling over from one year to the next are to be kept at the absolute minimum, limited to those which are unavoidable. Furthermore, the Ministry is to ensure that no commitments are entered into before it ascertains that sufficient funds are available.

Management Comments

The Ministry accepts this recommendation and shall take note for future payments.

Regeneration Works

Capital Expenditure

An audit conducted at the Ministry for Tourism in relation to **Regeneration Works** revealed no project ownership. There were also issues relating to underestimated project budgets, unauthorised variations and the absence of an agreement with the Environmental Landscapes Consortium Limited.

Background

In 2018, a line item within the capital vote of the Ministry for Tourism (MoT), was created with the intention to financially help regenerate touristic areas. The Ministry also planned to focus part of the funds for projects in those areas which were considered non-touristic with the aim to encourage tourists to visit the respective zones.

In 2020, the estimated expenditure for Line Item 7333 – Regeneration Works within MoT Capital Vote IX amounted to €4 million while actual expenditure for said year amounted to €665,966. The difference between the budgeted and the actual amount spent was due to delays in the main project, mainly the regeneration works in Marsaxlokk which fell behind schedule[1], thus, leaving a substantial amount of the budget unutilised.

Audit Scope and Methodology

The main scope of the audit was to verify that public procurement procedures were adhered to when incurring capital expenditure. It was also important to ascertain that the amount spent on such projects was within the budget allocated by the Ministry for Finance (MFIN).

This audit mainly focused on Ġnien Duminku Mintoff (ĠDM), on which work was initiated in 2018, for a total expenditure of €1,048,107 by the end of 2020. This amount was made up of infrastructural and concrete works, landscaping, garden furniture, playground equipment and lighting services. A detailed listing of the expenditure involved in the ĠDM project was obtained, comprising fifteen payment vouchers, paid to a total of eight suppliers, of which six were chosen for substantive testing[2], with an aggregate value of €1,042,050.

[1] A problem was encountered in this project relating to the Barumbara historical tower. The idea was that when Xatt is-Sajjieda is closed to traffic and open only for pedestrians on Sundays, vehicles will be diverted to another route. Since the Barumbara happened to be situated within the planned road to divert the traffic, a method statement was required so that the Barumbara will be dismantled and relocated to another place. An application was put forward to the Planning Authority, which was still in progress by mid-2021. The tender for the embellishment works at tal-Magħluq also took longer than anticipated to be published due to extensive consultations with direct stakeholders that had to be carried out prior to finalising the technical specifications. There were also delays with the Planning Authority applications for other projects.

[2] The remaining two suppliers which were not tested totalled €6,057.

Although the Bengħajsa Family Park was still at permit stage during the audit, the National Audit Office (NAO) reviewed the largest expenditure to date, which was related to architectural services, with total payments of €219,589, made to one individual company. Substantive testing was carried out in this respect.

The procurement process for the expenditure on the ĠDM project was scrutinised. Tender documents were reviewed, and agreements entered into with service providers were analysed to ascertain that these were in accordance with the respective winning bidders' offers. Payments made during the period were checked to ensure they were duly authorised and effected in line with the agreed rates.

Key Issues

Lack of Project Ownership

According to Ministry officials, initially the ĠDM project was planned to be under the responsibility of the Water Services Corporation (WSC), falling within the remit of the Ministry for Energy and Water Management, since it was the intention of the Corporation to include an underground water reservoir in the area. The aim was to harvest rainwater that would be used to cater for the plants, trees and shrubs in the same garden. However, it was then decided to pass the project over to MoT so that the foregoing could manage and execute it, whilst WSC was still to provide the necessary funds for the reservoir.

It transpired that the project's responsibility for the implementation of the necessary works was then handed over to the Foundation for Tourism Zones Development (FTZD) while the Ministry was roped in to assist with the drafting and issuing of calls for tenders. However, while, with regard to the other projects, an agreement with the respective suppliers was entered into by the Ministry, that for playground equipment was entered into by FTZD. This situation led to lack of project ownership.

Recommendation

The ownership of the projects should be established from the initial stages so that the respective entity will assume responsibility. NAO acknowledges that FTZD falls under the remit of the Ministry; however, it is an entirely different entity.

Management Comments

The Ministry accepts this recommendation.

Shortfall to cover Expenditure related to the Project

In a memorandum of understanding which was signed between WSC and the Ministry in December 2017, the Corporation was committed to co-finance €400,000 for the ĠDM project. When the project was then transferred to the responsibility of MoT, the respective funds were transferred accordingly.

Furthermore, although the original budget available for this project, included in the 2017 Budgetary Estimates, amounted to €100,000, the funds were erroneously included under another Ministry[3] and never reached MoT.

By end December 2020, the ĠDM project was completed at a total cost of €1.048 million. According to the Ministry, the only funds available at its end for this purpose was the amount of €400,000. Thus, MoT suggested that €536,120 will be taken from another project[4] which had not yet commenced and therefore approval was obtained from the Budget Affairs Division for the necessary virement.

[3] Included under the Ministry for the Environment, Sustainable Development and Climate Change.
[4] Funds were taken from Line Item 7412 – Corradino Rugby Complex.

However, there was still a shortfall of around €100,000 to cover the respective invoices which, as per the Ministry's correspondence, was covered by funds planned for other capital projects.

Recommendation

Unless the budget relating to capital projects is adequately prepared and caters for any contingencies, the problem of insufficient funding could result in unfinished assignments or postponement thereof.

Management Comments

The Ministry agrees with this recommendation. However, it is to be noted that in many cases related to annual financial estimates, MFIN ends up allocating a smaller amount than what the Ministry originally demands in its budget estimates.

Underestimated Budgets

Testing showed that the invoices presented by the suppliers and subsequently paid accordingly were, in most instances[5], higher than the prices indicated in the master bill, dated 24 February 2018, prepared by the architect. Table 1 refers.

Table 1: Amounts quoted and paid

Description	First Quote by Architect (31 January 2018)	Last Quote by Architect (Master Bill) (24 February 2018)	Amount paid to respective Suppliers
	VAT excl.	*VAT excl.*	*VAT excl.*
	€	€	€
Site set up and Mobilisation, Infrastructural Works and Landscaping	275,425	336,175	444,751
Concrete Works	-	92,400	133,307
Lighting Works	47,360	37,840	93,045
Garden Furniture	64,084	53,050	73,485
Playground Equipment	120,000	110,000	108,505
Totals	**506,869**	**629,465**	**853,093**

The architect's first estimate, dated 31 January 2018, amounted to €506,869 (VAT excl.); this was revised a number of times, with the latest one on 24 February 2018 for a total cost of €629,465 (VAT excl.). The only evidence of approval from the Permanent Secretary for the revised amounts just covered two out of seven bills (bills 1 and 6).

Recommendation

Changes made to the various projects have to be justified, duly documented and approved by the appropriate level from the contracting authority. Moreover, continual changes to the project will render the respective estimates as irrelevant.

[5] Only in the case of playground equipment was the amount paid to the supplier lower than the amount quoted by the architect.

Management Comments

The Ministry generally rests on the estimates of the hired experts, such as the architect in this case, whose services are often outsourced. The purpose of such estimates is for guidance purposes and should not be considered to be as a binding price. Therefore, the estimates are neither restrictive nor final, and are generally subject to change depending on the market status and value of the services, supplies or works being sought.

In relation to variations to agreements, it is to be noted that in this case, the contracting authority was Malta Embellishment Landscaping Projects[6] (MELP) and not MoT.

Works by Environmental Landscapes Consortium Limited

Expenditure on the ĠDM project included four bills from the Environmental Landscapes Consortium Limited (ELC). These covered various works, comprising the excavation of existing concrete paving, the building of a reservoir, the formation of pavements and garden pathways, the construction, supply and installation of natural water feature, the construction of pedestrian arched bridge and an interactive water feature. Other services included the supply, delivery and planting of trees and shrubs, as well as the supply and installation of an automatic irrigation system. The following shortcomings were encountered:

a. The audit revealed two variations, relating to works done by ELC, which in aggregate amounted to around €124,000 (VAT excl.). These included land surveying, works related to the construction of the reservoir, transplanting of trees, plant room and an increase in the thickness of the layer of flooring which were not included in the original tender. As required by standing regulations, variations in capital projects require the approval from the respective Minister or his delegate, as well as the Department of Contracts. However, evidence of the necessary approvals was not provided for audit purposes.

b. Although the amount of €524,806 was paid to ELC for services rendered in relation to the ĠDM project (basically around half of the related expenditure), no agreement was entered into between the two parties involved. To this effect, MoT applied the same framework agreement that was in place between ELC and MELP. However, the Ministry was not in possession of this agreement; thus, it could not be provided for audit purposes.

c. While the architect engaged by the Ministry reviewed the work carried out, MELP approved the rates. However, in the absence of an agreement, NAO could not ensure that the applicable terms and conditions were abided with. The only documentation available were three invoices and the respective certificates of payment for work executed. NAO was thus not in a position to check the correctness of the amounts in question totalling €524,806.

Recommendations

All services obtained should be backed up by a formal agreement endorsed by the contracting parties, clearly laying down the terms and conditions and respective costs agreed upon. These are to be filed accordingly.

Any additional works are to be duly justified, documented and formally approved by the paying entity prior to the implementation. Every effort is to be made to keep variations to the barest minimum.

[6] MELP is a public private partnership entered into between the Government and ELC. Following an expression of interest, in November 2002 the consortium took over the responsibilities of landscaping sites previously managed by the Rural Landscaping Unit which was part of the then Agricultural Directorate.

Management Comments

The Ministry agrees with this recommendation and confirms that the project was covered by the framework agreement between ELC and MELP.

In relation to additional works, as previously mentioned, MELP was the contracting authority since the agreement was between MELP and ELC. Therefore, any approvals for variations should have been obtained by MELP.

Control Issues

Procurement by Direct Order

Even though the Ministry published a call for tender to procure the necessary services, in the majority of instances, works were still procured by direct order since the bidders were deemed either technically or financially non-compliant. The following relate:

Ġnien Duminku Mintoff Project

a. A tender issued in April 2018, for concrete works, was cancelled since the respective bidders were technically non-compliant or quoted a price over the budgeted estimate. Following approval in principle, MFIN gave the green light for the procurement in question to be acquired by direct order from the cheapest bidder with the intention of requesting a downward revision in price and ensuring technical compliance. However, the price of €135,000 (VAT excl.) remained unchanged as that originally quoted by the foregoing.

b. Following the publication of a tender in May 2018 and the subsequent award of the same tender in November 2018, for the provision of playground equipment at the ĠDM project, amounting to €69,725 (VAT excl.), an appeal was lodged and the tender was cancelled by the Public Contracts Review Board in January 2019. The tender was reissued and cancelled again on 18 April 2019. The contract was subsequently awarded by direct order approved by MFIN, to a particular supplier (who did not bid in any of the previous two tenders), for a total of €108,505 (VAT excl.). This resulted in an increase of €38,780 (VAT excl.) over the original tender value.

c. Architect services in connection with the ĠDM project, for a fixed fee of €30,000 (VAT excl.), were procured by the Ministry during 2017, by direct order which was also approved in principle by MFIN; the reason given was that the selected architect was already engaged through a tender with the Paola Local Council and had already submitted relevant applications for permits for the latter with the Planning Authority.

Bengħajsa Family Park

In September 2019, MoT requested approval from the Department of Contracts to acquire architectural services related to Bengħajsa Family Park, by negotiated procedures without prior publication.

The General Contracts Committee expressed its concern that the Committee was "… *not convinced that there are justifiable and valid reasons which merit a direct negotiated procedure with one architectural firm* …" and that it "… *believes that other firms would be able to provide the same services through an open call for tenders, which would result in more advantageous rates and value for money being obtained for the Government*". In its reply, the Ministry claimed that based on the urgency, the knowledge already gained[7] by this architectural firm, its positive past experience, the favourable package and the fair cost, the General Contracts Committee should reconsider its position. The Ministry's request was subsequently approved, and architectural services were procured through a direct order.

[7] The site included a war-time underground bunker which needed to be preserved, and the architectural firm in question was already engaged by Malta Air Traffic Services to propose designs for the site.

A contract for professional services was then entered into in November 2019, for services relating to the Bengħajsa Family Park, for a total amount of €468,000 (VAT excl.), which was to be paid according to a payment structure.

Recommendations

Non-compliance with procurement regulations results in unfair competition between other potential service providers. Thus, as also spelled out in MFIN Circular No. 3/2013 – 'Public Procurement Regulations – Direct Orders', procurement direct from the open market should be limited to the barest minimum.

NAO acknowledges the fact that the engaged architects for both projects had the necessary experience; however, in the circumstances, the Ministry was still expected to issue a call for tenders for both cases. This would have given the possibility of obtaining a better price and maybe an opportunity for enhanced designs. Determining whether the price quoted is fair and reasonable would have only been possible after the Ministry conducted a fair procurement process.

Furthermore, given the size of the Ministry and the number of projects involved, MoT is to assess whether having an in-house architect would be a more cost-effective option. An architect employed by the Ministry would have better insight of the respective projects' requirements and is likely to be less costly than having to engage an architect for every job.

Management is also to ensure that the evaluation committee is made up of technical members. This would avoid delays, as well as additional costs.

Management Comments

The Ministry originally tried to award the necessary works through an open tendering procedure. Nonetheless, the evaluation process proved unsuccessful for some tenders, and subsequently the Ministry opted for a negotiated procedure. This is clearly catered for in the Public Procurement Regulations, Article 151(a), which states that a negotiated procedure without prior publication can be used in cases "… where no tenders or no suitable tenders or no requests to participate or no suitable requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the contract are not substantially altered and that a report is sent to the Commission where it so requests …".

While the Ministry takes note of the recommendation regarding the architects, the architectural services that were procured by the Ministry for the major projects being planned by the Ministry (mainly Marsaxlokk, Paceville and Birżebbuġa) required extensive experience and different skill sets that were beyond the capability of any in-house architect. The services included, amongst others, project design, architecture and structural design, project management, visual walkthroughs, restoration expertise and horticultural expertise. Nonetheless, the Ministry also contends that, should it decide to try and employ an in-house architect, this would not come without its challenges, given that it is very difficult to find competent technical people pegged to Government salary scales.

The Ministry agrees with the recommendation in connection with the evaluation committee.

Performance Guarantee not requested

Clause 8 of the agreement for the provision of playground equipment required a performance guarantee, amounting to €4,340, to be submitted by the contractor prior to the commencement of works. This was equivalent to 4% of the contract value. However, it was confirmed that this was not requested upon the signing of the contract.

Recommendation

Performance guarantees are meant to ensure that the contractor fulfils his obligations in terms of the contract. Thus, it should be invariably obtained prior to the commencement of the respective works.

Management Comments

The Ministry accepts this recommendation.

Compliance Issues

Procurement not published in Government Gazette

Direct orders were not always published in the Government Gazette, as required by pertinent regulations. The procurement of playground equipment, as per contract entered into on 25 November 2019, was not published accordingly by the Ministry, claiming that such responsibility lied with FTZD, since the latter was the contracting authority. Up to the time this audit was concluded, in June 2021, FTZD was still in the process of checking whether this was published from its end.

The direct order for concrete works, awarded on 30 May 2018, was also not yet published by the time of concluding this audit, i.e., two years later.

Recommendation

Every six months, contracting authorities should publish, in the Government Gazette, a list of all procurement awarded whose value exceeds €5,000 (VAT excl.).

Management Comments

The Ministry agrees with this recommendation. It declares that it is up to date in its Government Gazette publications. The reason for not publishing the direct order for concrete works was that there were problems with the supplier and retention money was not yet released.

Defaulting Suppliers not reported to the Commissioner for Revenue

The respective circular stipulates that suppliers failing to provide a fiscal receipt are to be reported on a quarterly basis to the Commissioner for Revenue.

However, while defaulters' lists were being compiled and submitted on a quarterly basis, these were not complete. From the sample reviewed, a total of four omissions, totalling €247,727 was noted.

Recommendation

The Ministry should make sure that suppliers not submitting fiscal receipts are reported in the respective return to the Commissioner for Revenue.

Management Comments

The Ministry accepts this recommendation.

Malta Film Commission

Expenditure

The lack of effective internal controls at the **Malta Film Commission** resulted in a concentration of authority with the Film Commissioner and no independent oversight. This contributed to a disregard to budgetary controls and standing regulations, as well as extravagance in the use of public funds, which in turn translated into a negative working capital of over €1 million in 2020. The upkeep of records was also inadequate, hindering effective audit trail and analysis.

Background

The principal activity of the Malta Film Commission (MFC) is to market the island in the international industry as a film location and to facilitate the work of productions' shooting in Malta. In this respect, in 2018, MFC implemented a strong outreach programme, targeting key and new markets for Malta, which campaign was maintained also in 2019, when it launched the updated cash rebate programme. The rebates for filmmakers increased from 27% to 40%[1], making Malta more attractive to the film industry. Since 2016, MFC has also held the management of the Malta Film Studios (MFS) facilities, including the water tank in Kalkara.

During the three-year period under review, 2018-2020, expenditure for MFC and MFS was financed through Recurrent Vote Line Item 6783 – Malta Film Commission, under the portfolio of the Ministry for Tourism. The approved estimates increased threefold over the three-year period in question. This was complemented by an increase in revenue generated from the use of tanks and the provision of other services, both contributing to a reduction of the reported figure of deficit by the Commission. Approved estimates, expenditure, and results are shown in Table 1, while Table 2 shows additional expenditure from specific line items.

Table 1: Estimates, Expenditure and Results

Year	Approved Budget	Revenue from Tank Services	Other Income	Total Income	Recurrent Expenditure[2]	Net Deficit for the Year
	€	€	€	€	€	€
2018[3]	430,000	229,579	318,937[4]	978,516	1,513,574	(535,058)
2019	800,000[5]	717,667	671,137[6]	2,188,804[7]	2,377,706	(188,902)
2020[8]	1,300,000	164,919	411,595	1,876,514	1,927,041	(50,527)

[1] Of eligible expenditure.
[2] Amounts for 2018 and 2019 were taken from the audited financial statements, while those for 2020 were taken from the management accounts. The amounts differ from those quoted in Financial Estimates.
[3] As per audited financial statements.
[4] As per audited financial statements, these comprised €182,415 other Government income, €134,113 European Social Fund and other services, €2,400 rental of props and €9 bank interest.
[5] A further €500,000 was allocated as supplementary estimates.
[6] As per audited financial statements this amount is made up of €467,139 other Government income, €131,594 miscellaneous, €72,104 European Social Fund and other services and €300 rental of props.
[7] Excluding €500,000 in supplementary estimates.
[8] As per management accounts.

Table 2: Expenditure from Other Line Items

Year	Account Name	Approved Estimate €	Actual Expenditure[9] €
2018	5641 – Film Fund	350,000	189,983
	7017 – Upgrading of Malta Film Commission Facilities	-	-
	7256 – Film Industry Incentives (Subvention)	5,000,000	6,655,045
	Totals	**5,350,000**	**6,845,028**
2019	5641 – Film Fund	600,000	599,999
	7017 – Upgrading of Malta Film Commission Facilities	1,500,000	1,499,998
	7256 – Film Industry Incentives (Subvention)	5,000,000	2,583,215
	Totals	**7,100,000**	**4,683,212**
2020	5641 – Film Fund	600,000	592,008
	7017 – Upgrading of Malta Film Commission Facilities	1,500,000	1,499,986
	7256 – Film Industry Incentives (Subvention)	5,500,000	10,866,205
	Totals	**7,600,000**	**12,958,199**

Information provided by MFC in Diagram 1 shows the visits abroad undertaken between January 2018 and December 2020, most of which covered multiple destinations. Approximate aggregate total between the said period amounted to €730,000, covering flights, accommodation and subsistence allowance. However, it was noted that the records provided were incomplete[10]; thus, the exact expenditure could not be determined.

Diagram 1: Travel Overview

[9] As per Financial Estimates.

[10] Records did not include costs incurred on meals, hospitality and transport paid separately from public funds, whilst accommodation was at times reported in different currencies rather than in euro.

Audit Scope and Methodology

The main scope of the audit was to evaluate the adequacy and effectiveness of internal controls specifically on travel and verify whether standing regulations were followed.

Following an introductory meeting with the Permanent Secretary, the Director (Operations) – Ministry for Tourism and Consumer Protection and MFC, the National Audit Office (NAO) conducted a walkthrough test on procedures relating to travelling abroad, followed by detailed substantive testing on a sample of transactions. This was selected on qualitative basis, intended to identify areas where current practices could be improved.

Disclaimer

The audit revealed the following issues:

a. The number of visits abroad and relevant details, comprising flights, accommodation and per diem allowances, were provided by MFC. This data formed the audit population; however, accuracy and completeness thereof could not be corroborated as certain costs indicated in the document provided differed from that recorded in the nominal ledger; some costs, comprising meals and sundry were completely omitted from the former.

b. The only form of budget made available consisted of the business and financial plans. Hence, financial comparison was based on these records.

Key Issues

Weak Control Environment

While MFC was focused on promoting Malta within the international film industry to attract productions locally, the administrative aspect was being side-lined, resulting in a weak control environment. Testing revealed a disregard to budgetary controls, as well as standing regulations and extravagance in the use of public funds. The upkeep of records was also inadequate, hindering effective audit trail.

Recommendation

Action is to be taken to enhance controls, in order to ensure that the processes are carried out in an efficient manner, in line with standing regulations and general good practice.

Management Comments

An operational review was carried out in 2020[11]. The recommendations emanating from this exercise were analysed and are being implemented, starting with updating the organisational structure of MFC. To this end, the human resources plan has already been prepared and discussions are at an advanced level with the People and Standards Division at the Office of the Prime Minister.

Negative Working Capital

The weak internal controls contributed to the negative working capital generated by MFC. While in 2018 this stood at €622,237, it had more than doubled in 2019, reaching €1,386,876. In 2020, it reduced marginally to €1,177,043, but this latter figure is based on unaudited accounts. This is of a grave concern. An increase of €205,107 in outstanding statutory liabilities was also noted between 2018 and 2019.

[11] The respective report was provided to NAO on 17 November 2021, after conclusion of the audit.

Recommendation

MFC is to urgently review its working capital management as this can have serious repercussions on the going concern of MFC, also affecting its credibility once it is not in a position to settle outstanding debts.

Management Comments

One of the reasons why the negative working capital has more than doubled in 2019 is because of deferred income, representing monies received from Government to implement capital projects related to MFS. In fact, whilst the total deferred income was nil as at end 2018, as at end 2019 it stood at €1,221,138[12]. Although these are recorded as liabilities, this amount will never be claimed by Government. Once the capital project is implemented, then this amount will be netted off from the fixed assets of MFS.

It is also to be noted that MFC's subvention for 2019 was not enough to cover all the expenditure. The situation was worse in 2018 and in fact, in both years 2018 and 2019 the Commission made a combined deficit of €725,000. Naturally, this has put a strain on the Commission's cash flow and has led to certain payments, including those relating to statutory liabilities, not to be made in time. This has also contributed significantly to an increase in the Commission's working capital deficit.

For the year 2020, Government subvention increased to €1.3 million and thanks to this and to the activity of the Commission, it is expected that a deficit of just €50,000 will be made in 2020[13], marking a significant improvement.

Budget overrun on Travel

The following significant variances were noted whilst analysing the financial records:

a. Budgeted travel expenditure was by far exceeded in 2018 and 2019. Moreover, significant differences were noted between the actual travel expenditure disclosed in the business and financial plans, and that reported in the audited financial statements covering the same period[14]. However, the respective amounts could not be reconciled. Table 3 refers. This casts doubts on the accuracy of financial statements.

Table 3: Travel Budget versus Actual

Year	Number of Visits Abroad	Business and Financial Plans		Actual as per Audited or Management Accounts
		Budget[15]	Actual	
		€	€	€
2018	18	297,000	433,706	189,690
2019	22	311,850	466,225	388,526
2020	3	327,443	-[16]	38,476[17]

[12] Deferred income is represented with the cash received in advance. As a matter of fact, €951,709 was available in MFS's bank accounts. Thus, this should have no effect on the working capital position.
[13] Audited accounts for 2020 were not yet available; hence the deficit for 2020 was yet not known.
[14] Audited accounts for 2020 were not yet available; hence actual expenditure on travel for the foregoing year could not be obtained.
[15] Budget based on the amounts projected and forecasted in the undated business and financial plan 2019-2021. These amounts were subsequently revised in the plans covering 2020-2022 and 2021-2023.
[16] The business and financial plan covering the actual expenditure incurred in 2020 was not yet available.
[17] As per amount in management accounts.

b. The total Government allocation of €430,000, approved by the Ministry for Finance for 2018 was fully expended on travel during the same year. On the other hand, in 2019, travel accounted for 58% of the allocation; although this had to be augmented by a further €500,000 despite the increased revenue from tank services.

c. In addition to the amounts charged to MFC's bank account in relation to travel, other travel related expenditure was charged to the current accounts of MFS and the Film Fund respectively; thus, reducing the budget available for the intended projects.

Recommendations

The aforementioned records, forming the basis of strategic decisions, are to be accurate, ensuring reliable information is provided therein, enabling sound business decisions. Any adverse variances are to be supported by written justification.

Management Comments

Whilst MFC accepts this recommendation, it is to be noted that, in many instances, the Ministry for Finance allocates a lesser budget than what is requested in the business and financial plans. Thus, the fact that the budgeted travel expenditure is exceeded does not necessarily mean because there was a lack of proper planning.

It should also be acknowledged that the travel expenditure is based on strategic decisions taken during the year. Given the nature of the film industry and its volatility, MFC cannot possibly forecast each and every visit a year in advance. There may be instances where ad-hoc travel necessities arise and decisions taken throughout the year to attract foreign film productions to Maltese shores.

No Independent monitoring over Travel and Hospitality Expenditure

The control mechanism in connection with travel and related hospitality, stipulated in the Manual on Transport and Travel Policies and Procedures, was completely disregarded. During the introductory meeting, NAO was informed by the Permanent Secretary[18] that any matter related to travel fell within the remit of the Film Commissioner. Hence, despite that the latter undertook almost all travel, complete power and authority were vested with this official, without any independent authorisation or monitoring.

Through correspondence dated 13 February 2018, a Senior Finance Manager from the Ministry for Finance (Financial Policy and Management Division) approved the top-up to Class A for a junior officer for a particular visit and instructed that, in the case of MFC, the Film Commissioner would take the role of the Director General, while the Board Chairperson would take the role of the Permanent Secretary for the necessary approvals. However, MFC continued to adopt this stance in subsequent visits.

The approval of the Director Corporate Services[19] was only being sought when accommodation expenses in general exceeded the portion covered by the per diem allocation. The only other approvals were those granted by the Ministry for Finance, relating to flight tickets purchased by direct order, and by the Board's Chairperson approving Class A subsistence allowance for officers accompanying the Film Commissioner. The latter approvals were granted despite that the Chairperson and other members of the Board who attended several trips abroad did not hold an executive function.

[18] Ministry for Tourism and Consumer Protection.
[19] For one of the sampled visits undertaken in 2018, this approval was sought from the Ministry for Finance.

The following were some of the issues noted which go against the provisions indicated in the manual:

a. The GA27 Form covering visits abroad on official duties, was not being filled as MFC was not aware of it. Hence, all controls embedded by means of this form, including Permanent Secretary's approval for the visit, were bypassed.

b. No documentation was provided showing planned visits for the years under review and related expenditure.

c. Authorisation for the disbursement of public funds in connection with hospitality expenditure while abroad was not sought from the Permanent Secretary.

d. Despite that several trips were undertaken by three, at times four officers for the same visit, no authorisations were provided, certifying that this was in the public interest.

e. Although on several instances officers attended consecutive meetings without returning to Malta, prior approval was not obtained in line with standing regulations.

f. As per standing regulations, only one accompanying member of the delegation is entitled to travel in business class with the Film Commissioner; however, this was not observed in the sampled visit for 2020, where all three officers travelled in business class to Berlin and back.

Recommendations

Checks and balances are to be put in place at the earliest, supported by a clear chain of command, ensuring that no individual has unfettered power. Good practice requires that such expenditure is approved by a higher level of authority. Hence, it is recommended that any travel undertaken by the Film Commissioner is approved in advance by the Permanent Secretary, while all other travel is approved by the Film Commissioner. The procedures stipulated in the Manual on Transport and Travel Policies and Procedures are also to be invariably observed.

Management Comments

Standing procedures state that public sector entities should also adhere to the prevailing travel rules and regulations. Any reference to the Permanent Secretary in such rules and regulations should be taken to mean the Chief Executive of public sector entities. Hence, there is no obligation on the Permanent Secretary to approve any travel expenditure of public entities. Therefore, whilst in principle, it is agreed that an appropriate system of checks and balances is in place, the Ministry does not agree that it should be the Permanent Secretary that approves travel undertaken by the Commissioner. It is MFC that has direct visibility of the necessities of the local film industry and can consequently justify the need for travelling, not the Permanent Secretary. Travel by the Commissioner and other Commission officials should instead be approved by the Chairperson of the Board, a procedure which is already being undertaken. After all, one of the main responsibilities of any Board is to keep the Head or Chief Executive Officer in check and to provide strategic guidance to the same Officer (in this case the Film Commissioner). As things stand, the travelling of the Film Commissioner is discussed, and approved by the Board. The Chairperson also approves the per diem allowance of the travelling undertaken. Following the visit, a report on the outcome of same visits is also presented to the Board to ensure full transparency and accountability.

It is also being suggested that the Permanent Secretary would grant approval only in those instances where travelling is done both by Commissioner and the Chairperson of the Board.

Control Issues

Extravagant Expenditure on Travel

One of the conditions cited in the Code of Ethics, guiding the personal and professional behaviour of public employees is that public officers should strive to obtain value for public money well spent, and avoid waste and extravagance in the use of public resources. However, from the documentation reviewed and the amounts paid, it could not be concluded that public resources were being used in an economical manner. The following refer:

a. All accommodation was at superior locations, at times in five-star hotels.

b. Significant amounts were spent on meals, including three instances where the cost of such meals exceeded €1,000. No documentation was presented indicating details with respect to restaurant receipts, such as, who was present for the respective meals. This made it impossible to distinguish between hospitality offered to third parties or meals availed of by the travelling officers.

c. Amounts totalling €24,568[20] were paid to a particular global chauffeur service company between 2018 and 2020 with respect to business class transport service which was the most common mode of transportation for the travelling officers in question. The highest amount paid for a single trip from the entity's credit card was equivalent to over €500.

Recommendations

While acknowledging that image plays a big part in the film industry, expenditure from public funds should still be carried out judiciously, according to the resources available and in line with prior approvals as per standing provisions. Hence, MFC's Management is to be guided by the principles of the Code of Ethics and ensure that resources are used in an efficient and economical manner.

Management Comments

The meals referred to were all carried out for business purposes. In relation to the cost, one should note and understand that in the film industry, it is crucial that MFC keeps up appearances. MFC cannot possibly decide to be economical and take a prominent film director to the cheapest restaurant option available, when at the same time trying to attract the director to film a movie on the Maltese shores. The film industry does not work that way and Government manuals and policies cannot be implemented carte blanche across the board without also taking into consideration the particular exigencies of the industry in which one operates. In this case, one should not take the costs of travelling and meals in isolation and simply state that expenditure was extravagant without also acknowledging the substantial increase in revenue that MFC attracted following these visits. For the years 2018-2020 alone, MFC managed to attract a total of €82 million in the local economy.

Nonetheless, it is also being acknowledged and agreed that relevant documentation on the meals in question, including who attended the meals and purpose of the meals, are to be prepared, so as to increase transparency and eliminate any misconceptions about the use of such funds.

In relation to accommodation, the market dictates the hotels and the audiences dictate the locations. It is crucial that MFC stays at an accommodation where all the action is happening. In many instances, it is also the host who dictates accommodation to be used rather than this being a choice of MFC. In such instances, MFC still tries to be economical whenever possible, as often one hotel room is shared by two or three different people.

[20] Other amounts were paid to different service providers for other taxi service.

Per Diem Allowance not given in line with Standing Regulations

With respect to at least 15 of the 16 sampled visits, NAO computations[21] revealed that the benefits availed of by the travelling officers, comprising accommodation, meals, transport and other sundry expenses, exceeded the total per diem entitlement by more than €60,000 in aggregate. The following were also noted:

a. Actual accommodation costs were significantly higher than the portion allowed by the subsistence allowance, which difference was defrayed from public funds. No specific justifications for such selection were given.

b. Expenditure relating to transport in the country visited, as well as sundry expenses over and above the allowed subsistence, were also paid from the credit card of MFC and not refunded.

c. Meals paid through the credit card were not deducted from the subsistence allowance.

d. No reconciliations were carried out upon return, in order to reimburse the extra amounts granted as subsistence allowance.

Recommendation

A comprehensive exercise is to be carried out by MFC, covering all travel undertaken between 2018 and 2021, in order to identify subsistence allowance overpaid and recoup those amounts from the respective officers.

Management Comments

MFC does not agree with many of the assertions outlined above.

The meals paid by MFC are linked to entertainment and hosting of foreign filmmakers and industry stakeholders (hospitality). Therefore, meals paid through the credit card were not deducted from the subsistence allowance as they cannot be considered when calculating the total per diem dispersed by MFC, since such costs are not related to per diem[22]. When MFC officers were off duty and sat for personal meals, such were always paid for by the entitled per diem provided. This indicates that for the indicated trips, total per diem entitlement was not exceeded by €60,000 as is being claimed in this write-up.

In relation to accommodation, one must bear in mind that in such an industry, decision makers always populate the main areas in markets and festivals. Therefore, it makes no sense for accommodation to be booked in other areas where activity is minimal. Prior to booking accommodation at high profile festivals or markets, justifications were provided and approvals were also sought where per diem was to be exceeded.

In terms of transportation and sundry expenses, MFC always aims to maximise the number of business meetings abroad. When operating with such a mindset, one cannot always assume that per diem amount related to transportation would be sufficient. By attempting to do so, it would mean that the number of different meetings an entity is entitled to make would be governed by travelling distance up to a maximum transportation per diem entitlement. Naturally, adequate transportation is required when attending high-profile meetings and visits. Bearing in mind the travelling required to attend business meetings when on duty, such transportation costs were paid through MFC and thus the 20% per diem entitlement for transport and sundry expenses was rarely provided to MFC officials. This means that in instances when MFC officials were off duty, transportation used for travelling was paid personally, as no per diem was entitled in this regard.

[21] Based on identifiable travel related amounts recorded in the nominal ledger and bank statement.

[22] As per standing regulations any meals claimed as hospitality should be deducted from the subsistence allowance.

Inadequate recording of Transactions and upkeep of Physical Records

The following issues were noted with respect to the recording of transactions and upkeep of physical records:

a. Up to January 2019, transactions related to travel were recorded in separate accounts according to the nature of the expense, namely accommodation, per diems, transport and hospitality. However, all travel related transactions, from February onwards were grouped in one nominal account referred to as travelling account. This hinders in-depth analysis of expenditure and puts MFC in a difficult position should the foregoing receives any requests to provide detailed information pertaining to travel.

b. Documentation related to the visits under review was fragmented, in instances also misplaced. Moreover, expenditure relating mainly to restaurants and transport, which was paid by the credit card, was often[23] not covered by a receipt.

c. Refunds of per diem allowances, totalling €2,240 were effected by an officer in September 2018; however, MFC had no recollection as to what led to these reimbursements and no related documentation was provided other than the bank statement.

Recommendations

Transactions are to be recorded according to the nature of expense, supported by documentation. In addition to promoting transparency, it provides more meaningful information. Moreover, all receipts related to restaurants are to clearly indicate the beneficiaries, and whether they constitute hospitality. Officers making use of publicly funded transport are also to be indicated on the receipts.

Management Comments

MFC accepts this recommendation and shall ensure compliance.

Credit Card Facility not in line with Standing Provisions

The following shortcomings were noted with respect to the credit card held by MFC:

a. In spite of standing instructions that approval from the Ministry for Finance is to be obtained for the use of debit and credit cards, this was not sought by MFC.

b. Normally, public entities are given authorisation by the Ministry for Finance to use a debit card with a maximum running balance of €2,500, but MFC was making use of a credit card with a limit of €7,000.

c. According to established procedures, the usage of the visa card for the procurement of office supplies, training, conference fees, equipment and similar items of expenditure is prohibited, even if these are related to official duties. However, purchases of this nature, including a tablet from abroad, were also charged to the credit card.

Recommendations

MFC is to be guided by the provisions of MFE Circular No. 3/2020 – 'Debit Cards and Credit Cards'. In order to regularise matters, approval for the use of the card is to be sought from the Ministry for Finance without undue delay. It is also to be ensured that use of the card is limited to the provisions of the respective authorisation letter.

[23] 169 instances out of 386 (44%).

Management Comments

MFC accepts this recommendation. It is to be noted that the credit card was handed over to the Film Commissioner from the former one. Approval for its use shall however be attained from the Ministry for Finance.

Inadequate Planning for Travelling

A number of issues were noted which indicate that travelling was not planned adequately:

a. Despite having travel plans in place, flight quotations were requested very close to the departure date when prices were extremely high, including for remote destinations such as Australia, Austin and Hong Kong.

b. An instance from the sample chosen was noted, where an amount of €2,048 was paid as a result of change in the departure dates for two officers from 5 to 4 November 2019, covering Malta to Los Angeles via London.

c. Although a flight booking to Berlin was made for the period 22 to 29 February 2020, the three officers concerned returned on 27 February 2020, incurring an early departure fee of €693. According to MFC, the Commissioner had to return to Malta due to work related issues that required the foregoing to be on the ground.

Recommendation

Quotations are to be sought at the earliest so that bookings are made in advance, thus obtaining the best prices in line with standing provisions.

Management Comments

MFC agrees with this recommendation and shall ensure that, wherever possible, bookings are carried out at the earliest. However, it should also be acknowledged that, due to the exigencies of the film industry, there might be instances where travel necessities arise in an ad hoc manner, and it would not always be possible to book much in advance. This is also especially relevant in the COVID-19 pandemic scenario, where unpredictability is the order of the day.

Compliance Issue

Statutory Obligations not observed

In line with Article 23 of the Malta Film Commission Act (Cap. 478), a copy of the audited financial statements was to be submitted to the Minister not later than six weeks after the end of each financial year, i.e., mid-February. However, the audited accounts for MFC for 2020 were not yet available as at time of concluding this write-up, i.e., mid-November.

Recommendation

Statutory obligations are to be invariably observed. In this respect MFC is to finalise its accounts at the earliest and appoint the auditors in a timely manner, to finalise the audit within the stipulated timeframe.

Management Comments

MFC accepts this recommendation and shall ensure compliance. In fact, it has already changed its accountant to ensure that a more efficient accounting service is provided.

Ministry for Home Affairs and National Security

Armed Forces of Malta

Expenditure

A number of procedures and internal controls regarding contractual services, professional services, and training within the **Armed Forces of Malta** were found to be in sound operation. However, audit testing revealed weaknesses with respect to reimbursements of medical expenses, as well as in the oversight of contract provisions.

Background

The Armed Forces of Malta (AFM) is a contracting authority listed under Schedule 16 of the Public Procurement Regulations (S.L. 601.03), administering its own public procurement up to the value of €250,000 (VAT excl.). Its Headquarters is responsible for the command, control and management of the Force, including the setting of policies and the day to day running of AFM. The Force has six identified branches, namely the following:

- Human Resources Management
- International Affairs
- Operations, Plans and Intelligence
- Integrated Logistics
- Capabilities and Training
- Financial Management

AFM is one of the entities whose 2020 financial activity was recorded entirely through the Corporate Financial Management Solution (CFMS).

The approved estimates for the areas under review were as follows: Contractual Services – €700,000, Professional Services – €120,000 and Training – €1,400,000. These amounts were allocated by AFM to the relevant line items within CFMS according to its specific needs.

Audit Scope and Methodology

The scope of the audit covered AFM's expenditure in respect of contractual services, professional services and training, between January and December 2020. However, where necessary, transactions and events pertaining to other periods were also assessed.

The objective of this audit was to evaluate the adequacy and effectiveness of internal controls and the management of contracts in force. Another objective was to determine whether basic principles, namely competition, transparency and equal treatment were upheld, with respect to procurement, as well as the selection of employees for training.

Following an analytical review of data in the general ledger, a sample of 44 payments, with an aggregate value of €949,725, was selected for detailed substantive testing, based on the materiality of the transactions under review. The fixed asset register was also scrutinised.

Limitation on Scope of Audit

During audit testing, various instances were encountered, which limited the scope of this audit, as follows:

a. Clinical psychological services were invoiced and paid for at the rate of €30 per hour. It was claimed that this rate was established in 2010/2011 and had since remained unchanged. However, the applicable rate was never documented in a formal agreement. Hence, correctness of this hourly rate could not be ascertained.

b. Doctors' prescriptions in support of the sampled transactions covering the purchase of medicinal items reimbursed to AFM officers were not provided for audit purposes. Moreover, items indicated in the receipts were being masked as a data protection measure, eliminating all audit trail and the possibility of independent internal and external verifications. Hence, the necessary checking, including confirmation that the items in question were not in Government's formulary of free medicines, could not be performed.

c. While AFM provided this Office with a list of direct orders awarded in the year under review, the Ministry for Home Affairs, National Security and Law Enforcement, which is responsible for the publication of the respective procurement, did not provide evidence of the relevant publications in the Government Gazette, as required in terms of standing regulations.

Control Issues

Entitlement to Reimbursement of Medical Expenses

Divergences were noted between the provisions of standing legislation and those applied in practice. The following refer:

a. In line with Article 55(1) of the Appointments and Conditions of Service of the Regular Force (S.L. 220.03), "*officers and men*[1] *shall be entitled to free medical treatment by a medical officer appointed for that purpose, in a medical centre equipped for that purpose*". However, it transpired that in actual fact, AFM also reimburses items prescribed by private general practitioners as per paragraph (5) of the respective internal medicines refund policy. In this respect, the National Audit Office (NAO) feels that the latter's provisions have gone beyond the spirit of the said legislation.

b. Article 56(1) of the aforementioned S.L. also states that "*families of officers and men shall be entitled to free medical treatment by the medical officer provided they report for such treatment to the medical centre during working hours*". However, it fails to specify clearly the beneficiaries entitled to the free medical treatment, in particular the definition of families in this context.

c. In instances where the actual purchase was made during AFM working hours, it could not be confirmed whether the items in question, which were subsequently refunded, were prescribed by the medical officer, AFM, in line with the policy, since the respective prescriptions were not made available for audit purposes.

d. In 2015, as per Departmental Accounting System, nominal account 3150 – 'Professional Services – Medical Services', at least an amount of €42,159 was paid to various members of the Force as refund for medicinal items. In 2020, the amount paid in medical refunds increased to approximately €69,147. With the current system, AFM is not in a position to control the increase in this expenditure item.

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[1] Members of AFM who do not hold officers' rank.

Recommendations

The provisions of the applicable legislation are to be clarified, in order to define the beneficiaries of this entitlement. The internal policy is then to be updated accordingly.

AFM is also to introduce the necessary controls regarding the refund of medical expense since otherwise this benefit, which claims are on the increase, will become unsustainable. Moreover, a checklist for verification purposes, similar to that kept for other payments, is to be held for these refunds. This is to be attached to the respective payments, as evidence of the checks performed, also making reference to any other substantiating documentation.

Management Comments

The Medicines Refund Policy was revised and forwarded to NAO for reference. AFM also highlighted the fact that the medical officer might prescribe and refund medicines, which despite not being offered for free through the pink card scheme, are nonetheless justified by virtue of a preferable side-effect profile. AFM explained that the pink card scheme lists several medicines with an undesirable side-effect profile which can affect the operational obligations of AFM personnel. Certain medicines are outright restricted in certain groups, such as pilots. As a mitigating measure, justifications for refunds for medicines not listed in the pink card scheme will need to be accompanied by a medical certificate prepared by a specialist, which will be retained in the medical file.

Full Reliance on Certifying Medical Officer

As a data protection measure adopted by AFM, since 2016, medicinal items shown in the receipts presented by the officers for reimbursement, were masked by the medical officer prior to their submission to the Financial Management Branch for settlement. While this is understandable in terms of data protection, the necessary independent verifications cannot be performed.

Recommendations

AFM may consider filing the unmasked receipts in a confidential manner together with the doctor's prescription. These can then be made available only for internal and external verifications. On the other hand, the Financial Management Branch can be provided with the approved claim form for refund purposes. Hence, while data protection requirements are safeguarded, audit trail remains intact.

Management Comments

While AFM acknowledged NAO's recommendation, it stated that AFM's Financial Management Branch issues reimbursements only subject to claim forms which have been approved by the medical officer. Nonetheless, AFM must still ensure full protection of sensitive personal data, such as medical data.

Medical Reimbursements on the Basis of Re-print Receipts

It was noted that three out of eight receipts included in the sample relating to a particular individual who, based on records provided by AFM, claimed a total of €12,744 in 2020, were re-prints. These three receipts, amounting in aggregate to €3,581, were all endorsed by a medical officer and reimbursed accordingly. However, as per article 2 of the standing policy, authorisation by a medical officer (AFM) for refunds should only be considered upon presentation of an original fiscal receipt.

Recommendation

Reimbursements are only to be effected on the basis of original receipts in line with the standing policy, intended to curb any type of abuse.

Management Comments

NAO's recommendation was taken on board, in fact, as AFM indicated, a medical officer has been tasked with ensuring that all refunds are meticulously in line with AFM's revised Medicines Refund Policy.

Items not traced to Inventory Database

None of the four sampled medically related inventory items purchased in 2020, in aggregate costing €7,315 were traced in the inventory databases provided. AFM confirmed that some medical equipment was not recorded due to the fact that Medical Centre and medical account holder were overwhelmed by the pandemic, with manpower severely depleted.

Recommendation

While acknowledging that backlogs are being rectified, it is vital that all inventory items are recorded in the database in line with standing regulations, as soon as they are received.

Management Comments

AFM reiterated the extraordinary circumstances due to the ongoing pandemic. Nonetheless, the AFM's Integrated Logistics Branch updated the medical inventory and manpower issues have been rectified while all remaining inventories were being updated.

No Substantiating Documentation for Amounts paid

The only documentation substantiating invoiced amounts covering skips for the disposal of construction material, consisted of a quote issued in 2018, whose rates were half those invoiced and paid in 2020.

Recommendations

AFM is to ensure that all rates paid are supported by quotations or other documentation, as applicable, enabling internal and external verifications. Invoices are then to be certified correct after checked against the relevant records.

Management Comments

Observations were noted and new quotes are being sought, which will also substantiate invoice for verification purposes.

Inconsistencies in Contract Provisions

In two sampled instances, divergences from the respective contract provisions were noted. The following relate:

a. A clause in a contract stipulated that the latter, signed by the then Ministry for Home Affairs and National Security, was valid for a period of 104 months from the date of last signature. On the other hand, another clause within the same contract indicated that it shall run for a period of 104 weeks.

b. Another contract, also entered into by the said Ministry, indicated that the contracting authority was to pay the contractor €490 (VAT excl.) per hour in consideration of the execution of the contract. However, according to the financial offer, as well as that confirmed by AFM, the highlighted amount represented a monthly fee.

Recommendation

AFM is to go through all contracts before these are signed, including those entered into on its behalf, to make sure all terms were in line with the tender's provisions.

Management Comments

AFM took note of NAO's observations and corrigendum to the said contracts were issued and forwarded for reference.

General Comments

The prevailing culture within AFM is one of accountability, transparency and good governance. This was noted in the documentation reviewed, which was provided to NAO upon request, as well as observation during onsite visits. The significant importance attached to training and the highly qualified workforce also contribute to this. Calls for expression of interest issued for local training gave all employees the opportunity to participate and justifications provided for the selection of specific officers for overseas training were in order. Moreover, verification procedures, applicable for local payments exceeding €5,000 (VAT excl.) and all foreign payments, were scrupulously followed.

Malta Police Force

Personal Emoluments

While acknowledging that the **Malta Police Force** has been working hard to improve its operational performance, controls related to the areas under review were still not sufficiently effective. As things stood during the period of review, together with the manual and paper-based processes, this resulted in delays in the communication of information, errors and incorrect payments.

Background

In 2020, the Malta Police Force (MPF) introduced a number of major reforms, comprising centralisation of detail officers[1] and process automation, the launch of an anti-corruption policy and anonymous reporting system, immediate payment to officers for extra duty, the set-up of an internal audit unit, as well as capping of voluntary supplementary duties. These reforms, aiming to transform the police organisation into a flexible, efficient and modern police force, were brought about following the appointment of the new Commissioner of Police and the launch of the Malta Police Transformation Strategy 2020-2025.

Overtime and general allowances are regulated by the Public Service Management Code. Other allowances that specifically relate to MPF are covered by the Sectoral Agreement Regulating the Conditions of Service for the Police Force and a memorandum of understanding, both entered into in October 2018. Shifts, extra duty, and related payment provisions are covered by internal standards of procedures.

In July 2020, the Staffing and Major Events Unit was set up, where the detailing of officers became centralised and recorded in online spreadsheets, simplifying the timely transmission of data to Salaries Back Office. It also enabled automated extraction of information required for the monthly claims[2], with effect from January 2021.

The 2020 budget allocated for MPF under Recurrent Vote 27 for overtime stood at €5,000,000. During the year, this was supplemented by a warrant of €4,570,000. When adding the overtime related to services to third parties, amounting to €3,305,616[3], aggregate overtime expenditure totalled €12,894,966[4].

The budget for allowances was €14,000,000, while the related total expenditure as per Departmental Accounting System amounted to €13,511,158[5].

[1] In charge of the scheduling of shifts and overtime, including the allocation of extra duties, when police services were requested by third parties.
[2] Claims for payment allowing officers to be compensated for overtime and allowances, comprising Sunday and/or public holiday, disturbance, and on-call allowances.
[3] This is payable by third parties in line with the established fixed rates and credited to Line Item 8263.
[4] Of which, €27,376 was eventually refunded from other departments through schedules of payment.
[5] Of which, €146,916 was reimbursed from other departments.

Audit Scope and Methodology

The scope of the audit covered MPF's expenditure on overtime and allowances incurred in 2020[6]. However, given that major reforms were introduced, the National Audit Office also looked at work practices adopted in 2021.

The audit's objective was to evaluate the adequacy and effectiveness of internal controls related to the areas under review, assessing in particular whether they provided adequate assurance of accurate payments, in line with standing provisions and regulations, duly backed up by documentation and effected in a timely manner.

A general understanding of MPF's operations, as well as the relevant practices and procedures in place was obtained through meetings with MPF's top Management, including the Commissioner of Police, staff from the Internal Audit Unit, Human Resources (HR), Finance and Administration, the Staffing and Major Events Unit and Salaries Sections[7]. This was complemented by review of internal policies and circulars, as well as relevant records kept by the respective parties.

An analytical review of financial data recorded in the Departmental Accounting System and detailed substantive testing were then undertaken to assess the effectiveness and adequacy of controls. This comprised the determination of the source of allowance and confirmation of entitlement; ensuring that allowances were paid in line with the respective instructions issued by HR, verification of allowances claimed by the officers in the monthly return against source documentation, comparison of manual and electronic sick leave records, as well as re-computation of monthly payroll payments effected to a number of officers, selected on the basis of materiality of earnings. The relative monthly returns, daily duty rosters, extra duty invoices and, where applicable, attendance records submitted by third parties, as well as vacation and sick leave records were scrutinised.

Limitation on Scope of Audit

Although the details in the daily duty rosters provided showed the officers to perform overtime[8], they did not indicate the respective time and duration. Consequently, correctness of hours claimed, and payments effected to the officers in the respective department could not be independently verified.

Key Issues

Ineffective Processes in relation to Allowances

While acknowledging that MPF has been working hard to improve its operational performance, also undertaking organisational restructuring, certain processes in place still increased the possibility of delays and errors without adding any value. Moreover, testing revealed that controls in place were not effective, and various incorrect payments were noted. Processes related to the areas under review, particularly allowances[9], were still largely manual and paper based, resulting in a number of shortcomings as discussed separately under Control Issues.

Recommendations

A number of shortcomings were already acknowledged by MPF in the Transformation Strategy document dated September 2020; thus, it is recommended that this area is treated as a priority. Processes in place are to be reviewed and those that do not add any value are to be eliminated and, as far as possible, automate the rest to be more efficient.

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[6] This also included payments for work effected in late 2019, and in prior years in the case of backdated payments.

[7] Salaries Front and Back Offices.

[8] Within the Criminal Investigations Department.

[9] The same issues were previously in place with respect to overtime, but these have been tackled through the centralisation of Detail Officers and automation of the process through the online spreadsheet.

Management Comments

In addition to the initiatives already embarked on in support of the Transformation Strategy, MPF is in the process of furthering discussions internally and with the Gozo Salaries Back Office to further automate and thus expedite the payroll process, leading to a complete business process reengineering of the operation. The ultimate aim of the initiatives is to modernise the process, identifying and eliminating those that do not add value to operations and, as far as possible, replace those that are manual based.

Control Issues

Shortcomings in the upkeep of Records

Records were kept by HR staff, some in manual format and others in a database; however, information is fragmented and there was not a single record which showed all the entitlements of an employee. Furthermore, the data held by Salaries Back Office in the Salaries Reporting System (SRS) only dated back to 2017, that is, the year when the salaries' function was taken over by the foregoing.

HR records related to the Special Duty Allowance (SDA) and on-call allowance were kept in the form of individual letter-minutes and filed according to the date of issue, rather than by the employee concerned. In the circumstances, it was very hard and time consuming to trace records related to particular individuals and determine what allowances officers were to be paid at any point in time. Effective control was also not possible.

Recommendations

In order to exercise control in line with the set requirements, HR must have complete and updated information at all times. In this regard, it is recommended that one record, ideally in electronic format, is identified for this purpose and all information related to allowances is recorded therein.

Management Comments

MPF acknowledges that at present[10], an element of data fragmentation does exist where employee records are concerned. MPF is engaged on the commissioning of a solution that will provide HR time and attendance functionality. This application will replace a number of the systems deployed, consolidating same into one data repository. Furthermore, as an interim solution, MPF shall be better populating the already-deployed Digital White Cards, being employee records (on a one-record-per-employee). During 2021, MPF HR engaged an officer detailed to update these cards. This process will better ensure that real-time information on allowances, as entitled and availed of by each officer, is readily and easily accessible, in turn ensuring better internal control and accountability.

Allowances not in line with Standing Regulations

The following shortcomings related to the payment of allowances were noted:

a. Systematic and periodic reviews of the allowances paid to employees were not carried out by HR in line with the provisions of the Manual of Allowances. Such approach is not allowing HR to detect irregularities in a timely manner.

[10] Management comments submitted on 22 October 2021.

b. The above has also resulted in overpayments to officers, which only came to light by coincidence after significant time-lapse. It also transpired that, where amounts to be refunded were substantial, officers claimed that these were time-barred. However, no statistical records of such instances were available, hence the amount of public funds lost could not be determined.

c. Instructions through letter-minutes covering the entitlement of SDA and on-call allowance, as well as ceasing thereof, were not reaching the Salaries Back Office in time for processing. Delays by HR to issue the related instructions and enter the necessary details in the SRS[11] resulted in the need for significant adjustments.

d. The letter-minutes giving the necessary instructions did not bear a sequential reference number; thus, any missing records could be overlooked.

e. The Salaries Back Office could not trace instructions that should have been received by the foregoing through the SRS, to determine accuracy of records, covering SDA and on-call allowance. To this effect, audit testing revealed instances of overpayments of on-call allowances, as well as underpayments of SDA. Moreover, despite HR's instructions to cease the on-call allowance in question, claims for payment of the same allowance were still approved by the respective officers' superiors.

Recommendations

HR is to carry out regular reviews in order to ensure that the conditions for which an allowance was granted still apply, amongst others. In case of divergences, appropriate action is to be taken immediately. Evidence of such a review is to be filed for future reference.

In addition, it is to be ensured that any instructions issued by HR are clearly communicated to the relevant parties. Regular reconciliations between HR and Salaries Back Office may also be held by the two units to ensure that all relevant instructions issued in a particular period were received by the latter, while enabling any issues to be clarified in a timely manner.

Management Comments

MPF is embarking on an initiative to enhance HR resources through deployment of personnel specialised in the field. Such an enhancement will better equip HR to handle the workload in a timelier and more efficient manner. While systematic reviews will be carried out, the upgrade and better deployment of white cards is envisaged to provide better detection of anomalies.

References to delays in instructions issued by HR include some instances which related to back-dated appointments, hence the late instructions. MPF has also implemented system improvements, comprising the direct manning of SRS by HR, conducive to more time-efficient handling of such notifications. MPF is also considering enhancing the data included in the letter-minutes so as to include information pertaining to eligibility of the subject of allowances and other data. However, the possibility of eventual phasing out of the letter-minute mechanism, replacing it with more technology-oriented instruments is not being discarded.

Benefits from the Salaries Reporting System not attained

HR was not using the SRS directly, but records in the form of emails or scanned letter-minutes were forwarded to two officers who recorded the respective information in the system, contributing to delays in the processing of salaries while increasing the risk of errors.

[11] Instructions were based on data provided by Salaries Back Office as the National Audit Office does not have access to SRS.

Recommendation

Ideally, data is to be keyed straight into the SRS by HR staff. Besides mitigating the risks mentioned in the observation, it will also give HR access to real time information about the employees' entitlements.

Management Comments

The set-up in force at the time of audit was a temporary one and the recommendation has already been implemented. System improvements adopted by MPF, namely, the direct manning of the SRS by HR, was conducive to more time-efficient handling of notifications to Salaries Back Office.

Unclear entitlement of Allowances

Standing provisions stipulate that SDA will be paid to those members of the force who are engaged in duties having an element of specialisation or specificity. However, while the respective circular mentions areas of work which attract this allowance, most of these are rather broad and do not make any reference to the particular job postings and the related specialisation. Hence, while SDA's approvals are issued on an individual basis, there is no indication of the basis for such allowance.

Recommendations

In order to enhance transparency and fairness, standing regulations are to be reviewed and the beneficiaries clearly specified, in terms of both areas and specific job postings, where applicable. Moreover, as already reiterated, a review of allowances in force is to be carried out in order to ensure these are in line with prevailing regulations.

Management Comments

MPF is committed to embark on an exercise to update pertinent standard operating procedures so as to ensure that these convey a clear picture as to which officers in which roles are eligible to what allowances. Additionally, with the digitisation of white cards, MPF will be better placed to periodically review allowances in force, ensuring same are granted in line with prevailing rules and regulations.

Inadequate verifications and unreliable Records

Errors noted in records provided for audit purposes, namely the daily duty rosters, the monthly returns, sick and vacation leave records, imply that adequate verifications were not carried out prior to the certifications of the monthly returns by higher levels of authority. The following refer:

a. Claims for payment of Sundays and public holiday allowance and on-call allowance were submitted by officers for periods during which said individuals were marked as vacation and sick leave on the respective records. Notwithstanding this, all claims in the audit sample were still approved by their superiors and forwarded for payment.

b. Verifications revealed discrepancies between the sampled manual sick leave records and those extracted from the respective system.

c. Clear instructions were given from the People and Standards Division, how salary deductions with respect to sick leave were to be made. However, deductions were still not in line with the instructions given.

d. Notwithstanding that the daily duty rosters kept by the orderly officer should reflect the actual details of work performed by the individual concerned, divergences were noted whilst corroborating the details against the claims for overtime payment. Discrepancies were also noted when compared with the documentation showing hours worked as extra duty submitted by the serviced third party. This implies that the roster was not being updated.

Recommendations

Proper verifications are to be carried out prior to the respective endorsement. Independent regular checks are also to be performed, in order to strengthen the detective control mechanism and ensure that any discrepancies are identified at an early stage.

Management Comments

The procedure followed by MPF, when an officer working on shift basis is on duty during a public holiday, is that of having one day vacation leave deducted from the entitlement. MPF HR gains its assurance of officers' actual hours worked through the fact that all claims are processed for payment on the force of authorisation of the direct responsible officer. However, with the deployment of digitised returns, the degree of verification potential is heightened. Moreover, this is an area MPF is analysing, with the aim of improving the process flow and strengthening system-inherent internal controls, thus reducing the risk of errors. MPF HR has also taken steps to ensure elimination of discrepancies between the manual and electronic sick leave records.

Furthermore, since mid-2020, MPF deployed a team of officers whose duties include compliance. This includes random onsite visits to ensure that the workforce is deployed as per detail sheet, ensuring compliance where time and attendance are concerned and help identify instances of unofficial swapping which may occur.

While MPF HR policies allow officers to swap supplementary duties, this is restricted to cases of emergency. Moreover, any changes must be referred to the Staffing and Major Events Unit before they are applied, as remuneration is based on data provided by the foregoing.

Voluntary Extra Hours and Rest Period Obligations

After voluntarily offering to work extra hours, a number of officers were assigned extra tasks on a regular basis, at times leading to the individuals working significant long hours. As a result, mandatory rest periods as indicted in the standard operating procedures were not being observed.

Recommendations

All interested employees to be given the opportunity to work extra hours if they so wish. However, it is also to be ensured that working hours are reasonable and as far as possible in line with standing directives.

Management Comments

This resulted since supplementary duties assigned to particular officers were instead carried out by the officers in question, where as a consequence, rest periods were not observed. Since this occurrence, MPF HR has addressed this concern. As from 2021, prior authorisation from the Staffing and Major Events Unit is required before exchanges of supplementary duties. Moreover, the pertinent HR policies and procedures are constantly being updated and consolidated into one single policy. Also, it is envisaged that the Staffing and Major Events Unit be divided into three units, with one responsible for the allocation of supplementary duties. This will ensure greater equity and fairness in the distribution of such duties.

Civil Protection Department

Personal Emoluments

An audit of personal emoluments at the **Civil Protection Department** revealed that in general, effective controls were in place, with the exception of some minor issues.

Background

The Civil Protection Department (CPD) was founded in 1996 but did not function as a Fire and Rescue service until January 2000. The Department has four fire stations in Malta, a fire station in Gozo, as well as a Marine Section. It also has a number of sub-sections, catering for Hazardous Material, Urban Search and Rescue, including the Dogs Section and a Humanitarian Aid Unit.

In the financial estimates for 2020, under Vote 29, CPD was allocated a total of €7,945,000 for personal emoluments, of which €1.2 million and €0.9 million were for allowances and overtime respectively. The budget was revised upwards through warrants to an aggregate of €8.2 million. Actual salary payments, amounting to €8,171,581 were paid to a total of 277 CPD employees.

During the year under review, salaries were paid in line with a sectoral agreement signed in 1997. This was then replaced by a new agreement dated November 2020[1]. Pursuant to this, a memorandum of understanding stated that serving officers within CPD were to be assimilated into new salary scales retroactively from 1 January 2019. Backdated payments in this respect, totalling €622,303, were made in 2021.

Apart from the revision in salaries, the new sectoral agreement also included a radical change in the shift structure adopted by CPD, which came into effect in 2021. This new structure aimed to reduce the substantial overtime that was incorporated in the structure under the previous agreement.

Audit Scope and Methodology

The scope of the audit was to assess the policies, procedures, as well as personal emoluments paid by CPD in 2020. Payments made in 2021, with respect to arrears due retroactively, were also audited.

Meetings were held with CPD's Director General, Assistant Director (Finance and Administration) and an executive officer, to discuss the audit objectives and obtain a general understanding of existing procedures. A walkthrough test of the day-to-day salaries' process was also performed.

[1] This agreement was effective as from the date of signing. However, some clauses allowed for retroactive adjustments.

Data showing salary payments made in 2020 was provided to the National Audit Office (NAO). Total basic salary paid amounted to €5,149,109, whilst overtime and allowances totalled €1,051,953 and €1,191,068, respectively. Data analysis showed that for most employees, overtime and allowances were a substantial part of gross pay. In fact, in 68% of the cases, overtime and allowances accounted for more than 30% of gross pay. A sample of 10 officers was selected for testing purposes.

The allowances paid in arrears to the 10 individuals selected in NAO's sample were also assessed, and no issues were noted in this regard.

Control Issues

Allowance due not paid in Full

In line with the agreement between the Government and the Malta Union of Midwives and Nurses, an officer[2] was entitled to an annual nursing premium of €4,460[3], but which was only partly paid during 2020.

CPD upheld this observation and confirmed that the remaining balance of €2,230 for the period during which the officer worked with CPD in 2020 will be settled in arrears.

Recommendations

Provisions in the collective agreements pertaining to staff members are to be honoured; thus, adequate checking is to be performed to ensure that input is accurate and reflects what is due to the respective employees. This would reduce instances of errors.

Management Comments

By the end of September 2021, all arrears were paid to the officer.

Outdated Vacation Leave Forms

Vacation leave within CPD is requested by means of a manual application form which has to be signed by the officer requesting the leave. Signatures from the Officer in Charge of Leave, the Assistant Director and the Director are also required to authorise such absenteeism.

However, the full set of signatures was not traced in any of the 20 applications vetted. Actually, the Assistant Director's signature was never present, while Station Officers were signing instead of the Director. Testing also revealed instances when the applicant did not sign the applications and other instances when approving signatures were totally lacking.

According to CPD, in any shift there is a Leading Officer, a Station Officer and a Chief, and the latter is expected to head the shift. For vacation leave purposes, the Leading Officer is expected to sign the form, which has to be countersigned by either the Station Officer or the Chief. However, this is not in line with the underlying standing procedures.

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[2] Previously employed at Mater Dei Hospital, then transferred to carry out duties as a nurse within CPD during 2020.
[3] This nursing premium is due for roster duties without nights.

Recommendations

Vacation leave forms are to be signed as indication that any absence from work is duly authorised. Moreover, since the procedure to authorise leave differs from that indicated, the application form is to be adjusted to reflect the underlying procedure accordingly, if this is acceptable by Management.

Management Comments

A new vacation leave application form to be used by all members of the CPD Force has been sent by means of a circular sent to all CPD members. A copy of this form was also made available to NAO.

General Comments

Except for the minor issues reported above, testing carried out by NAO on the payroll processes within CPD, confirmed that the expected controls were in place and in sound operation. The payment of salaries in arrears were also in line with the requirements of the new collective agreement.

Correctional Services Agency

Capital Expenditure

Significant weaknesses associated with the management of capital expenditure by the **Correctional Services Agency** were noted. These covered most aspects, namely planning, procurement, monitoring, as well as safeguarding of assets.

Background

The Correctional Services Agency (CSA) was set up in June 2019 through the Correctional Services Agency (Establishment) Order, 2019 (L.N. 121 of 2019). Apart from the main correctional facilities at Paola, CSA comprises other locations that are considered by law as places of custody; namely the Valletta Lock-up below the Malta Law Courts; the Forensic Unit at Mount Carmel Hospital and the Centre of Residential Restorative Services at Mtaħleb. Responsibility for day-to-day running of CSA rests with the Chief Executive Officer (CEO).

For year 2020, CSA was funded from two accounts, namely 6017 – Correctional Services Agency, under Recurrent Vote 25, and account 7602 – Property, Plant and Equipment, under Capital Vote X, both under the portfolio of the Ministry for Home Affairs and National Security (MHAS). Initially approved estimates stood at €16,500,000 and €1,650,000 for accounts 6017 and 7602 respectively. While expenditure from account 7602 was in line with the approved estimate, the final amount charged to account 6017, was €19,595,514. Of the latter amount, €12,307,715 was withheld by MHAS to settle personal emoluments on behalf of CSA as the payroll system[1] used by the public sector did not interface with the accounting package adopted by CSA. The total amount forwarded to CSA was €11,687,799. This included an amount of €2,750,000 approved by the Ministry for Finance but not charged to any of the aforementioned accounts[2]. During the year under review, CSA also received various reimbursements and refunds totalling €424,000[3], closing the year with a bank balance of €2,042,694[4].

According to CSA, a lot of work related to capital projects was undertaken by the inmates, resulting in significant savings for CSA, after deducting the respective wages[5].

During 2020, CSA implemented a new accounting software, and moved from a cash-based to an accrual accounting system. It also opened its first bank account. A number of changes were made in the staff composition of the Finance Unit, which included the employment of the Chief Financial Officer (CFO) in September 2020.

[1] With effect from 2021, payroll started being processed by CSA.

[2] Presumably the amount was misallocated to a different line item by MHAS.

[3] According to CSA, this included €207,000 refunded from inmates for telephony and €43,000 generated from the prison industry initiative. The latter was introduced in 2020 whereby identified inmates were given tasks, both internal and external, and a pocket money is given to them which is the price asked to the entities concerned for doing the service.

[4] Invoices worth circa €1.5 million related to 2020, had still not been received.

[5] €150 per month.

Audit Scope and Methodology

The scope of the audit covered CSA's capital expenditure during financial year 2020; however, where necessary, transactions pertaining to capital expenditure incurred in other periods were also assessed.

The objective of this audit was to evaluate the adequacy and effectiveness of internal controls with respect to capital expenditure. Another objective was to determine whether basic principles governing public procurement, namely, competition, transparency and equal treatment were upheld.

From a review of the chart of accounts, amounts potentially related to capital expenditure were identified and an analytical review was carried out, identifying totals paid to individual suppliers. Other verifications comprised a reconciliation between records on the Departmental Accounting System, CSA's nominal account 0391, and bank statement, as well as a comparison of projected capital expenditure with actual projects undertaken.

A sample of 45 payments with an aggregate value of €800,726 excluding Value Added Tax (VAT) was selected for detailed substantive testing, taking into consideration the materiality, both of the item in question, as well as to the account. Sample was extended where areas of concern were noted[6].

Various onsite visits at the Corradino Correctional Facility, Valletta Lock-up, and the Forensic Unit were provided by the CEO, who extended all possible collaboration and pointed out the capital projects undertaken and assets acquired. Enquiries about the relationship between the Board of Governance, CEO and the Implementation Unit were also undertaken.

Disclaimer

The audit revealed the following issues:

a. File containing documentation related to the procurement of security equipment was not made available during the audit, in view of sensitive data contained therein. Only extracts deemed relevant by the CEO were provided.

b. A total of €114,967 was paid to a contractor in connection with the extension of the premises at Mtaħleb. However, the project was managed by MHAS and CSA was only issuing the payments upon certification from the Ministry's architects and Permanent Secretary's authorisation. In this respect, no further testing was undertaken.

c. It was confirmed that MHAS did not publish in the Government Gazette, the direct orders awarded by CSA. However, it is acknowledged that this is beyond the control of the latter.

Limitation on Scope of Audit

During audit testing, various instances were encountered, which limited the scope of this audit, as follows:

a. During the year under review, CSA did not maintain accounts specifically for capital expenditure. Consequently, while it was established that the allocation of €1.65 million from the capital vote was fully exhausted, total capital expenditure could not be reliably determined since the related expenditure was posted to various accounts, including those of a recurrent nature.

[6] All payments related to a particular contractor were reviewed.

b. During 2020, the recording of transactions of a capital nature was not linked to the respective project, hence total project costs could not be determined. Furthermore, the filing system in place was not adequate; documentation related to capital projects was stored in box files without any particular order, making it difficult to trace documents related to specific transactions.

Key Issues

No systematic Approach to manage Capital Expenditure

While CSA was doing its utmost to fulfil its mandate, particularly in the provision of a very clean and safe environment, significant weaknesses were noted in the financial control environment, especially to manage capital expenditure; essentially ensuring that it is duly planned and budgeted for, contained within the established budget, procured in line with standing regulations, and adequately monitored. The respective shortcomings are explained in more detail under the respective Key or Control Issues.

Recommendations

Internal controls are to be urgently enhanced in order to ensure that planning, execution and recording of capital expenditure are carried out in an efficient and reliable manner, and in line with standing regulations and general good practice. It is recommended that CSA actively considers adopting a Project Management Framework that provides a consistent method for realistic resource planning, timely project completion, and effective budget monitoring, enabling clear accountability of responsibilities, meaningful audit trail and a rigorous risk management process.

Management Comments

In reality, project projections will never foresee and meet the actual expenditure. In a village it is impossible to manage all the projects and emergencies that arise on a daily basis. CSA will strive to set a budget at the initial stage of the discussions, then works carried out will be confirmed and checked against plan with authorisation for invoices to be paid, keeping the Project Manager as the main referral point.

Security Equipment Project

Background

In a communication dated October 2018, the CEO, then Director General Correctional Services Division, updated the respective Permanent Secretary in office, on the evaluation of body scanners and Closed Circuit Television (CCTV) for the then Correctional Services Division. According to this correspondence, quotations were requested from ten suppliers for six full body scanning machines, four conveyor belts, and CCTV system comprising a forecast of a total of 880 cameras (+/-10%), monitoring, video recording and storage. By the submission closing date of September 2018, two offers were received for the body scanners and four for the CCTVs. The National Audit Office (NAO) did not come across any evidence that there was a board to evaluate the submissions, but detailed justifications were provided for the selection of the winning bidder.

In December 2018, an agreement was entered into between the Director General Correctional Services Division and the contractor, wherein it was agreed that CSA will acquire security equipment, comprising both body scanners and CCTVs, including basic preventive and reactive maintenance for the price of €2,143,249. The amount of €857,299, representing 40% of total cost, was paid as deposit on the equipment, covering part of the cost pertaining to the supply, installation and commissioning of the six body scanners and four baggage bag conveyor scanners, as well as phase one CCTV system, comprising 420 cameras, and VAT thereon.

The balance was split, 40% payable on delivery of goods, 10% on submission of phase one installation plan, 5% on commissioning, and 5% after 30 days of commissioning and completion of training.

Shortcomings related to the Project

As at March 2021, the contractor was paid a total of €4,519,577, i.e., more than double the amount indicated in the aforementioned agreement[7]. The following also refer:

a. Despite the steep escalation in costs, no other agreements were entered into, indicating the additional goods and services required, as well as amounts payable beyond those indicated in the contract. Hence, the amount of €2,376,328 paid over and above the contracted amount could not be validated.

b. The administrator of this project was the CEO; orders were placed and most of the respective invoices were approved[8] by the latter. Monitoring over the installation of cameras was considered to be adequate, as jobs were signed off by CSA representatives; however, financial control over this project was significantly hindered due to the lack of segregation of duties. The CFO and other members of the accounts team, although processing payments themselves, were not aware of the contract's provisions and were only presented with invoices endorsed by the CEO to be processed for payment. Hence, the CFO was only aware of the rates payable from those indicated in the invoices and thus was not in a position to exercise the expected financial monitoring.

c. Records filed related to the respective budget were also below the level expected for a project of this magnitude.

d. A large number of payments, totalling €2,206,593, were covered by a purchase order, but all of these were issued after the receipt of invoice as purchases were not effected through the standard procedure, i.e., preceded by a purchase requisition duly approved from the right level of authority. Consequently, budgetary controls intended to prevent over-commitment of funds were completely bypassed.

e. With effect from March 2019, CSA started paying for cameras on a piece-meal basis. A total of 179 cameras were paid for in this regard till March 2021, for a cost of €262,249 (VAT excl.). However, no records were available documenting the change from fixed contract to piece-meal basis and the applicable rates. This hindered the verification of invoiced amounts.

f. While cameras provided under the terms of the contract covered supply, installation and commissioning, those supplied on a piece-meal basis were provided on a supply basis only. Installation and commissioning were charged for separately at the rate of €58 per hour for the technician and €98 per hour for the engineer[9], (both VAT excl.). Similarly, items required for installation, such as mounting boxes, brackets, pole adapters, as well as air freight, were all additionally charged for separately.

g. The first list of cameras, installed at Corradino Correctional Facility Paola, Valletta Lock-up, Mount Carmel Forensic Ward and the Centre at Mtaħleb, provided by the CEO in March 2021 showed a total of 410 cameras. A revised list submitted in May 2021 showed a total of 490 cameras. This was again replaced with a third list showing a total of 599 cameras which was submitted to this Office in the beginning of June 2021 following queries raised concerning a discrepancy between the number of cameras acquired (599), and those installed.

[7] According to CSA, the extra expenses, which were not forecasted, related to (a) additional equipment requirements which became apparent during the installation; (b) additional wiring work and assistance with magisterial inquiries; and (c) unforeseen expenses related to health and safety upgrades in connection with standards issued by the Radiation Board Malta and other international obligations. As at 14 April 2021 there was a pending balance of €43,613 owed to the supplier.

[8] Invoices less than €5,000 were at times endorsed by the Chief Operations Officer and those up to €1,000 endorsed by the CFO.

[9] Weekend rates were €78 per hour for the technician and €147 per hour for the engineer, (both VAT excl.).

h. Annexed to the contract entered into in 2018 were two service and maintenance agreements covering the body scanners and conveyor belts, as well as CCTV. Both agreements, valid for a period of three years, indicated that service and maintenance were offered free of charge. However, with effect from July 2019, i.e., six months after, regular monthly payments of €24,969 for CCTV, and €18,644 for body scanners and conveyor belts, were effected with respect to service and maintenance. No documentation was in place substantiating these amounts. As at end March 2021, €585,941, were paid in service and maintenance fees.

i. As per contract entered into in December 2018, the initial fixed agreed amount of €2,143,249 also included nine network video recorders. A further four were paid for on a piece-meal basis, for a total cost of €87,886 (VAT excl.). However, according to CSA, only a total of six out of thirteen were installed.

j. While advanced software support was included with the CCTV system deliverables stipulated in the contract, two additional related payments of €25,063 each, were issued in 2020, covering advanced software support for Mount Carmel Hospital and Valletta Lock-up respectively. Another payment of €28,800 (VAT excl.) was also traced covering advanced software support for the second year. However, the only documentation covering the said amounts was the invoices. Two other payments covering advanced software support were also issued in 2019, amounting to €18,000 and €2,100 (both VAT excl.) respectively.

Another type of software was also included in the contract. Nonetheless, a payment of €18,800 (VAT excl.) was effected in 2020 in respect of this software.

k. Another undocumented charge was what CSA referred to as daily inspection by a network specialist, which started as an hourly visit in August 2019 and increased to two hours as from December 2019, charged at €158 per hour (VAT excl.)[10]. Over €19,000 was paid in 2020 for these daily inspections.

l. The invoice numbering used by the contractor was one which made it hard to keep track of. Instances were also noted where the same invoice number was used on different invoices. In one case, a particular invoice number, with items totalling €12,824, was indicated as a donation to CSA, with the same invoice number used on another bill amounting to €11,658 and incorporating similar items to those which had been donated. Instances were also noted where VAT was applied on courier and delivery charges, including clearance charges.

m. While the agreement endorsed in 2018 covered a total of 2,000 camera licences, there was no indication whether such licences were payable on an annual basis and the respective cost. During audit testing, various licence payments were noted. Additionally, invoices issued in 2020 included a number of terms, amongst which, one indicating that licences will incur a 30% increase per year, payable in advance.

Recommendations

Internal controls are expected to be immediately stepped up. While acknowledging the sensitive nature of the project, amongst others, these are to include full audit trail and, as far as possible, segregation of duties. Adequate documentation should be in place to enable both internal and external independent verifications. While, in projects of such magnitude, an element of variations is expected, these should not become the norm. These should also be documented and authorised in writing by the relevant authority providing full audit trail. Any items required beyond those covered by the contracts in place are to be acquired through the normal channels, ensuring that controls are not bypassed.

A purchase order is to be invariably raised before a commitment is entered into. The CFO is expected to monitor the related costs in order to ensure that the respective budget is not exceeded. Furthermore, those entrusted with exercising control need to have the relevant information to be able to discharge their duties in an effective manner.

[10] Amongst the duties carried out by the network specialist were entering items in stock, clearing store, paperwork and filing, office work, and inventory list.

Hence, they need to be aware of relevant contract provisions, such as rates payable, enabling them to carry out the necessary verifications.

The involvement of the Implementation Unit in project management, in line with the provisions of L.N. 121 of 2019, is also strongly encouraged. This would provide independent oversight, enabling corrective action to be taken as and where necessary.

Management Comments

Purchase orders will be issued before any invoice is received, unless backed up by an agreement. However, when it comes to the security project in question, this practice cannot be done due to security considerations.

The security equipment project was a big job and is now terminated with success. The Agency could not foresee the real needs of this project. Now that the project is in place, CSA will be putting a maintenance agreement in place by October 2021.

Procurement not in Line with Public Procurement Regulations

The procurement methods adopted by CSA do not provide the comfort of transparency, adequate competition and equal treatment to potential bidders, due to the fact that only specific suppliers selected by CSA were given the chance to bid. The following shortcomings were noted:

a. CSA's main method of procurement was either following the collection of quotations from selected suppliers, or outright by direct order, irrespective of the amount involved. While generally three quotations were being sought, in four sampled instances, procurement, in aggregate amounting to €33,179 (VAT excl.), was made from two particular suppliers from whom the only quotations were sought.

b. Another practice adopted by CSA, which was not in line with the provisions of the Public Procurement Regulations, was that of splitting orders relating to the same items. This way, individual payments, relating to acquisition administered in the manner described above, were kept below the €10,000 (VAT excl.) threshold stipulated in the pertinent regulations. Furthermore, approval by the Ministry for Finance to purchase the items in question by direct order was not sought.

Recommendations

Compliance with the regulations, which are intended to promote competition and transparency, is the main way to obtain better deals and to mitigate risks, particularly those related to reputational damage which would arise from non-compliance. Such enhancement in governance processes will also strengthen the integrity of the organisation. Thus, it is recommended that there is adequate and timely planning so that the related procurement is made in line with pertinent regulations in a fully transparent manner, providing equal treatment to all interested bidders and ensuring that the interests of Government are duly safeguarded.

Management Comments

Three quotations are being sought and the best bidder is chosen, however for security reasons, specific trusted suppliers are chosen to bid.

The Head of Logistics has been employed since October 2020 and will see to follow the procurement regulations, whilst adhering to priorities related to the National Security.

Control Issues

Unreliable Projections

The financial projections presented for audit purposes were not considered as reliable. The following refer:

a. Two different capital expenditure projections for 2020 were provided to NAO. These projections, of €18,620,000[11] and €3,317,500[12] respectively, differed significantly from each other and from the allocated budget of €1,650,000 in the Financial Estimates. In reply to queries as to the substantial discrepancy, NAO was informed that there was an error of €17 million relating to the new prison block, as the new division building was approved and funds were allocated from the current year's budget.

b. Further to the above, capital projects which did not feature in any of the two projections were undertaken during the year under review. These included, amongst others, the medical intervention rooms, the drug testing machine, as well as works on the Valletta Lock-up, construction of stores and spotlights.

Recommendations

The project planning phase is to include a feasibility study, taking into consideration available resources and adequacy of cashflow position. While NAO acknowledges that in a dynamic and challenging organisation, such as CSA, priorities are continuously evolving, any deviations from planned and approved projects are expected to be clearly documented, providing justifications and proper audit trail.

Management Comments

Capital accounts for different projects have been specifically opened, also making reference to the Management comments under the first Key Issue.

Inadequate Audit Trail hindering Verifications

No cost estimates and independent evaluations supporting quantities claimed and rates charged were noted for the projects in the audit sample. Transactions reviewed related to construction material and electrical works. The following refer:

a. Invoices amounting to €13,815 presented by a supplier, covering construction materials[13], were only supported by purchase requisition forms approved retrospectively by CEO in January 2021. Moreover, no documentation supported the substantial increase in the invoiced rates for bricks and xaħx[14] of 33% and 67% respectively.

b. Similarly, only invoices were provided in support of two payments, totalling €23,600 to another supplier. Furthermore, one of the invoices amounting to €11,800, and covering works on the Valletta Lock-up, indicated that the electrical installation in question will be certified by a qualified electrician and engineer. However, the respective certification was not provided for audit purposes.

[11] As per capital expenditure projections 2020-2022 indicated in Annex 6 of the business and financial plan, presumably submitted to the Ministry for Finance.

[12] As per internal capital projections of an unknown source.

[13] Supplied between May 2019 and November 2020, in respect of a new store room at Corradino Correctional Facility.

[14] Fragments of stone used by masons to cover a ceiling or floor before laying bricks on it.

Recommendations

Reasonable cost estimates, independent evaluations and adequate audit trails are vital and essential components for efficient and effective project monitoring. They also serve as the basis for verification of invoices before these are approved for payment. Hence, CSA is to ensure that internal control in this regard is duly stepped up.

CSA is also expected to request a copy of the certification from the respective supplier.

Management Comments

Cost estimates and independent checks have been put in place. Finance and Logistics Units will be responsible when purchasing and paying suppliers, while Logistics Unit and Stores will be responsible when purchasing and/or ordering and receiving and/or delivering goods and services.

CSA explained that the lack of certification by a qualified engineer, either provided by the supplier and/or by the in-house electrician, was an oversight, given the pressure the Agency had and the change-over from the previous manager to the current[15] CFO who was engaged during the COVID-19 period[16]. CSA will continue to chase and eventually obtain such certification.

Lack of Segregation of Duties and Standard Operating Procedures

Despite that CSA had separate Units for Logistics and Finance, both the raising of purchase orders, as well as the processing of payments were effected by the four staff members in the Finance Unit. In addition, there were no formal procedures to ensure that adequate segregation of duties was in place.

Authority levels of some sorts were unofficially established; however, these were not documented. Furthermore, it was noted that procurement was not always approved prior to the actual commitment.

Recommendations

CSA is to draw up standard operating procedures which would contribute to clarity and consistency throughout the organisation. Ideally, set thresholds are to be applied at pre-acquisition level, ensuring that any commitments entered into are duly approved from the right level of authority. In addition, CSA is to ensure that adequate segregation of duties is in place and thus no officer should be responsible for the raising of purchase orders and processing of respective payments. CSA may consider shifting this function to the Logistics Unit.

Management Comments

The new CFO will draw up standard operating procedures related to procurement, as well as officially implement segregation of duties, which is already in place within the Finance Unit. The Agency will ensure that procurement is approved within the thresholds prior to commitment and once the invoice is received, this is duly checked and approved for payment by the Finance Unit.

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[15] Management comments submitted on 8 July 2021.

[16] CFO was engaged in September 2020.

Accounting Issues

The following accounting issues were noted:

a. A tranche of €1.58 million forwarded to CSA from the Consolidated Fund in December 2020 was not captured in the accounts provided for audit purposes. The trial balance was eventually updated accordingly.

b. On 16 January 2020, the Ministry for Finance authorised the release of a tranche of €2.75 million from Line Item 6017 under Recurrent Vote 25 (MHAS). This was traced as a credit entry in April in the bank statement; however, the amount in question was not charged to account 6017. CSA noted this oversight in December 2020 and took action from its end, but this was still not rectified by MHAS.

c. Transaction listing of a particular supplier, which was provided for audit purposes, did not capture all the payments effected to this supplier. CSA confirmed that a cheque of €24,967 had not been recorded in the cashbook of the accounting software. This was subsequently updated during the audit.

d. Given that CFO was not always aware of the amounts committed in respect of the security equipment project, and only paid upon receipt of invoices, related unpaid expenses, which were relatively material, could not be accrued for.

e. Although the statutory deadline for submission of the audited accounts was six weeks after the end of the financial year, by mid-June 2021, those for financial year 2020 were not provided to this Office by the time this write-up was concluded, i.e., September 2021.

Recommendations

Regular bank reconciliation statements are to be carried out to ensure that discrepancies are detected at an early stage and timely corrective action is taken.

Moreover, it is vital that all relevant information is communicated to CFO in a timely manner so that adequate records can be kept. In addition, unless the accounting staff is made aware of outstanding dues, they will not be in a position to prepare meaningful accounts on accruals basis. Furthermore, accounts are to be drawn up and audited within the stipulated legal timeframes.

Management Comments

NAO's recommendations have been taken on board. Monthly reconciliations of bank accounts and tranches between the Ministry and CSA have been put in place. The Logistics and Finance Units, as well as Stores, are all using the accounting software, thus making it possible for different reports to be extracted. The Agency has adopted accrual accounting in its reporting. Moreover, independent auditors will be contacted for their guidance.

Other Procurement Issues

Other shortcomings in procurement included the following:

a. A generic email address was not being used when requesting quotations.

b. In certain instances, quotations were traced in file, but there was no evidence of the actual request or calls for quotations.

c. A number of invoices were not certified correct but were still processed for payment.

Recommendations

Transparency and equal treatment are two basic principles related to public procurement. Hence all calls for quotations are to be documented for full audit trail. Bids are to be sent to a generic email address, to be accessed only by the designated officer on the closing date. In addition, all invoices are to be invariably verified and certified correct prior to their approval for payment.

Management Comments

A generic email address for logistics and accounts is available and all invoices are being checked and certified correct before processed for payment.

No Fixed Asset Register in Place

Despite the significant investment in fixed assets, especially in the purchase of security equipment in recent years, no fixed asset register was in place.

Recommendations

CSA is to start building the fixed asset register without further delay. Besides being a vital internal control component with respect to the safeguarding of assets, this is also an important aspect of accrual accounting. It should include both tangible and intangible assets acquired over the years, as well as those newly purchased and assets manufactured in-house.

Management Comments

An officer will be engaged for this specific task.

Ministry for Justice, Culture and Local Government

Ministry for Justice, Culture and Local Government

Personal Emoluments

An audit on the payment of allowances and overtime by the Office of Notary to Government and the Office of the Permanent Secretary Office within the **Ministry for Justice, Culture and Local Government** revealed weak internal controls, mainly relating to insufficient verification of overtime payments and inadequate documentation maintenance in both areas reviewed.

Background

The then Ministry for Justice, Culture and Local Government (MJCL)[1] had a number of cost centres within its portfolio. The Ministry was also responsible for a number of Boards and Entities.

For financial year 2020, the budgets earmarked for allowances and overtime (line items 16 and 17) under Recurrent Vote 30, for the said Ministry stood at €2.27 million and €580,000 respectively.

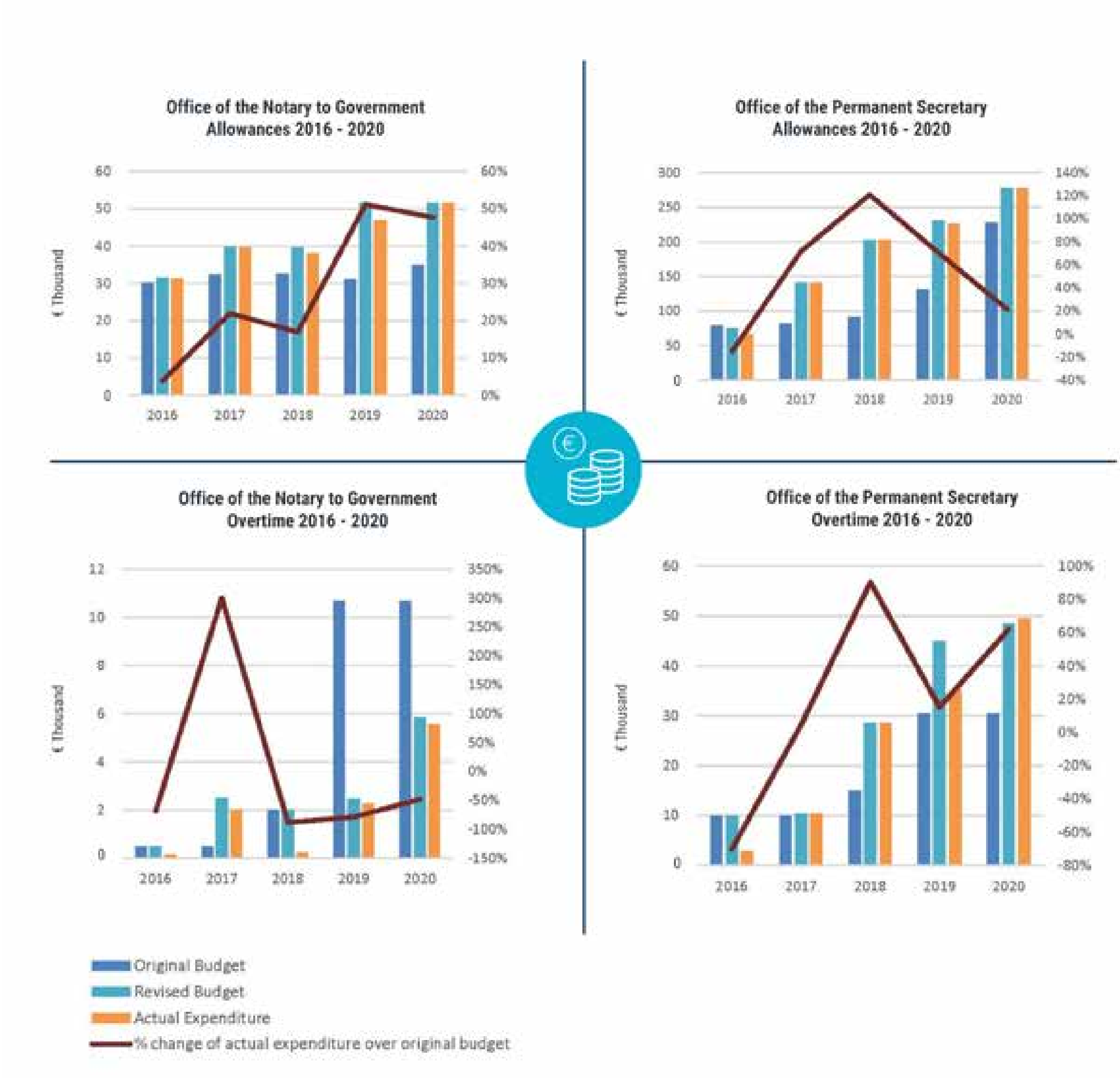
However, as a result of the reorganisation occurring within the public administration in January 2020, certain cost centres, including the Restoration Directorate and Cleansing and Maintenance Division, to which the majority of the budgets were allocated, no longer fell within the remit of MJCL[2]. Thus, this audit focused on expenditure incurred by two of the cost centres remaining under the responsibility of the pertinent Ministry, namely the Office of the Permanent Secretary (A04) and the Office of the Notary to Government (A06). Separate audits were also carried out by the National Audit Office (NAO) on the aforementioned cost centres, i.e., the Restoration Directorate and Cleansing and Maintenance Division. These feature hereafter in this publication.

Aggregate budget allotted to the two audited cost centres, for both overtime and allowances, amounted to €326,200, with actual expenditure incurred during the year under review exceeding €400,000. Diagram 1 illustrates budgeted figures, both original and revised, and actual amounts expensed by each Office during the five-year period 2016 to 2020, for both categories of expenditure.

[1] As per Financial Estimates 2021, titled Ministry for Justice, Equality and Governance.

[2] The Restoration Directorate and the Cleansing and Maintenance Division now fall within the remit of the Ministry responsible for National Heritage, the Arts and Local Government and the Ministry for Tourism respectively.

Diagram 1: Budgeted Figures, both Original and Revised, and Actual Amounts



As evidenced in the Diagram, actual allowances paid by the Office of the Notary to Government exceeded that budgeted for the past five years. Likewise, expenditure on overtime and allowances paid by the Office of the Permanent Secretary surpassed the budget for the past four years.

Audit Scope and Methodology

The main scope of the audit was to ascertain the adequacy of the internal control system in place with respect to the payment of allowances and overtime, as well as to verify whether applicable regulations and agreements were followed for the approval and payment thereof. It was also ensured that the respective payments were supported by the necessary documentation.

The audit was conducted in accordance with generally accepted auditing standards. Qualitative sampling techniques were applied, and testing was designed with the intention of ascertaining compliance and identifying methods through which current practices could be improved.

To select the sample, the respective populations were split in groups based on a set of pre-established thresholds, depending on the materiality of the amounts involved. A random sample was then selected from each group. The amount sampled totalled €80,065, resulting in an overall coverage of 19%.

Conclusions reached in this write-up only relate to the documentation that was examined.

Control Issues

Undated Documentation

Audit verifications carried out revealed various instances whereby documentation was undated. This included documents supporting the payment of various allowances and the performance appraisal reports. Similarly, requests for overtime lacked the date when the respective Permanent Secretary gave his approval. As a result, this Office was hindered from confirming whether the documentation in question was actually endorsed ahead of effecting the related payments.

Recommendation

Documentation supporting the payment of overtime and allowances is to be dated by the parties endorsing it, thereby enhancing audit trail and enabling external verification.

Management Comments

Management took note of the recommendation and necessary measurements will be taken to ensure that dates are included, approvals are provided beforehand and that documents are filed for easier accessibility.

Documentation provided either Incomplete or not Updated

Various documentation requested during the audit was either not provided or was provided incomplete, as follows:

a. Upon commencement of the audit, NAO was provided with reports from the payroll system, showing overtime and allowances paid by the sampled Offices. Queries raised concerning a discrepancy, noted between the figure of overtime paid by the Office of the Permanent Secretary as per payroll run and the related figure recorded in the Departmental Accounting System, were only answered two months later[3], when the audit was being concluded. It also transpired that a number of officers, who during 2020 received overtime payment, were excluded from the payroll report initially provided for audit purposes. As a result, the audit sample was taken from a population that was incomplete.

b. Similarly, the breakdown of allowances, provided by the Office of the Notary to Government at the commencement of the audit, was incomplete since two cash payments and a qualification allowance paid to an officer were not reflected in the respective list.

c. Details concerning the position of an officer falling within the audit sample, as included in the staff lists provided for audit purposes, did not reflect his actual position as indicated in the employment files, implying information was not being updated with the latest employee's details.

[3] NAO raised the related query on 8 April with a sufficient explanation being provided on 10 June 2021.

d. Approvals and related workings, pertaining to an allowance paid to a sampled official while performing duties in an acting Headship capacity within the Office of the Notary to Government, were not provided for audit purposes, claiming that the respective workings were made by the Gozo Salaries Section. However, notwithstanding various reminders[4], the workings were still not made available.

Recommendations

Data concerning employees, including staff lists, is to be continuously updated to reflect the current employment details. Moreover, the Ministry is to invariably ensure that documentation provided for audit verification is duly vetted before submission, thereby ascertaining its accuracy and completeness. Timely feedback to queries raised will also avoid similar future occurrences.

Management Comments

Management took note of the recommendations and shall follow accordingly. The Office of the Notary to Government had shortage of staff within the Accounts Section which made it difficult to keep things organised accordingly. The following also refer:

a. This was an oversight; however, information was provided.

b. The two cash payments and qualification allowance paid to an officer within the Office of the Notary to Government, which were not included in the breakdown of allowances, was duly noted. The Accounts Section has been informed to make sure that for future reference these are recorded.

c. File was updated accordingly and an exercise was conducted to ensure all details are up-to-date.

d. Workings from Gozo Salaries Section were never provided despite several reminders even after the audit was closed. Regretfully the person from the foregoing Section is no longer employed there and workings on documentation was not available.

Lack of Independent Verification of Overtime Payments

Audit verifications revealed lack of independent verification of overtime payments. From the sample tested, it was noted that an incorrect overtime rate was applied and paid in one particular instance[5].

Recommendation

Adequate review of overtime is to be performed ahead of processing the respective payments.

Management Comments

Management took note and shall comply accordingly. The incorrect overtime rate was applied because the personal details of the concerned person were not updated. Office of the Notary to Government has established a procedure to ensure independent verification of overtime payments.

[4] The first query was submitted by NAO on 3 May, however as at 13 July 2021, no reply was yet submitted.
[5] Pertaining to a sampled official from the Office of the Notary to Government.

Restoration Directorate

Personal Emoluments

Staff at the **Restoration Directorate** was very cooperative and helpful during the audit of personal emoluments. The required documentation was readily made available upon request and replies to queries made by this Office were always supported by detailed workings, explanations and/or documentation, as applicable.

Background

The Restoration Directorate is the main Government entity responsible for the implementation and execution of restoration, rehabilitation and conservation interventions on historical buildings. The Directorate also offers specialised assistance to various public entities and institutions, including Ministries, local councils, departments, agencies and non-Governmental organisations. It operates from its offices and workshops at the Ospizio Complex in Floriana.

The total budget for allowances and overtime in 2020 allocated to this Directorate[1] was €380,000 and €39,800 respectively. As per Departmental Accounting System, actual expenditure on allowances was €321,793 and that spent on overtime was €32,455. During the year under review, the average staff complement was of 160 personnel, including administrative, professionals, technicians and hands-on workers with specific know-how in restoration techniques.

Audit Scope and Methodology

The scope of the audit was to verify the adequacy of internal controls in relation to the calculation and payment of overtime and allowances during year 2020, as well as to verify whether the applicable regulations and provisions were being followed.

An introductory meeting was held with the Director and Senior Principal, Restoration Directorate, in order to obtain an overview vis-à-vis the payroll procedures in place. Minutes of the meeting were sent to the auditee and confirmed.

The payroll data provided was analysed and a stratified random sample was taken both for overtime and allowances, comprising four[2] and fourteen employees, respectively. Furthermore, a total of eight types of allowances, which were different in nature than the ones randomly selected, were also verified.

Testing mainly involved checking accuracy of payments and obtaining supporting documentation for the claimed qualification allowance, as well as for the approved percentages of performance bonus, technical expertise and project-based allowances. Claims for the payment of overtime and danger[3] allowance were also scrutinised. These were reviewed to ensure compliance with the pertinent circulars and guidelines.

[1] In 2020, during pay periods 1 to 6, the Restoration Directorate was under the remit of the Ministry for Justice, Culture and Local Government, whilst from pay period 7 onwards, the Directorate fell under the Ministry for the National Heritage, the Arts and Local Government.

[2] In total, there were 18 employees who received overtime during the year under review.

[3] From pay period 7 onwards, referred to it as obnoxious and hazardous Duties.

As part of the audit testing, reimbursements made to the sampled architects with respect to the continuing professional development grant were also verified. Moreover, it was ensured that overtime and allowances were not paid as multi-payments[4]. Documentation and procedures in place with regard to time off in lieu were reviewed.

Relevant documents were requested in order to perform detailed substantive testing.

General Comments

The National Audit Office satisfactorily noted that all documentation relating to the audit was readily available and timely submitted upon request. The necessary certification and endorsements from various officers were in place. This Office also noted that the pertinent regulations, circulars, guidelines and agreements were duly followed. It was also noted that the internal control system for payroll was in place within the Directorate.

Furthermore, officers involved during the audit were very cooperative and helpful, and detailed workings were provided when necessary. This Office noted accountability, transparency and overall good governance within the Restoration Directorate. Only minor issues were encountered, for which action was taken immediately to rectify the matter.

General Management Comments

Management satisfactorily notes the positive findings by the National Audit Office. It also acknowledges that minor issues identified have already been adequately addressed by the Restoration Directorate. Therefore, there are no pending matters which require any follow-up. Management will strive to retain this level of accountability, transparency and overall good governance within the Restoration Directorate.

[4] These are payments to non-VAT registered individuals.

Cleansing and Maintenance Division

Personal Emoluments

The audit of overtime and allowances at the **Cleansing and Maintenance Division** revealed considerable overtime claims which led NAO to question the relative records and the productivity levels within the claimed hours. Additionally, the fragmented attendance recording system resulted in lack of proper controls and audit trail.

Background

The Cleansing and Maintenance Division (CMD) provides services to Central and Local Government. Its aim is to keep urban and non-urban areas free from litter and illegally dumped waste, thus enhancing the environment. Services to third parties are also rendered upon request.

The Division is composed of the following units:

- Beach Cleansing
- Cleansing of Arterial Roads
- Cleansing of Public Areas and Open Spaces
- Cleansing of Public Conveniences (Central Government premises only)
- Maintenence of Rainwater Systems
- Upkeep and Maintenance

Previously, CMD was included with the portfolio of the Ministry for Justice, Equality and Governance[1]. However, as from 15 January 2020, following Cabinet reshuffle, the Division fell under the remit of the Ministry for Tourism and Consumer Protection (MTCP). In 2020, the budgeted and actual expenditure incurred by CMD for allowances and overtime were as shown in Table 1.

Table 1: Budgeted and Actual Expenditure for Allowances and Overtime

	Budgeted Expenditure[2] €	Actual Expenditure[3] €
Allowances[4]	1,078,000	1,333,933
Overtime	481,300	475,436[5]

[1] Until 14 January 2020, this was known as the Ministry for Justice, Culture and Local Government. CMD's financial allocation for year 2020 was issued under this Ministry's recurrent vote.
[2] According to Financial Estimates 2020, Recurrent Vote 30 for the Ministry for Justice, Culture and Local Government.
[3] Figures according to the Departmental Accounting System.
[4] The budget was further augmented by a virement which was duly authorised by the Ministry for Finance.
[5] This figure excludes overtime recoverable from third parties.

Audit Scope and Methodology

The scope of the audit was to assess the adequacy and effectiveness of internal controls over expenditure incurred on allowances and overtime during 2020, as well as to establish whether Government resources were used prudently and in a judicious manner. The National Audit Office (NAO) also assessed whether the administrative procedures adopted were in compliance with the Public Service Management Code, the applicable collective agreement, Standard Operating Procedures (SOPs) and other pertinent circulars.

An introductory meeting was held with Management[6] to discuss the audit objectives and to obtain a general understanding on the Division's operations. The cost of overtime incurred by each unit, as a percentage of total expenditure, was established. Subsequently, a random stratified sample of a total of 20 employees was selected from these sections, based on the aforementioned proportion of costs.

Payments for allowances effected during 2020 were analysed to obtain the total cost incurred on each type. Since these differed according to the nature of work, allowances were also analysed by unit. Different thresholds and weightings were allocated, depending on the amounts disbursed. A sample of another 20 workers was randomly selected, taking into consideration the most material types of allowances. Additionally, a walkthrough exercise was carried out on allowances of less material amounts.

To supplement its workforce, CMD engaged additional employees through the deployment from two Government-owned companies. Payment for overtime and allowances costs of these employees were invoiced separately on a monthly basis. Walkthrough testing of the relative internal controls, on six random invoices and supporting documentation, was conducted.

Disclaimer

Some employees were compensated for a substantial number of overtime hours weekly throughout the year, based on the attendance records. This concern was already highlighted by NAO in an audit for financial year 2010. This Office opines that although this work pattern may be sustained temporarily, the physical and mental wellbeing of the respective employees would be seriously jeopardised if such work schedule was adopted in the longer term. Consequently, the veracity of the attendance records and the productivity maintained throughout the claimed work hours were deemed questionable.

Limitations on Scope of Audit

The following limitations hindered the audit process:

a. Records containing work shift details of the sampled employees were not available for audit purposes. As a result, official working hours, which ultimately affect the overtime hours claimed, could not be confirmed.

b. Attendance records to support overtime were held separately from those pertaining to the normal work schedule. Moreover, individual sheets were held for each overtime job. This fragmented record-keeping system led to lack of proper control and audit trail. In addition, there was a time lag in overtime disbursements; thus, the Auditors were not in a position to confirm the total hours claimed and settled with respect to a specific period.

[6] Meeting was held with the Director General, as well as Director (Operations) from the Strategy and Support Directorate of MTCP.

Management Comments

a. *By December 2021, CMD will prepare a document, identifying the respective unit and working hours for each employee, to be inserted in the personal file. Nevertheless, schedule notification forms, which included the normal working hours for each employee, were forwarded accordingly when requested.*

b. *Time lag in overtime disbursements occurs because employees are paid accordingly when payment is received from the particular entity. Thus, CMD is dependent on other entities to effect payment for recoverable overtime work.*

Key Issues

Lack of Accountability for Overtime Planning

Overtime work for periods not exceeding three months was authorised by Director General, in line with the Permanent Secretary's delegation of authority. The approvals collectively covered thousands of overtime hours which resulted in an aggregate cost of €475,436[7] during 2020. Whilst acknowledging that most of them related to the COVID-19 pandemic period, the following concerns were noted:

a. No evidence was provided to support the basis of the number of overtime hours required.

b. There were no established SOP or guidelines that determine the approximate number of hours required, depending on the area and nature of work performed.

c. The Division does not have standard team set-ups that determine the human resources requirement for different sections.

Recommendation

CMD is encouraged to establish SOP and guidelines which would enable Management to substantiate its budgets, justify related expenditure and optimise the use of human resources.

Management Comments

Planned overtime hours for each job should be based on experience. A number of variables are constantly changing and cannot be quantified by SOP. These include the required number of hours, number of employees, volume of waste to be loaded, cleansing processes including street sweeping, street washing, cleansing of waste receptacles, cleaning of street furniture and other necessities, as required. This depends on the periodic activity of each season. Each area has different logistics and cannot be given the same weight. Apart from the planned cleansing and maintenance works throughout the year, CMD has various ad hoc requests from other entities, departments and Ministries that cannot be possibly quantified in advance through an established procedure.

Considerable Claims for Overtime

An audit performed at CMD in 2011 revealed substantial overtime payments. Similar concerns were again noted during this review. It transpired that employees claimed up to an average of 30 hours weekly on a regular basis. In certain instances, no deduction for breaktime was made. The highest compensation for overtime, amounting to €21,349, paid by the Division during the year, was made to a Foreman.

[7] This amount does not include overtime recoverable from third parties. According to the Departmental Accounting System, total overtime paid in this respect amounted to €732,793, against which €257,357 was recouped from other entities.

Recommendation

The preparation and implementation of the recommended guidelines and procedures is highly encouraged so that Management would be in a better position to allocate overtime hours according to the exigencies of the Division.

Management Comments

Three of the individuals in question are highly trusted employees. In particular, the Foreman and Senior Operative performed overtime to sanitise public roads and areas every morning on a daily basis.

Additionally, the Senior Clerk has been conducting supervision duties for a considerable number of years. Most of the overtime performed by this employee is recoverable from third parties, who are more than satisfied with the performance and efficiency of the Division's personnel. To this effect, contracts for works are renewed periodically.

Works covered by the employees in question and various others always resulted in efficiency and effectiveness.

All employees are asked to indicate if they are willing to perform overtime annually. Due to the lack of response, a considerable number of workers are requested to perform a substantial number of overtime hours with their consent[8]. Moreover, to cater for the increase in demand for cleaning services, a request to increase the headcount has been forwarded accordingly by the Division, to no avail.

In fact, from a total of 606 employees engaged with CMD, only 127 employees accepted to work overtime. Moreover, the majority were selective in their overtime working hours.

Control Issues

Unsatisfactory Documentation Management

Review of the overtime documentation revealed the following concerns:

a. As aforementioned in the 'Limitations on Scope of Audit', due to the dispersed record-keeping system, there was no systematic way of obtaining a complete overview of the total number of work hours recorded by employees during a specific period and hence corroborate the extra hours claimed. Such system also enabled an employee to be recorded on different overtime attendance records at the same time, resulting in an overpayment.

b. A Public Cleansing Foreman was paid for four hours for every overtime claim, during August and September 2020, irrespective of the fact that, at times, recorded hours were less than the foregoing amount. Additionally, during a particular week, a Senior Foreman was paid for overtime, when the officer was just marked as present without any record of claimed hours.

Recommendations

The absence of a comprehensive attendance record-keeping system weakens internal control and accountability. CMD is to implement an organised approach whereby the total employees' recorded hours, both in relation to the normal schedule and overtime, can be easily identified. Management information would also be enhanced as details with respect to each task would be easily retrievable instead of being compiled through multiple spreadsheets. The possibility of erroneous payments would also be reduced whilst promoting an adequate audit trail.

[8] Information to this effect provided for audit purposes was not satisfactory.

Management Comments

A monthly breakdown of each employee overtime hours started being compiled as from December 2020[9]. Deductions to recoup the overpayments will be made accordingly.

The Senior Foreman performs duties on a 'night in' and 'night out' overtime basis, alternating with another employee of the same grade. Hence, the hours claimed by the other Foreman apply also to this worker.

CMD shall be considering the introduction of an automated verification system. Meetings will be held with Chief Information Officer and Data Protection Officer to identify the best solution whilst ascertaining compliance with the attendance verification, system policy and guidelines.

Recoverable Overtime

Services Required by Third Parties not supported by Documented Cost Estimates

The Division is occasionally requested to provide its services to third parties. The respective fee for the task is agreed to in advance in writing and subsequently invoiced accordingly. NAO could not determine how this amount was established as no supporting documentation was provided in this respect. It was claimed that this was arrived at through experience, on a case by case basis.

Fairyland Activities

The Division was requested by the Malta Tourism Authority to carry out cleaning duties, related to the Fairyland activities in Valletta from 16 December 2019 until 6 January 2020, both days included. The overtime approval also reflected the same dates.

Notwithstanding this, a total of 168 overtime hours, involving an aggregate cost of €1,098, was claimed by employees from 7 until 10 January. According to CMD, following the event[10], extra hours of cleaning were requested through a phone call. Moreover, the overtime request was not amended accordingly. Thus, the amount in question could not be validated. The Division did not impose extra charges on the Authority since funds were available.

Recommendations

CMD is expected to keep detailed record of calculations substantiating the charges invoiced to third parties. Additionally, all requests and approvals are to be duly documented and filed for future reference.

Management Comments

CMD has been identified to participate in a pilot project for a new module on the Corporate Financial Management Solution[11]. The accounting officer will be able to insert details to determine the cost of the service provided to third parties, taking into consideration the overtime rate per hour, fuel, materials and supplies. Moreover, following the audit, CMD started to split up the costs.

Fairyland activities were organised by the Malta Tourism Authority. Being that CMD and the Authority are both Government-owned and a balance of funding was still available, no additional charges were made. Hence, no negative financial impact on Government finances occurred.

[9] The mentioned monthly breakdown was deemed by NAO as insufficient for control purposes.
[10] When the structures were being dismantled.
[11] Transfer Pricing.

Compliance Issue

Possible Conflict of Interest

Section 6.2 of the Public Service Management Code stipulates that individuals with close relationships, such as members of the same family, should be avoided from working within the same unit. NAO identified a number of such instances, where conflict of interest could possibly arise. The Permanent Secretary MTCP in office[12] had not been made aware of these cases by CMD.

Recommendations

Consonant with professional ethics, if these situations cannot be avoided, the respective Permanent Secretary is to be duly informed in writing within a week from assuming office or upon a change in duties or circumstances. Although the primary responsibility for such notification is vested with the employees in question, Management is to ensure that the respective Permanent Secretary is informed of such circumstances as soon as it becomes aware.

Management Comments

CMD is not aware that individuals with close relationships work in the same units. Management will review and inform Permanent Secretary of any close relationship issues that may arise.

[12] As at time of audit fieldwork, i.e., October 2021.

Festivals Malta

Expenditure

An audit of the expenditure incurred by **Festivals Malta** revealed that formal operating procedures outlining the organisation of events were not in place. Various shortcomings related to the procurement of professional services by direct order were also identified.

Background

Festivals Malta (FM), which previously formed part of Arts Council Malta (ACM) was established as an independent Agency in June 2019, by means of Arts Council Malta (Cap. 542) Festivals Malta Agency (Establishment) Order, 2019 (L.N. 138 of 2019). The Agency's main objective is to create, maintain, organise, administer and oversee the organisation and implementation of a portfolio of national and international cultural and artistic events, festivals and cultural infrastructural projects.

As per management accounts, at the end of financial year 2020, the Agency reported a surplus of €317,510. For the year under review, funds allocated by Central Government totalled €4,415,650 as detailed in Table 1. However, due to the restrictions brought by COVID-19 pandemic, certain events were either cancelled or organised in a different manner and thus such funds were not exhausted. In fact, Government contribution as reported in the management accounts amounted only to €3,794,815. The resulting difference between the amounts allocated and revenue as reported in the management accounts was partly carried forward to 2021.

Table 1: Events administered by Festivals Malta

Event	Line Item	Available Funds as per Departmental Accounting System following Warrants and Virements €	Government Contribution as reported in the Management Accounts €
Performance of Maltese Classical Music	5170	160,000	
Festival Internazzjonali tal-Kanzunetta Maltija	5261	200,000	367,461
Verdala Piano Festival	5668	150,000	
Arts and Culture Events	5484	1,300,000	1,284,927
National Celebrations Foundation	5682	940,000	597,281
Rock Festival	5847	345,650	280,186[1]
Malta Carnival Experience	5885	220,000	220,000
Festivals Malta	6014	1,100,000	1,044,960
Totals		**4,415,650**	**3,794,815**

[1] According to FM, this figure is understated by €1,500 due to a mis-posting which was still to be adjusted in the management accounts.

In addition, FM managed to generate revenue of €151,445 from the selling of tickets, leasing of stalls and sponsorships. A grant of €42,950 relating to an European union funded project[2], aimed to set up a music Rap workshop to foster a positive opinion on migration, was also included as income.

Meanwhile, direct operational costs and overheads totalled €1,997,196 and €1,674,505 respectively.

Organisation of Events and Festivals

Due to COVID-19 pandemic, during 2020 the Agency organised only two mass events, being the President New Year's Concert and the Carnival. Table 2 discloses the income derived from such events and the respective expenditure as reported in the nominal ledger provided by FM for audit purposes.

Table 2: Events organised during Financial Year 2020

Event	Income from Sale of Tickets €	Income from the Lease of Stalls €	Expenses incurred €
President New Year's Concert	4,810	-	16,457
Carnival	56,987	5,925	472,924

Audit testing focused on income and expenditure relating to the Carnival activities, being the major event organised in 2020. These festivities were held between 21 and 25 February 2020.

Tickets for these events were sold online through the platform operated by Kultura Malta[3]. An invoice was then issued by FM in this respect and funds were transferred to the latter by ACM.

Contracts for Service

The Agency procures professional services, ranging from consultants to marketing, site managers and coordinators, through a contract for service. As per data provided for audit purposes, during 2020 there were around 30 individuals and entities providing their services in such manner. According to FM, aggregate amount paid for such services totalled more than €475,000.

To verify that procurement regulations were fully complied with, sample testing was carried out in respect of five service providers, who during the financial year under review were paid a total of €132,450. The sample was selected on a random basis after the data was divided in different strata according to financial values so as to ensure that data falling within the sample covered the full population.

Boards and Committees

Besides its Board of Directors, which oversees the overall operations of the Agency, the following Boards and Committees also fall under the remit of FM.

[2] This was the I.Com project which was put on hold in 2020 due to COVID-19 pandemic. Only €916 in travelling expenses was incurred.

[3] The Kultura Malta is an online service app and responsive website by the Government of Malta, used for the promotion of public cultural events carried out by ACM and all the public cultural organisations falling under it, as well as other public entities who may wish to use the system (such as Local Councils). The system also allows users to purchase tickets for cultural events (if applicable), as well as provide further data about the events and related venues.

Table 3: Boards and Committees falling under the remit of Festivals Malta

Board and Committees	Honoraria paid to Board and Committee Members as reported in the Draft Management Accounts €	Number of Members as at 31 December 2020
Festivals Malta	83,979	13
Foundation for National Celebrations Technical and Events Committee[4]	76,505	14
National Feasts Commission	12,423	11
Festival Kanzunetta Maltija – Advisory Board	8,550	8
Carnival	4,846	5
Festival Kanzunetta Maltija – Organisation Board	4,623	3

Minutes of Board meetings held during 2020, as well as the honoraria paid to members sitting on the Board of Festivals Malta and the Foundation for National Celebrations Technical and Events Committee, being the two major units, were reviewed.

Audit Scope and Methodology

The main scope of this audit was to determine the level of existing internal controls in relation to:

- revenue collection from the sale of tickets and the leasing of stalls;
- procurement, ensuring that payments incurred for the organisation of national celebrations and music festivals were in line with pertinent regulations and circulars;
- the appointment of individuals on a retainer fee, to ensure that valid agreements were in place; and
- minutes of meetings held and honoraria paid to Board members.

The audit also sought to establish whether Government resources were used prudently and in a judicious manner.

To achieve the audit objectives, the National Audit Office (NAO) held meetings with the Chief Executive Officer (CEO), Assistant Director and the Procurement and Human Resources Executive at FM in order to obtain an understanding of the relevant policies in place and procedures adopted.

The audit was conducted in accordance with generally accepted auditing standards. Samples selected were qualitative rather than quantitative, thus not designed to gather data on the frequency of error in the population as a whole, but to check whether there is an effective system of internal controls.

Limitations on Scope of Audit

Tickets sold for Carnival events fell under three categories namely, gold, silver and stalls. In view that no data was provided as to how many tickets from each category were sold, it was not possible to verify that the invoice raised by FM in this respect to Kultura Malta was correct.

In line with the manual for setting the categorisation, classification and remuneration of Government-appointed boards and committees, remuneration payable to the Board of Directors is expected to be based on its categorisation and classification as established by the respective Permanent Secretary. However, queries raised by this Office on the subject matter were not acceded to; thus, remunerations paid during 2020 could not be verified.

[4] One of the members on this Board passed away in November 2020, whilst another one did not accept remuneration.

Key Issues

No Standard Operating Procedures in place

Formal operating procedures outlining the organisation of events, including the setting of tickets' prices and the issuing of complimentary tickets[5] were not in place. Management claimed that such decisions were taken by the respective Committee following discussion with the administration team.

Recommendation

Standard operating procedures play a pivotal role as these clearly explain the practices to be adopted by different committees in the organisation of successful events. Management is urged to draft a set of procedures, based on good practices, thus enhancing consistency and transparency.

Management Comments

FM will be introducing the standard operating procedures as per NAO's recommendation by end of January 2022.

Bypassing of Public Procurement Regulations

Sample testing carried out on the payments forwarded to five service providers, totalling €132,450, revealed the following shortcomings, mainly comprising non-compliance with procurement regulations.

a. No expression of interest was published prior to the engagement of the respective service providers.

b. Notwithstanding the amounts involved, which merited a call for tenders, appointment was carried out through a direct order, for amounts up to the applicable threshold allowed by the procurement regulations, following CEO's approval. These covered three-month periods and the agreements were repeatedly renewed without the Ministry for Finance's approval upon expiration; thus, consciously bypassing procurement regulations.

c. The request for direct order submitted to the CEO for approval indicated that procurement of such services was executed on the basis of clause 1(b)[6] of Procurement Policy Note No. 32 – 'Direct Orders below the local threshold', when services may be provided only by a particular economic operator. However, following a review of the job descriptions as outlined in the respective agreements, NAO is of the opinion that the services in question did not meet the established criteria.

d. A review of the respective contracts also highlighted the deficiencies outlined hereunder:

- Contracts of four out of the five sampled service providers were too vague, lacking clearly defined tasks expected to be carried out by the engaged service providers.

- Despite that the service providers were not on the Agency's payroll system and thus not entitled for any paid vacation and sick leave, it was noted that they were still paid the full contract amount even for periods of absenteeism.

- Notwithstanding that upon expiration, a new contract was endorsed each time, this was an absolute copy of the preceding one in all cases. By way of example, the major events that a consultant was expected to be responsible for as per contracts dated 20 August and 20 November 2020, were already held in the respective preceding months.

[5] Complimentary tickets given out during the five-day Carnival event amounted to 33% of the total tickets issued.
[6] For technical or artistic reasons, or for reasons connected with the protection of exclusive rights.

Recommendations

Management is to ensure that procurement is invariably in line with procurement regulations. Furthermore, the circumstances listed in MFIN Circular No. 3/2013 – 'Public Procurement Regulations – Direct Orders' and Procurement Policy Note No. 32, under which requests for direct order are justified, need to be eligible as basis for seeking approval for a direct order. Thus, as far as possible, Management is to procure services and supplies following a competitive procedure, to ensure a fair and transparent selection process. In exceptional cases, when procurement is made direct from the open market, prior approval from the Ministry for Finance is to be sought.

In addition, contracts for service are to include clear details of the tasks expected to be carried out, as well as the number of working hours to be performed by the respective service provider. This will ensure transparency and value for money while also eliminates any possible disputes between both parties.

Management Comments

FM became an independent and distinct Agency on 1 January 2020 and the People and Standards Division did not approve staff requested by the Agency in the Human Resources plan of 2020. Thus, Management had no other option but to temporarily procure such services to execute the ever-increasing assigned projects.

With reference to point d, second bullet, due to the particular type of work required and to manage the team better, CEO FM opted for such service providers to report to the Agency's offices in Floriana. Service providers are not availing themselves from benefits entitled to full-time employees, but this system helps in ensuring regular attendance.

NAO's recommendations are being noted and actions are being taken accordingly.

Control Issues

Service Providers remunerated Over and Above the Fee disclosed in the Agreement

The agreement covering marketing consulting services stipulated that the respective service provider was not to be remunerated for extra hours worked on tasks specified in the job description[7]. However, during the year under review, the individual in question was paid at least €2,218[8] over and above the agreed fee for extra hours. Formal approval to work extra duties was not traced.

Furthermore, it was noted that the service provider was charging Value Added Tax (VAT) at the rate of 18% despite that the fiscal receipts provided indicated that the foregoing was registered as an exempt person for VAT purposes.

Recommendations

Management is to ensure that individuals are paid in line with the applicable contract for service.

In addition, the respective service provider is to be asked for redress regarding the VAT unduly charged and recoup the amounts in question.

[7] The job description makes reference to "*any other ad hoc assignments in relation to festivals as may be directed and agreed with Director Festivals Malta*".
[8] This excluded payment for extra duties worked during the Three Palaces event since a copy of the respective invoice was not provided for audit purposes.

Management Comments

Extra duties paid to the marketing consultant were related to different tasks specified in the contract. The Agency has a policy whereby no overtime is paid in respect of services rendered which are covered by a contract. Thus, FM does not pay overtime but fixed rates according to the tasks being assigned to the officer concerned beyond the list of duties specified in the agreement.

FM will be drawing up a standard operating procedure concerning formal approval for extra duties by end of February 2022.

Carnival Event

Lack of Substantiating Documentation

Every year a public expression of interest for participation in Carnival competitions is issued. Following acceptance by the Committee, an agreement is signed with each participant and the latter is then provided with an advance grant equivalent to 50% of the third[9] prize of the particular contest before the Carnival, whilst an additional 10% of the same prize is forwarded later if the expected level has been reached. This advance will then be deducted from the prize in the case of winners. Ancillary subsidies can also be claimed.

Management confirmed that such procedure is not covered by regulations or other source of documentation but has been the practice for the last 40 years.

Recommendation

Management is urged to escalate this matter with the respective Permanent Secretary to have the necessary regulations in place to support the grants and prizes given to the participants.

Management Comments

This issue is already being dealt with and FM is drawing up standard operating procedures covering the Carnival event, the organisation of which and groundwork, takes up the entire year. Moreover, there are many participants involved. However, the Agency is committing itself to find solutions as recommended.

Shortcomings in the organisation of the Carnival Event

A review of the documentation substantiating the income generated from the organisation of Carnival 2020 and the related expenditure revealed the following shortcomings:

Leasing of Stalls

a. The call for quotations and application form for various mobile stalls did not specify the number of stands that were intended to be leased out.

b. A formal adjudication report duly endorsed was not traced.

c. No official documentation was maintained with respect to the required inspections carried out by the respective coordinator on the stalls.

[9] The only exceptions relate to the masquerades and the satirical masquerade contests, whereby the advance payment is calculated on the second and first prize respectively.

Leasing of Property and Parking Spaces

a. Throughout the last 30 years, various warehouses were assigned to Carnival enthusiasts to carry out work related to the Maltese Carnival events. However, though the respective expenses were borne by FM, no official documentation to this effect was in place. These sites, which added up to 31, besides not being covered by a formal lease agreement, had a number of outstanding utility bills as these were not settled by the occupants. Upon its establishment, FM accepted the responsibility to pay these arrears which amounted to €119,551 and the related utility meters, which were previously in the name of ACM, were transferred in its name. The Agency has also financed other expenses relating to health and safety, such as the improvement on deteriorated structures.

b. Five participants were urged to hire private warehouses as they were requested to move out of their previous workshops which were provided by FM. For a temporary period, the latter assisted these participants through the provision of a Carnival grant intended to cover lease costs and insurance. Utility costs up to an annual threshold of €1,000 was also refunded. Reimbursement was effected upon the presentation of receipts. Although a written agreement was signed by the Agency and the beneficiary, there was no indication as to when this agreement expired or when it was due for review. It was envisaged that such assistance was prolonged until the Carnival workshops in Marsa were ready, which project had fallen back due to certain issues.

c. The agreement covering the lease of a plot of land in Marsa from a third party for a period of 16 days from 7 to 22 February 2020 at a total cost of €2,400 was not endorsed by the Agency's representative.

Overtime performed

No documentation was provided substantiating the amount of €1,301 paid to ACM in respect of overtime performed during the Carnival 2020 event.

Engineering Consultancy Services

On 29 July 2019, the Agency entered into a two-year agreement, bearing the value of €17,850, for the provision of engineering consultancy services during Carnival events 2020-2022. A performance guarantee of 4%; i.e., €714 was requested. However, the performance guarantee was only for one third of the required amount. Moreover, upon its expiration on 30 July 2020 this was not renewed, despite that the respective contract terms cover up to 30 April 2022.

Recommendations

Audit trails are key indicators of good internal controls. Hence, any decisions taken are to be documented and filed for future reference, as well as for audit purposes.

Expenditure met out of public funds is to be substantiated by valid agreements and endorsed by all parties involved.

The bank guarantee mitigates certain inherent risks in case the selected bidder does not deliver up to the standards expected. Thus, Management is to ensure that, where necessary, bank guarantees are provided and renewed in due time.

Management Comments

Since in 2019 FM was under the responsibility of ACM with regard to accounts and administration, it was not aware of the discrepancy in the performance guarantee and the expiration of the latter in relation to the engineering consultancy services.

NAO's recommendations in terms of Carnival activities and other related contracts and procedures are noted and remedial action is being taken to resolve all the issues in due course.

Limitations in the Ticketing System

Tickets for events organised by FM were issued through the ticketing system administered by Kultura Malta under the responsibility of ACM. Testing revealed that tickets were not numbered and the same seat could be sold more than once during the same event. Management confirmed that since the event spans over several hours, there was the tendency that people leave throughout the performances and thus any vacant seats could be resold.

Recommendation

The Agency is to discuss this issue with the ticketing system operator and identify actionable steps to address and rectify accordingly.

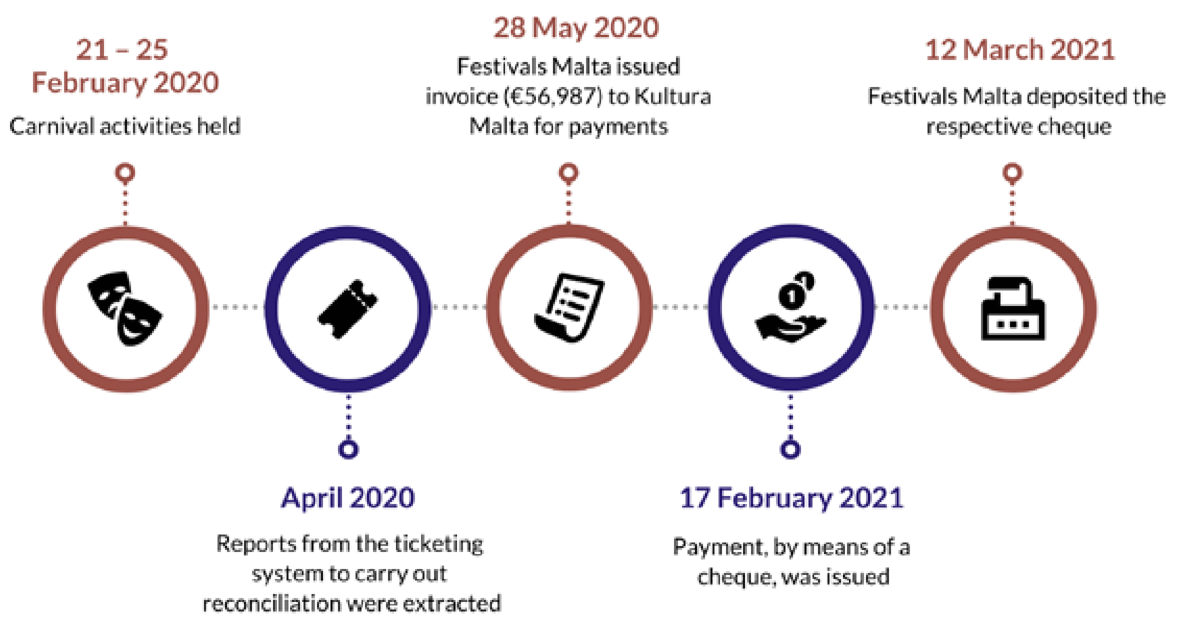
Management Comments

FM had already resolved this matter as all events taking place since October 2021 have been assigned to the Visit Malta ticketing system, which is under the responsibility of the Tourism Authority. FM intends to continue this collaboration.

Delays in depositing Proceeds from the Sale of Tickets

The entities involved in the organisation of the Carnival 2020 activities took more than one year from when these activities were held, to reconcile proceeds from the sale of tickets to the data in the ticketing system and the depositing of the respective funds. The delays highlighted in the timeline below are deemed unacceptable. Figure 1 refers.

Figure 1: Timeline of the receipt of Funds from Sale of Tickets



Recommendation

Management is encouraged to initiate discussions with ACM to negotiate more favourable terms so that the aforementioned timeframe is decreased to a minimum in order for FM to enhance its cashflow position.

Management Comments

Delays were beyond FM's control. The issue has been resolved as FM is no longer part of ACM, who managed the ticketing system.

Compliance Issues

Boards and Committees

Tax on Remuneration paid to Board Members not in line with the Legislation

A review of the payslips issued to Board members during 2020 revealed instances whereby the respective remuneration was considered as emolument derived from part-time work and thus taxed at the rate of 15%. However, this is not in line with Article 13(c) of the Part-Time Employees Regulations (S.L. 452.79) which stipulates that persons appointed on public sector boards fall outside the scope of these regulations.

Recommendations

Emoluments are to be taxed according to income tax rules. Advice from the Commissioner for Revenue is to be sought if deemed necessary.

Management Comments

This matter has been resolved in line with Article 13(c) of the cited regulations. Moreover, payslips have been amended accordingly.

Board Meeting not held at Regular Intervals

Article 10(d) of L.N. 138 of 2019, establishing the Agency's inception, requires that Board meetings are held as often as necessary, but at least once every month. However, whilst the first meeting of FM was held on 26 September 2019, the second meeting took place on 27 April 2020, with a six-month gap between the two. Meetings were also not held during the months of May, September and October 2020.

Furthermore, a review of the maintained Board's minutes revealed the following shortcomings:

a. Minutes of meetings were endorsed by the Board's Chairman and the CEO, when the signature of the Board's Secretary was also required.

b. Timings when the meeting was initiated and adjourned were not disclosed.

c. The date and time of the subsequent meeting were not indicated.

Recommendation

Members appointed on the Board are expected to provide constructive contribution towards the attainment of the Board's objectives through regular meetings, as required in the terms of pertinent legislation.

Management Comments

All necessary actions have been taken and thus shortcomings in this regard have been addressed.

Proper Set of Financial Statements not provided for Audit Purposes

This Office was not provided with a proper set of financial statements for 2020 but only a Statement of Comprehensive Income, Statement of Financial Position and a breakdown of its major income, direct costs and overheads. These also lacked certain pertinent information, such as the accounting treatments adopted.

Recommendation

The Agency is expected to prepare a complete set of financial statements at the end of each year, clearly indicating the accounting policies used. These disclosures are important especially when considering that certain accounting standards allow alternative treatments for the recording of the same transaction.

Management Comments

The issue with respect to the compilation of a proper set of financial statements was not properly addressed in the reply submitted by FM.

Statutory Audit not carried out in a Timely Manner

By the time this audit was concluded, i.e., mid-June 2021, the annual statutory audit for financial year 2020, had not yet initiated. This is in breach of pertinent legislation stating that the auditors' report together with the annual activities report are to be submitted to the Minister by not later than six weeks after the end of the financial year. A tender for the audit services to cover financial year 2020 was only published on 7 April 2021, with the respective contract concluded on 22 June 2021.

Recommendation

Audited financial statements are an indispensable tool to provide unbiased and objective assessment of whether the accounts show a true and fair view of the state of affairs. Thus, for the sake of good governance, Management is expected to comply with the reporting mechanism, in a timely manner.

Management Comments

Recommendation is being noted and all necessary actions have been taken.

Matching Concept not applied

The Agency is expected to prepare its financial statements in line with the International Financial Reporting Standards. However, instances encountered during audit testing indicated that the matching concept was overlooked. This resulted in the distortion of reported figures.

Recommendation

Expenses incurred for the organisation of any activity are to be recorded in the same period in which the related revenue is recorded. This will ensure that any reported surplus or deficit is not distorted.

Management Comments

The matching concept was not applied due to the fact that FM's administration and accounting up till end 2019 fell under the responsibility of ACM and FM became independent as from 1 January 2020.

Non-compliance with Reporting Requirements

As explained hereunder, pertinent regulations were not adhered to scrupulously.

a. FM confirmed that fiscal defaulters had never been reported to the VAT Department in line with pertinent circulars. According to the Agency, the compilation of a defaulters' list was still ongoing, but no documentation in this regard was made available by the time of writing this write-up.

b. Biannually, all Government entities were expected to publish in the Government Gazette a full list of all departmental contracts awarded with a value exceeding €5,000 (VAT excl.) and a list of all cases involving variations which exceed the original contract value by more than 5%. On 9 June 2021, Management confirmed that information covering July to December 2020[10] had not yet been published.

Recommendations

Standing regulations are to be invariably complied with. Quarterly returns with details of fiscal defaulters are to be submitted to the VAT Department in a timely manner, as required by the applicable circulars. Likewise, publications with respect to procurement are to feature within the stipulated timeframe.

Management Comments

Most of the invoices were tax invoices which include all relevant VAT elements; however, efforts have been made by FM to chase suppliers to send receipts as requested. Moreover, a number of declarations were received but some suppliers claimed that they were not authorised to issue receipt as instructed by the VAT Department.

All departmental contracts for period July to December 2020 were published in the Government Gazette on 15 June 2021.

[10] Data covering the first six months was published on 22 December 2020.

Ministry for the
Environment,
Sustainable Development
and Climate Change

WasteServ Malta Limited

Expenditure

In general, procurement relating to capital projects undertaken by **WasteServ Malta Limited** was carried out in line with the requirements of the Public Procurement Regulations. However, the audit revealed instances of agreements entered into by means of negotiated procedures without definite approval from the Department of Contracts. Variations from contracted terms not approved by the latter were also noted.

Background

Established in November 2002 as a limited liability company and falling under the remit of the Ministry for the Environment, Climate Change and Planning, WasteServ Malta Limited (WSM) is responsible for organising, managing and operating integrated systems for waste management.

Since its inception, WSM has been committed to promote waste reduction and recycling, whilst establishing and maintaining innovative waste management infrastructure to protect the environment and society. To achieve these objectives, WSM has undertaken a number of capital projects including, amongst others, the Għallis Engineered Landfill, the Sant' Antnin Waste Treatment Plant, civic amenity sites and bring-in sites. Various other capital initiatives were also being carried out in 2020, with the aim of further enhancing the country's waste management systems.

To finance its locally funded capital projects, during 2020, WSM was allocated a budget of €15 million, with the amount of €12.9 million being expended by the end of the year under review.

As at 31 December 2020, net book value of tangible assets in the Statement of Financial Position of the entity categorised as capital projects, including those funded by the European Union, was valued at €97.5 million.

Audit Scope and Methodology

The main scope of the audit was to ascertain whether the procurement system applied by WSM for purchases of goods and services relating to capital projects was in line with the applicable regulations. The audit also focused on assessing the adequacy of the entity's internal controls on this area.

Checks mainly centred on ascertaining whether:

- procurement was carried out in all material respects in line with the provisions of Public Procurement Regulations (PPR); and
- expenditure incurred was backed up by the necessary supporting documentation, including necessary bills of quantity, certifications, invoices and receipts.

The audit was conducted in accordance with generally accepted auditing standards. Planning and audit procedures were designed with the aim of obtaining reasonable assurance on the effectiveness of the system of internal control adopted by WSM in relation to its capital projects. To this effect, qualitative sampling techniques were applied, and testing was designed with the intention of identifying methods through which current practices could be improved. Conclusions reached in this write-up only relate to the documentation that was examined.

In obtaining the required audit evidence, a sample of five out of a total of twenty capital projects was selected for testing, based on the materiality of the amounts involved. Another three contracts concerning consultancy services procured by WSM in relation to its projects, the cost of which was capitalised, were also selected on the basis of materiality. The procurement procedure applied by WSM in relation to the audit sample was thoroughly reviewed to ensure compliance with PPR. A random sample of transactions was then selected from the pertinent transaction listings to ascertain that expenditure was appropriately backed up.

Collection of documentation and audit fieldwork were carried out by the National Audit Office between December 2020 and January 2021.

Control Issues

Negotiated Procedures lacking Department of Contract's Definite Approval

Verifications carried out on the sampled projects revealed instances whereby agreements were entered into with the pertinent suppliers ahead of obtaining definite approval from the Department of Contracts. The following were noted:

a. WSM entered into an agreement with the sole supplier submitting a quotation for works required on the overall structure of portal frame sheds at Sant' Antnin Waste Treatment Plant in Marsascala; however, definite approval from the Department of Contracts was not sought in this respect. This notwithstanding that actual costs involved were higher than the estimated amount as per the initial request for negotiated procedures.

b. WSM's request for definite approval to enter into negotiated procedures for concrete works and upgrades within the Mechanical Treatment Plant building in Marsascala was dated five months following the date of the agreement entered into with the pertinent supplier.

c. Following negotiations and submission of offers by the two service providers for technical consultancy services, a contract with one of these service providers was made without requesting prior definite approval required from the Department of Contracts.

d. Although WSM entered into a contract for the services of an environmental impact assessment related to the project for the construction of a Waste to Energy Facility in Malta, the necessary definite approval was not requested from the Department of Contracts.

Recommendation

When entering into negotiated procedures, WSM is to ensure that definite approvals are sought and obtained from the Department of Contracts prior to signing of the respective agreements.

Management Comments

One cannot but agree with this recommendation. Indeed, in 2020, WSM had already independently identified this past shortcoming and corrective action has in fact been taken to avoid recurrence. This will feature in a Manual of Procedures which will be concluded in April 2021.

Delays in Works designated as urgent

Audit testing revealed instances of delays in the execution of two particular projects despite that WSM requested to enter into negotiated procedures for the related procurement on the basis that the required works were urgent. These comprised concrete works and upgrades within the Mechanical Treatment Plant building and upgrades on the overall structure of portal frame sheds[1], which were both not finalised within the agreed four-month timeframe and hence the pertinent agreements were renewed for a further period of three months.

Recommendations

WSM is to adhere to the requirements of PPR, with negotiated procedures being only resorted to in cases of extreme urgency, brought about by events not previously foreseen by the entity. In this regard, WSM is to identify any required tasks ahead of these becoming urgent and accordingly resort to normal open procurement procedures.

Management Comments

Following a restructuring exercise that took place, procurement procedures at WSM have been revamped to improve transparency and ensure that the company obtains the best possible prices on the market.

Indeed, the company had already started limiting recourse to negotiated procedures to cases for which there is no possibility of going for open or competitive procedure, without impinging on the company's operations.

At this stage, WSM's procurement process entails that more open and competitive quotes are sought for purchases with an estimated value exceeding €2,500 (VAT excl.). This will now also feature in a Manual of Procedures which will be concluded in April 2021.

Just by way of clarification, this extension happened in the very particular circumstances of the COVID-19 outbreak which posed particular challenges to the operations of WSM, bearing in mind that waste management and waste disposal is an indispensable service.

The decision to extend the contract period was taken by the contracting authority in the light of the reduced number of personnel that the contractor was obliged to place at the contract site as a consequence of the COVID-19 safety measures imposed by the Health Authorities. This had the direct impact of slowing down speed of implementation through no fault of the contractor but rather as a result of COVID-19 health measures. In such circumstances an extension of time was both logical and inevitable.

Compliance Issue

Variation to Contract without Prior Approval from Department of Contracts

Following approval from the Department of Contracts, for a negotiated procedure, on 3 September 2019, WSM entered into an agreement with a service provider for the upgrading of the Sant' Antnin Waste Treatment Facility for the processing of organic waste, for the amount of €2,169,580 (VAT excl.). Due to discrepancies between the projected composition waste and the actual, an addendum to the contract was signed to increase the value of the contract by €78,971, resulting in a revised value of €2,248,551 (both VAT excl.).

As per PPR Article 246, although a contracting authority can order modifications to the contract without a new procurement procedure, the prior approval from Director of Contracts is required. Yet, WSM did not request such approval.

[1] Both at Sant' Antnin Waste Treatment Plant in Marsascala.

Recommendation

Modifications to contracts are to be approved by the Department of Contracts in line with standing regulations.

Management Comments

WSM had independently identified certain past shortcomings and corrective action was taken to avoid recurrence.

In this particular case, the variation represented 3% of the contract value and it was undertaken through a formal addendum which was in adherence to the contract condition relating to modifications.

Management is fully in agreement with the need to have approval from the Department of Contracts. WSM is committed to always do its utmost to follow standing regulations and is in fact implementing further checks and procedures to avoid non-compliance. This will feature in the Manual of Procedures which will be concluded in April 2021.

General Comments

Given that projects sometimes required urgent action and that certain services could only be procured from a particular supplier, the internal control procedures in place with respect to the area under review were considered adequate.

Apart from the matters noted under the Control Issues section, review of the documentation supporting the sampled transactions revealed that, in general:

- where negotiated procedures were resorted to, these were effected for reasons of extreme urgency and/or lack of competition for technical reasons; and
- requests for negotiated procedures were always substantiated by valid reasons and were usually approved by the appropriate authority, ahead of the commitment to purchase.

Notwithstanding the above, this Office still emphasises on the importance of effecting procurement through negotiated procedures with due diligence, especially vis-à-vis repeat suppliers, thereby reducing, to the least extent possible, any inherent risks associated with procuring goods and services from an uncompetitive market.

Ambjent Malta

Expenditure

A review of expenditure incurred by **Ambjent Malta**, with respect to the upgrading of parks, public gardens and greening urban areas, revealed lack of audit trail due to insufficient source documentation. Control in the management of fixed assets was also weak, whilst procurement guidelines were not always adhered to.

Background

Ambjent Malta was initially set up as a Department within the Ministry for the Environment, Sustainable Development and Climate Change (MESDC)[1] during 2018, to act as an environmental guardian. However, following the reshuffling of Ministerial portfolios in January 2020 it was relocated under the Ministry of Tourism and Consumer Protection and its name changed to Tisbiħ Malta. Since MESDC lacked an implementation arm, Tisbiħ Malta was subsequently divided in two[2], as indicated hereafter.

The management of Natura 2000 sites, marine conservation areas, nature parks, afforestation and special environmental projects, remained under the remit of Ambjent Malta, which Department was relocated back under MESDC.

The other Department retained the name of Tisbiħ Malta and remained under the portfolio of the Ministry of Tourism and Consumer Protection. However, later on during the year, it was rebranded with its name being converted to Parks Malta. Its responsibilities comprise the upkeep and maintenance of national parks, the embellishment of other public spaces and the maintenance of valleys. In view that Parks Malta was set up in 2020, it was not provided with a separate financial allocation, and thus all expenditure incurred by the aforementioned Department during the year under review was paid out from the funds allocated to Ambjent Malta.

Audit Scope and Methodology

The main scope of the audit was to verify that expenditure from the following line items was carried out in line with Public Procurement Regulations:

- Capital Vote XII Line Item 7491 – Upgrade of Parks and Public Gardens, allocated a budget of €1.85 million.
- Recurrent Vote 33, Programmes and Initiatives Line Item 5718 – Greening Urban Areas, with an estimate of €1.1 million.

To achieve this objective, the audit partly focused on expenditure incurred on the renovation of the Żabbar Ditch, which was turned into a family park known as Park San Klement, or Ħaż-Żabbar Regional Park. This project was finalised and inaugurated on 2 July 2020.

[1] Following the reshuffle in November 2020, the name was changed to Ministry for the Environment, Climate Change and Planning.
[2] Revocation of Subsidiary Legislation (Public Administration Act) Order, 2020 (L.N. 216 of 2020).

With the aim of enhancing urban areas, Ambjent Malta committed itself to fully finance the implementation together with a five-year maintenance scheme, of two green urban projects and a roof garden implemented by third parties. Funds advanced to the following entities for the execution of the related projects were also analysed.

- Infrastructure Malta – vertical green wall in the southbound carriageway on Marsa-Ħamrun by-pass;
- Malta Industrial Parks Ltd – green wall with free standing green furniture at Ta' Dbiegi Crafts Village in Gozo; and
- Ħamrun Local Council – green roof garden at San Ġorġ Preca College.

Related research, introductory meeting and audit testing were mainly carried out between December 2020 and February 2021.

The National Audit Office (NAO) held meetings with Director General at Ambjent Malta, in order to obtain an overview vis-à-vis the procedures in place in incurring capital expenditure. A site visit at Ħaż-Żabbar Regional Park was held on 11 January 2021.

Audit procedures were planned and performed in order to obtain reasonable assurance as to whether the internal control structure at Ambjent Malta was adequate. To this effect, sample selected was qualitative, thus not designed to gather data on the frequency of error in the population as a whole, but to ensure compliance with standing regulations and to identify ways through which current practices could be improved. The internal controls in place in overseeing the selected projects were analysed, whilst verifications on the inventory control measures implemented by the responsible officers were also carried out.

Financial materiality was taken into account when choosing the projects to be audited. Hence, the full costs incurred with respect to the projects involving the highest capital expenditure were analysed from inception up to completion. Table 1 discloses amounts paid to third parties, up till end of December 2020, for the sampled projects.

Table 1: Payments effected on Sampled Projects

Project	Amount €
Vertical green wall in the southbound carriageway on Marsa-Ħamrun by-pass	565,053
Green roof garden at San Ġorġ Preca College	407,112
Green wall with free standing green furniture at Ta' Dbiegi Crafts Village in Gozo	334,151
Ħaż-Żabbar Regional Park	323,558

Key Issues

Basis of Selection of Greening Projects not formalised

With the aim of improving the environment in urban zones, during 2020, the aggregate amount of €1.08 million was distributed amongst 13 Local Councils to carry out a greening project in their locality. The Councils were selected by the Ministry for the Environment, Climate Change and Planning which launched the respective initiative.

However, the basis on which the respective Councils were eventually selected was not made available. Management at Ambjent Malta claimed that several Local Councils were selected each year at Ministry level. The list of Local Councils is then forwarded to Ambjent Malta and discussions are held with the Councils in question to formulate a successful project for each locality.

Recommendations

The selection process of prospective beneficiaries is expected to be fair and transparent. Thus, the basis on which decisions are established are to be formally formulated and filed for future reference. Rather than selecting specific Local Councils, it would probably be more beneficial if project plans are submitted by the Councils and selection is based on the effectiveness of these proposals.

Management Comments

Local Councils are often hesitant to come forward with greening projects (possibly because of plan preparation costs) and this is precisely the reason why Ambjent Malta takes a more proactive stance and approaches Local Councils itself. However, in order to facilitate communication with Local Councils and improve the take up and implementation of green infrastructure projects, in January 2021, Ambjent Malta commenced discussions with the Local Government Department to sign a memorandum of understanding leading to simpler and more effective planning and implementation.

Moreover, Ambjent Malta sees the value in asking all Local Councils to come up with plans for urban greening projects for possible consideration of funding in terms of effectiveness, bearing in mind budget limitations. In fact, earlier in year 2021 all Local Councils were requested to submit any greening possibilities and Ambjent Malta is in the process of evaluating the proposals to choose the most cost-effective projects within the current budget restrictions.

Inventory Database not updated following the Re-assignment of Ministerial Portfolio

Ambjent Malta did not provide a copy of the inventory database falling under its responsibility. Instead, Management made reference to the database forwarded by Tisbiħ Malta[3] on 20 May 2020, when NAO was conducting an audit on store items and fixed assets at Tisbiħ Malta.

Although Ambjent Malta was established as a separate Department in mid-2020, by the time audit testing was concluded, i.e., February 2021, the process of splitting assets between the latter and Tisbiħ Malta had not yet initiated. Management claimed that this was due to the fact that up to December 2020, both Departments were operating from the same premises.

Recommendations

All assets falling under Ambjent Malta's remit are to be identified. Management is also to ensure that a proper fixed asset register is compiled without delay.

Management Comments

One cannot but agree about the importance of having an up-to-date fixed asset register. The reasons for the delay in updating the register of Ambjent Malta were mainly twofold:

- *the splitting of the organisation, including its staff and assets into two Divisions under separate Ministries; and*
- *the need for both Divisions to identify new sites from where to operate and vacate the premises at Ta' Qali.*

Assets pertaining to Ambjent Malta have now been identified and an updated fixed asset register has been referred to the Ministry of Finance and Employment contractor for uploading to the Corporate Financial Management Solution, which will also provide for the automatic calculation of depreciation. Training on the use of the fixed assets module is yet to be provided.

[3] This is now known as Parks Malta.

Actual Project Costs could not be reconciled to the Estimated Budget

The Department's total estimate for the transformation of the Żabbar Ditch into a family amusement park was €693,500.

According to Ambjent Malta, the total expenditure incurred for the completion of this project, over a span of three years, amounted to €551,000. Works contracted to third parties amounted to €323,558. It was stated that the resultant difference related to civil works carried out by the Department's employees, including but not limited to the manufacturing of benches, cleaning and the construction of a Greek theatre. However, this was not substantiated.

Recommendations

Incomplete valuations will provide distorted data which cannot be compared to the project estimated budget and thus will be considered meaningless. Therefore, it is pertinent that the respective data incorporates all expenditure incurred for the execution of the related project.

The Department is also encouraged to maintain a proper breakdown of what constitutes the total project cost as any divergencies will result in incorrect disclosure of capital assets in the Ministry's financial statements.

Management Comments

As from April 2021, Ambjent Malta started using the Corporate Financial Management Solution where data pertaining to each project is collated and recorded electronically under its respective budget line item. This will mark a departure from the current practice where tenders, calls for quotations, direct orders and procurement for inhouse works are recorded in different files.

Control Issues

Unrealistic Budgetary Plans

Three out of the four sampled tenders in relation to works carried out at Ħaż-Żabbar Regional Park had to be published again since the bids received were substantially in excess of the budgeted cost estimated by the Department. Although the budgeted estimates were revised accordingly, the awarded contract value was still exceeded in the case of the three tenders in question.

This raises concerns on the completeness of the data on which the budgetary plans were based.

Recommendation

Realistic budgeting is essential in the development of any project, as without a well-planned budget, projects can fall apart and be left incomplete. Proper budgeting will prevent unnecessary costs and enable comparison with the actual costs accordingly.

Management Comments

Management concurs with this recommendation and indeed it has always tried to provide realistic budget assessments which are of course dependent on the various components making up the individual rates. However, unfortunately this is not a scientific or mathematical formula but relates to an assessment of market prices, which are subject to unexpected volatility.

Non-adherence to Pertinent Regulations and Guidelines

Review of the departmental files provided for audit testing revealed the following shortcomings:

a. The agreement entered into with the Ħamrun Local Council[4] for the implementation of Inħaddru Pajjiżna project remained undated. The project was expected to be completed within one year from the signing of the agreement.

b. Although it is common practice that construction contracts are safeguarded through a retention money clause, this was not the case in the tender for the demolishing of existing small building and erection of amenity block at Ħaż-Żabbar Regional Park. According to Ambjent Malta, the architect responsible for this project, valued at €80,413 (VAT excl.), did not deem it necessary to bind the respective contractor accordingly.

   Due to the poor quality of workmanship coupled with continuous delays in the execution of works, the project, which was intended to be completed within 10 weeks, starting from 3 September 2018, was eventually finalised in December 2019. Consequently, the contractor was charged €16,081 in penalties; in this case the Department was in a position to offset this amount from the last payment.

c. The pertinent circular and policy note issued by the Department of Contracts, stipulate that a performance guarantee equivalent to 4% of the contract value is to be provided in case of agreements bearing a value between €10,000 and €500,000 (both VAT excl.). However, from the four sampled projects, two agreements were traced whereby either the bank guarantee was not requested in the first place[5] or it was not renewed upon expiration, despite that works were not yet completed[6] and the service provider was bound to provide maintenance services for a period of five years.

d. Interim Certificate No. 2 issued for the demolishing of existing building and erection of amenity block at Ħaż-Żabbar Regional Park was not endorsed by the architect responsible for the project. When this issue was brought to the auditee's attention, the document was then endorsed by the current resident architect as the one actually in charge of the project was transferred to another Government Department. This was more as a way of formality rather than as a means of accountability.

Recommendations

Management is to ensure that internal controls are operating effectively. This can only be achieved if the relevant regulations and guidelines are invariably complied with.

Moreover, besides giving protection to the Department as a safeguard for any defective or non-conforming work, retention money and bank guarantee provide an incentive to the contractor to complete the project on time and of good quality. Hence the applicable clause is to be included in all construction contracts and thereafter ensure that a valid bank guarantee is provided.

Management Comments

It is agreed that internal controls must be operating effectively and the Department is exercising a higher level of attention in this respect. Indeed, it will be ensured that, where applicable, all current and future calls for tenders include retention money clauses and bank guarantees. In addition, the Accounts Section will immediately designate one officer to liaise with the Ministry's Head Office on the validity and duration of bank guarantees.

[4] Through this project the Council intended to transform the San Ġorġ Preca College rooftop into a garden.
[5] This related to finishing works at the amenity building at Ħaż-Żabbar Regional Park, which amounted to €65,742 (VAT excl.). In this case, the clause for retention money was also not included in the contract.
[6] This referred to the supply, delivery, installation and maintenance of play equipment, whereby a bank guarantee of €2,100 was initially issued.

Lack of Formal Documentation to support Decisions taken

The audit revealed that discussions, as well as justifications forming the basis of decisions taken with regard to Ħaż-Żabbar Regional Park, were not formally documented, thus impeding a proper audit trail as outlined hereunder:

a. Justification for Delays in the completion of Works

Works at Ħaż-Żabbar Regional Park were carried out by in-house personnel, as well as through appointed contractors. Though none of the latter completed the respective works within the established timeframe, it was only in one case that penalties were imposed. According to Management, delays were generally the result of the specific circumstances brought by COVID-19 pandemic, rather than due to default from the contractor's end. However, request and subsequent approval for extensions in the completion of work, as well as updated timelines, were not traced.

b. Approval for Variations not documented

Variations to the original contract value were noted whilst going through the departmental files relating to the agreements, for the finishing of amenity building, as well as the supply and laying of printed and brushed concrete at Ħaż-Żabbar Regional Park. Although the variations in question were marginal, it was still expected that formal approval from the right level of authority, within the Department be obtained; however, this was not traced in file.

c. Procurement by Direct Order

In reply to queries raised on how the direct order[7] for finishing works was awarded, Management stated that four contractors were approached verbally and only one showed interest and submitted a quote. However, no substantiating documentation to this effect was traced.

d. Tender for the Supply and Laying of Printed and Brush Concrete

The contractor providing supply and laying of printed and brush concrete at Ħaż-Żabbar Regional Park did not submit a programme of performance of works, as required by section 15.1 of the special conditions. According to the auditee, the implementation of timelines was discussed verbally with the contractor.

Furthermore, payment to the contractor was effected in three instalments following the drawing up of the respective certificates. However, this was not in line with the payment terms[8] as disclosed in the published tender. According to Ambjent Malta, in view of the liquidity problems brought by COVID-19 pandemic, the contractor could not deliver 50% of the works upfront and thus the Department resorted to the issue of multiple instalments upon the certification of the quantity surveyor and the architect so that the service provider could cope with the situation in finalising the project.

e. Tender for Play Equipment and Rubber Floor Tiles[9]

Section 33 of the special conditions stipulates that the maintenance service period of five years initiate upon the issue of the provisional acceptance certificate. However, the respective certificate was not drawn up; the maintenance agreement commenced from the date when the last payment was effected.

[7] Procurement from the open market was effected following two public calls for tenders, one in May 2019 and the other in July 2019, whereby in the first instance no bids were submitted whilst in the second case the compliant offer was considerably higher than the budgeted cost and thus tender was not awarded.

[8] As per tender, the first payment equivalent to 45% of the contract value was to be issued when 50% of the work was concluded, measured and certified. The second and final payment was to be effected after full completion and certification.

[9] Tender also covered Ġnien l-Għarusa tal-Mosta.

Recommendation

Audit trails are key indicators of good internal controls. Thus, decisions taken and related justification, where applicable, are to be documented and filed for future reference, business continuity, as well as for audit purposes.

Management Comments

Management fully concurs with recommendation and is reviewing the Department's operational procedures accordingly to ensure that audit trails are fully maintained, including documentation of decision rationales.

Further to this, an internal audit section is already included in Department's Human Resources Plan 2021. This will be operational once the staff complement to man this section is approved and subsequently engaged.

Shortcomings in the Green Urban Projects undertaken with other Entities

Besides the projects undertaken with Local Councils, the Department entered into agreements with Infrastructure Malta and Malta Industrial Parks Ltd, for the implementation of green infrastructure along the Marsa-Ħamrun by-pass and at Ta' Dbiegi Crafts Village in Gozo respectively. The following shortcomings were noted:

a. Although the cost of these projects is fully financed by Ambjent Malta, the latter's involvement in the implementation of such initiatives is limited only to that of an observer's role.

b. Bills of quantity relating to green projects conducted with third parties were prepared by the architect and/or surveyor of the latter. Ambjent Malta's input is purely scientific, that is in relation to the type of plant species and green wall to be used.

Consequently, Ambjent Malta was not aware how the percentage charge for maintenance, disclosed in the agreements and payable by the foregoing, was arrived at. It was stated that these were based on estimates drawn up by the other party's consultants.

Recommendations

Given that these projects are financed by Ambjent Malta, the Department is expected to take a more proactive role and ensure that the agreed deadlines are met. As an incentive, it is advisable to provide funding upon the completion of established stages rather than provided outrightly in advance.

Management Comments

The instances being referred to related to a contractual arrangement between Ambjent Malta and other Government entities and hence though upfront funding was required, funds were never at a risk of loss. Yet, Ambjent Malta will be exploring improved methods of control.

The implementation of extensive green walls is a relatively new idea where Ambjent Malta is still building its knowledge and capacity. However, it is agreed that the Department must maintain an active role to ensure that agreed deadlines are met.

Compliance Issue

Statutory Returns not submitted to NAO

Information in respect of assets falling under the respective Department's remits, as well as additions to fixed assets were not forwarded to the Auditor General as required by standing regulations.

Recommendation

Management is to make sure that officers in charge of the respective tasks are aware of the statutory returns which are to be accurately compiled in line with the related circular and submitted to NAO as required by the pertinent provisions.

Management Comments

Management concurs with the recommendation and will comply accordingly. In-house training will also be provided.

Ministry for Foreign Affairs and Trade Promotion

Ministry for Foreign Affairs and Trade Promotion

Revenue

An audit at the **Ministry for Foreign Affairs and Trade Promotion** revealed that particular sections of the pertinent legislation are ambiguous; thus, fees were at times incorrectly charged by the Missions. Such inaccuracies were not always flagged by the Head Office, due to limited checking. Furthermore, certain requirements established by internal circulars were not being adhered to.

Background

The main role of the Ministry for Foreign and European Affairs (MFEA)[1] is to ensure that Malta's foreign policy objectives are pursued, ascertaining active participation as necessary in policies, maintaining and enhancing Malta's relations with international organisations, participating in election observation missions, ensuring participation in regional fora and initiatives of direct relevance to the Mediterranean region, and promoting the enhancement of dialogue between the European Union and the Arab League. It also addresses poverty through Malta's Overseas Development Policy.

This audit focused on revenue generated by the Ministry from attestations[2], certificates, permits etc., which is allocated to Line Item 0301, as well as miscellaneous receipts recorded under Line Item 0999. For 2020, the estimated revenue was €1,000,000 and €750,000 respectively. However, actual revenue as per reports extracted by MFEA from the Corporate Financial Management Solution (CFMS) was €673,266 and €889,705 respectively. The adverse variance was mainly triggered by the COVID-19 pandemic, whilst the favourable variance in miscellaneous receipts was primarily due to a number of reimbursements from the European Union through the Internal Security Fund 2014-2020[3], with regard to salaries of visa officers in various Missions[4] of the last three or four years.

Audit Scope and Methodology

The main scope of the audit was to determine the level of internal controls over chargeable amounts as regulated by the legislation and the accounting of revenue due to Government. It was also ensured that the collection of revenue recorded under the two highlighted line items was being maximised.

A meeting was held with the Manager, Corporate Services (MFEA), on 6 January 2021, in order to obtain a better understanding of the revenue reports extracted from CFMS and which were submitted to the National Audit Office (NAO) for audit purposes. Minutes of the respective meeting were sent to the auditee and confirmed accordingly.

[1] In the published Financial Estimates 2020, this was still showing as the Ministry for Foreign Affairs and Trade Promotion.
[2] Although the terms attestation, authentication and legalisation mean different things, these were being used interchangeably by MFEA and Missions, as highlighted under Key Issues.
[3] As per report provided, the total credit entries in this regard amounted to €724,124 in year 2020.
[4] This includes Embassies, High Commissions, Consulates and Permanent Representations.

Sample selected was mainly based on materiality, covering 17 transactions from both highlighted accounts. Testing included an analysis of the reports provided, checking the internal control procedures in place at the Head Office and five[5] Missions to which the sampled transactions related. Verifications were also carried out to ensure that both the Head Office and all Missions were charging the correct fee in line with the pertinent legislation.

Documentation to support the sampled transactions was requested. Audit queries were sent to the auditee and a site visit to the Legalisation Unit at MFEA was made in order to observe the online legalisation process in Malta.

Key Issues

Lack of Staff and No Rotation of Desk Officers

Concerns were raised by the auditee that the number of desk officers at the Head Office was not sufficient in order to properly check and verify documentation received from Missions, to back up the respective transactions. This includes the post[6] of a previous Manager who used to oversee the procedures in place of all Missions, which had remained vacant.

Furthermore, desk officers were assigned a number of Missions, with minimal rotation, unless an officer left the post and/or new ones joined. Two officers had in fact been responsible for certain Missions for 13 years.

Recommendations

NAO acknowledges the difficulties encountered by the Head Office in order to fill the vacancies following internal calls; however, the latter is to raise this concern with the respective Ministry. Ideally, a particular officer would be responsible for the overall monitoring of the Missions and independently audit a sample of Missions each year. Gradual rotation of the Missions is also encouraged so that knowledge and competencies are shared. Rotation can be amalgamated with the change of post of duty of the Malta based officers, which normally occurs every 36 months.

Management Comments

The recommendation is being accepted. In the first quarter 2022, as per Ministry's Human Resources plan, the internal calls for Manager I (Accounting & Finance) and two Assistant Managers (Accounting & Finance), will be issued.

Manager I will be replacing the Manager who had retired in June 2017 and never been replaced, whose duties included assisting and following up the implementation of the new accounting system of CFMS, within MFEA. Furthermore, this Manager will be required to perform adequate monitoring and perform independent verifications through a sample in respect to the operation of all Missions abroad and ensure that any expenses done by such Missions are in compliance with the financial regulations and other policies in place.

In view of the number of new Embassies that opened their doors in the past year, and others that are in the pipeline to open during 2021 and 2022, the two Assistant Managers will be assigned with these new Embassies and be able to assist, monitor and guide the staff posted overseas when it comes to administrative work. This will also enable Management to start a gradual rotation of the Missions staff at Head Office.

[5] These were the Missions of Algiers, Beijing, Canberra, Istanbul and Shanghai.
[6] The post has been vacant as from June 2017.

Limited Checking by Head Office

The desk officers at the Head Office place high reliance on the respective Missions when checking the related revenue recorded in the accounts. This concern has been highlighted in several Audit Reports of the NAO in previous years. Detailed observations are shown under Control Issues.

Recommendation

NAO reiterates that verifications by Head Office need to be strengthened, by carrying out proper checking and request the relative supporting documentation, as necessary.

Management Comments

The recommendation is being accepted and to be implemented by December 2021. In order to bridge the gap until Manager I is engaged, the Institute for the Public Service (IPS) has been approached to provide the desk officers at the Head Office with customised training in respect of financial regulations, basic procurement methodology, verifications and supporting documentation scrutiny. IPS have agreed to provide such training and, at present, MFEA and IPS are finalising the training programme. Eventually, also Manager I will be given such training.

Lack of Consistency when charging for Services

It was confirmed by the Head Office that, although the terms attestation, authentication and legalisation, are distinct and refer to different types of service[7], these were being used interchangeably, both by MFEA and the Missions. This resulted in various inconsistencies, which also gave rise to fees incorrectly charged by Missions and details of transactions not clearly recorded.

Recommendation

In order to avoid any possible misinterpretations, reference to these terms is to be clear and this differentiation is to be duly explained to all the Missions.

Management Comments

The recommendation is being accepted and will be implemented by September 2021. The Directorate Corporate Services (DCS) and Legal Unit will issue an internal circular to all Missions and officers at the Head Office, which will focus on the distinct term of each type of service in order to explain the uniqueness of each word. This circular will also make clear the fees to be charged for each service provided.

Legal Notice is ambiguous

The term attesting a signature means when a Consul in a Mission witnesses a signature done in his presence by the client. However, the wording of Article 2(a)(6) of Fees leviable by Government Departments (Amendment) Regulations, 2016 (L.N. 221 of 2016) is ambiguous, as it refers both to legalising and attesting a signature, when the former is actually regulated by Article 2(a)(3b) of the same legislation, stipulating the rate of €25 while attestation should be charged at €5.

[7] The website of the Missions correctly differentiated between the service of authentication and legalisation.

Furthermore, validation of signatures on public documents is carried out by the Legalisation Unit and charged as per Article 2(3a), through the affixation of either an apostille[8] or legalisation certificate. This is done following verification that documents contain an original signature of a public notary, lawyer, certified public accountant or auditor, based in Malta and registered with MFEA, i.e., included in the Ministry's database. However, rather than referring to the term legalisation and apostille in the highlighted article, the latter refers only to authentication of documents or certificates, which may be easily misinterpreted as authentication as a true copy of the original.

Recommendation

Clarification is to be sent to all Missions in order to ensure that the correct fees are being charged.

Management Comments

The recommendation is being accepted. As above, DCS will be liaising with the Legal Unit to formulate a clarification.

Control Issues

Fees not in line with Legislation

As already highlighted, the fee for authentication of certificates or documents by Maltese Missions abroad was €25, whilst attestation of signatures was set as €5. The Head Office confirmed that the €25 fee for authentication included €5 administration charge, which ultimately was to be allocated to the below-the-line account of the respective Mission. However, at times, this was not being followed or was being misinterpreted. The following refer:

a. At least as from mid-June 2016, when the respective part of legislation was last updated, applicants serviced by the Ministry of Foreign Affairs of the People's Republic of China[9], on behalf of the Mission in Beijing, were not being charged the administration fee. The said Mission intended to start applying the correct fee as from 1 April 2021. During the year under review, the total number of applications for this service was 1,591; thus, a loss of approximately[10] €7,955 in revenue in 2020 only.

b. It was confirmed by the Consulate in Shanghai that it also did not charge the administration fee of €5. A total of 450 applications were processed by the said Mission; thus, resulting in a loss of €2,250 in 2020.

c. An administration fee of €10 across the board was charged by the Mission in Ramallah, claiming that verbal instructions were given in 2009 by the accounts principal officer at the time, when the Mission was set up in June of that year. The correct administration fee for authentication and processing of documentation in relation to registration of marriages, births and deaths was €5, while that of passport and citizenship applications was €15.

d. The Mission in Vienna confirmed that the administration fee for consular services was always charged at €15.

e. The Mission in New Delhi was charging €16 for authentication service and €10 as administration fee.

f. The Mission in Dubai was charging €25 instead of €5 for attestation of a signature.

[8] Apostilles are issued when the country is party to the Apostille Convention, otherwise, the document is legalised and not apostilled.
[9] Certain services are channelled by the said Ministry and the respective documentation and payments are sent to the Mission in Beijing accordingly.
[10] This amount is approximate, considering that it is hard to determine in view of the fluctuation in the applicable rate of exchange and since the number indicated by the Mission was not verified by NAO.

Recommendations

Officers in charge are to be well versed with the pertinent legislation, ensuring that all money due to Government is collected by the Missions. After seeking legal clarification, the Head Office is expected to monitor all Missions through adequate checking and alert them accordingly in case of irregularities and when the legislation is not followed.

Management Comments

The recommendation is being accepted. As already stated above, DCS with the help of the Legal Unit will be issuing a circular to clearly indicate the amounts to be charged for each and every service. Also, the training that will be given by IPS will focus on the pertinent legislation and checking, thus equipping the Head Office Mission officer with knowledge and skills to pinpoint cases of irregularities. A manual of procedures related to the work performed by Head Office Missions' desk officers will be designed by first quarter of 2022, to prevent the current situation where procedures and controls are verbally passed over from one officer to the other. This in turn will mitigate the risk of misinterpretation of the legislation.

Lack of Audit Trail in certain Missions

As per Internal Circular No. 10/2014 – 'Request for Services Form', superseded by the Manual of Financial Procedures at Missions Abroad[11] issued in mid-August 2020, Missions are to ensure that when requesting a service, a sequentially numbered form has to be filled in by the applicant. The public officer delivering the service is also to record the receipt number on the application form and attach an identification of the applicant, such as passport or identity number, thereto. These are to be submitted to the Head Office together with the monthly accounts. However, this procedure, which ensures proper audit trail of revenue received, was not followed by all Missions. The following issues were encountered:

a. The Mission in Athens stopped issuing these forms following the introduction of CFMS in July 2020.

b. The Consulate in Shanghai confirmed that it only started keeping these forms since October 2020, but the selected transaction dated in the said month, was only supported by an unnumbered form, indicating the date when the legalised certificates of the client were collected by the respective courier.

c. The Ministry of Foreign Affairs of the People's Republic of China provides services on behalf of the Mission in Beijing. According to the Director Corporate Services, in such instances, the said Ministry is not obliged to issue the request for services form, since the requisite only emanates from an internal document of MFEA. It further transpired that the Mission in Beijing included a number of applicants in one request for services form, which defeated the related control purposes. The respective receipt numbers were also not indicated. As a result, whilst the Ministry of China receives a substantial amount of money on behalf of the said Mission, since forms are not individually issued, it is difficult or rather impossible to verify that all revenue due to the Maltese Government was duly recorded.

Recommendations

Adherence to internal regulations is solicited to ensure adequate control on the collection of revenue. This entails the compilation of the request for services form for each applicant, as stipulated in the Manual. Furthermore, when services are not provided by the Mission itself, for verification and control purposes, the foregoing is to request the respective Ministry to fill in the related form for each application received.

[11] Referred to as the Manual throughout the write-up.

Management Comments

The recommendation is being accepted and action will be taken by September 2021. All Missions will be reminded to comply with the Manual issued in mid-August 2020, in particular to ensure that when requesting a service, a form has to be filled in by the applicant in all instances, irrespective whether the service is provided by the Mission itself or by third parties.

Missions will again be notified, that the officer providing the service must assign a consecutive serial number and record the receipt number on the application form. The request is to be accompanied by an identification of the applicant, such as passport or identity number.

Grouping of Services in the Application Form

The request for services form includes various tick boxes for the services offered, but it does not differentiate between the authentication of documents and attesting a signature which, as already indicated, are charged at different rates of €25 and €5 respectively; it only includes one option titled legalisation. As a result, unless these details are duly recorded elsewhere, such as on the receipts, the rate charged cannot be corroborated with the service provided. Furthermore, incorrect fees charged by the Missions will pass unnoticed.

Recommendations

The request for services form is to be updated, to clearly distinguish between authentication of certificates or documents and attesting a signature. Missions are also to be aware of such difference so that the correct fees are charged across the board.

Management Comments

The recommendation is being accepted. The request for services form will be updated accordingly by September 2021, as highlighted by the audit body. It will clearly differentiate between authentication of certificates or documents and attestation of signatures.

Compliance Issues

Divergence from the Financial Regulations without the necessary Approval

As per General Financial Regulations (S.L. 601.01), Article 35, unless otherwise authorised by the Permanent Secretary, Ministry for Finance, any sum of €100 or upwards shall be deposited daily into an authorised bank or into the public account, provided that all monies received shall be remitted every Friday and on the last working day of the month. The following shortcomings were noted:

a. In line with the Manual provisions, which was effective as from mid-August 2020, revenue in cash was to be deposited by the Missions every two weeks or when the sum is in excess of €1,000, whichever was the earliest. However, a formal request to the Permanent Secretary, Ministry for Finance, to cover the necessary departure from the highlighted article with regard to Missions, was not made.

b. Four of the five sampled Missions even exceeded the limit allowed in the Manual, at times with monthly cash balances relatively substantial, over €10,000. According to some Missions, it was not possible to adhere even to the €1,000 threshold due to bureaucratic process applied by the respective countries, besides other constraints, such as remote working and restricted bank opening hours, as a result of the COVID-19 pandemic. It was also claimed that at times Missions would also require cash for several payments.

Recommendation

Formal authorisation is to be obtained from the Permanent Secretary, Ministry for Finance, for any divergence from the regulations, clearly indicating the revised allowable limit, where applicable.

Management Comments

Circular MFEA 12/2021 – 'Instructions following Audit for Financial Year 2019', dated 7 May 2021 was circulated to all Missions as an Appendix to the Manual, clearly indicating the amount of cash that can be retained according to the General Financial Regulations.

MFEA will strive to obtain formal authorisation from the Permanent Secretary, Ministry for Finance, both for MFEA and the Missions, for any diversions from the pertinent regulations, clearly indicating the revised allowable limit.

By first quarter of 2022, MFEA will be conducting a report on the most feasible amount of money across the board that the Missions can hold and will seek the approval from the Ministry of Finance, and update the Manual accordingly.

No evidence of Cash Count

As per MFA Internal Circular No. 3/2012 – 'Management of Monthly Accounts by Missions', superseded by the Manual, regular cash counts are to be carried out at the Missions, at least on a monthly basis. A return, endorsed by the Head of Mission and the officer who carried out the verification, is to be sent to the Head Office with the monthly accounts indicating date of cash count carried out and the actual amount found. The five sampled Missions claimed that cash counts were carried out, however evidence to this effect was not provided.

Recommendation

All Missions are to perform at least a monthly cash count, evidence of which is to be submitted to the Head Office. This will identify any discrepancies between the actual cash held and the amounts reported in the cash book.

Management Comments

The recommendation is being accepted. As stated previously, a circular will be circulated amongst all Missions by October 2021, which will be emphasising the fact that cash counts need to be performed on a monthly basis and submitted to the Head Office with the accounts for the month. Such cash count is to be endorsed by the Head of Mission and by the officer performing the cash count. A form has to be filled up, endorsed and sent with the monthly account.

Service Fee on Websites not updated

As per Internal Circular No. 9/2017 – 'Compliance Notice' and the respective Manual, Missions are to ensure that their websites are regularly updated, in particular the fees listed must be in compliance with L.N. 221 of 2016. In the foregoing circular, emphasis is made to Article 3(b), which stipulates the rate of €25 for the service of authentication of certificates or documents by Maltese Missions abroad. Notwithstanding that this legislation was last updated in June 2016, five years later, a number of Missions' websites (19[12] out of 32 websites, 59%) still showed the previous service fee of €18. Furthermore, other websites (7 out of 32 websites, 22%), either did not indicate the applicable fee for services provided or amounts were in the foreign local currency and not the euro as per legislation.

[12] Some Missions updated the website following audit queries in this regard.

Recommendations

The Information Management Unit and the Communications Coordinator are to be notified of the necessary updates to the website. The applicable fees levied in euro are also to be indicated in line with the legislation.

Management Comments

The recommendation is being accepted and will be implemented by September 2021. DCS will be notifying the Information Management Unit and the Communications Coordinator to do the necessary updates to the Missions' website, including the applicable fees in euro.

Ministry for Transport, Infrastructure and Capital Projects

Ministry for Transport, Infrastructure and Capital Projects

Store Items

An audit of store items falling within the remit of the **Ministry for Transport, Infrastructure and Capital Projects** revealed a lack of control on stock management.

Background

The main priority of the Ministry for Transport, Infrastructure and Capital Projects (MTIP) is to improve the quality of life of the Maltese and Gozitan people by means of sustainable development, a revolution in infrastructure, innovative projects, efficient transport and continuous evolution. MTIP's portfolio, amongst others, includes ports and maritime affairs, manufacturing and servicing, public works, internal transport, road building and road maintenance.

The two main stores falling under the responsibility of the Ministry are located at Mrieħel and Kordin. At the former, construction material is kept. At the latter, stocks mainly consist of tools, hardware and raw materials used by the Manufacturing and Services Directorate personnel to perform tasks, comprising amongst others, carpentry, electrical and maintenance works.

For 2020, MTIP was allocated €101,671,000 through Recurrent Vote 35, of which €280,000, i.e., less than 0.03% of the Vote's allocation, was allotted to Materials and Supplies under Line Item 2306.

Audit Scope and Methodology

The main scope of this audit was to assess the level of existing internal controls over stores, determine whether stock control management was adequate and in line with pertinent regulations and establish whether stock movement was recorded on the new accrual accounting software package, mainly the Corporate Financial Management Solution (CFMS).

Meetings were held with officials from the Ministry, whilst a number of onsite visits were made to obtain a general understanding of stock management operations and to perform physical checks. The National Audit Office (NAO) selected samples from the respective stock lists in order to confirm whether there was an effective system of internal controls.

In the case of Kordin stores, a stock list was generated from the computer system as at 14 December 2020. On the other hand, the stock list of Mrieħel stores was manually compiled from the bin cards as at 31 December 2020. These were checked for anomalies, such as unusual large quantities of stock items, abnormal monetary values and negative balances, where applicable.

Physical checks on two batches of samples, consisting of 98 and 32 store items, selected from the Kordin and Mrieħel respective stock lists, were carried out. Additionally, 16 floor items from Kordin and 12 from Mrieħel were traced to the relative stock records. Another six items from each store were traced to procurement documents to ensure accuracy and completeness in terms of procedures followed to purchase the selected items, including the necessary authorisations. Furthermore, unserviceable stock was examined and it was verified that any write-offs were covered with proper authorisation.

Key Issues

Stock Movement not recorded in the Accrual Accounting System

Kordin Stores

The newly implemented CFMS has been used for the first time within MTIP in 2020; however, although stock receipts were being recorded on the new system, stock issues were not[1]. MTIP also confirmed that since the old system was obsolete, it was not feasible to integrate it with CFMS. Consequently, MTIP did not have a holistic record showing stock movement and stock balances.

Although discussions were held with Treasury officials approximately two years prior to the introduction of the accrual accounting package, to determine the actual needs of MTIP with respect to stocks, the latter is still using an outdated stock recording system which is on the verge of corrupting, potentially with imminent loss of data.

Mrieħel Stores

MTIP confirmed that receipts at Mrieħel stores are only posted in CFMS for supplier payment purposes, while stock issues are recorded on a spreadsheet and on bin cards. Moreover, human resources at Mrieħel stores comprised two officers, one of whom is close to retirement age. An external call to fill the post of an assistant procurement officer was so far unsuccessful.

Recommendations

MTIP is to make the necessary arrangements for the proper migration to the new accrual accounting system and the full use of its stock control application. Otherwise, MTIP would not be in a position to provide a complete set of financial statements that reflect, amongst others, the current stock levels held at each store. In the interim period, assistance may be requested from the Malta Information Technology Agency, to temporarily export its stock records onto a new platform or database until the issues with the new system are resolved.

MTIP is also encouraged to persevere with staff recruitment, to assist with the stores' administration.

Management Comments

Discussions were conducted with Treasury and the Agency officials, as the new CFMS does not cater for the requirements of MTIP stores. MTIP was duly informed that the necessary amendments for the integration of a stock recording system with CFMS were considered as a change to CFMS contract. Consequently, MTIP is undertaking proper analysis to be able to procure a separate programme from CFMS that will eventually integrate with the latter. The requirements analysis stage is expected to be completed by end of June 2021 and discussions with the supplier will follow. MTIP also stated that a report will be drawn up to identify what job positions are needed within the stores to enhance operations.

[1] According to Management, this was due to limited knowledge, as well as a lack of available resources at MTIP.

Stocktakes not carried out

The year-end stocktakes[2] were not being performed in accordance with Treasury Circular No. 6/2004 – 'Stock Control Procedures'. Consequently, it was not possible to ensure that actual stock quantities tallied with stock records.

It was claimed that stock levels at Kordin stores were at times checked against bin cards whenever stock was issued or replenished. However, this was not done on a regular and consistent basis.

Recommendations

Basic control procedures require that adequate stock records are in place and updated regularly to ensure accountability. These are to be reconciled to physical stock at least annually. This is even more important at this stage when MTIP is in the process of transitioning to the accrual accounting system.

Management Comments

MTIP confirmed that it will be outsourcing the function of stocktaking from an external provider as an interim measure until the recruitment process is finalised.

Control Issues

Insufficient Security

Security officers at Kordin and Mrieħel stores guarded the premises during and after office hours, and a gate secured the entrance of both stores. However, the Ministry confirmed that both stores were not equipped with closed-circuit television cameras. It was stated that discussions within MTIP were at an advanced stage, to install an appropriate security system throughout the whole premises.

On the other hand, at Kordin there was very limited control over access to the stores; Government trade employees were entering and exiting the premises throughout the morning to get supplies for jobs being undertaken urgently. Employees make use of requisition forms; however, during the stocktake NAO noted that, occasionally, an item may be taken off the shelf without updating the relative store bin card or completing a stores issue form due to the claimed urgency of the task. This was also verbally confirmed by the respective store officers.

Additionally, the timber warehouse at Kordin, which is adjacent to the stores, is easily accessible from the garage store next door, making it relatively easy to enter without having appropriate permission. This lax security is likely to result in items taken from stores in an unauthorised manner which may remain unnoticed and unaccounted for.

Recommendations

Access beyond a certain point must be restricted to authorised persons. Thus, MTIP is to take immediate action and implement security measures at both stores in order to strengthen controls and mitigate the risk of possible intrusion and theft.

Management Comments

In order to strengthen controls and mitigate the risk of possible intrusion and theft, MTIP is in the final stages prior to publishing a tender for closed-circuit television cameras to be installed in both Mrieħel and Kordin stores. In the

[2] Treasury Circular No. 6/2004, section 4.3 also allows that if year-end stocktakes are not feasible, alternatively, a series of stocktakes and test counts may be carried out.

interim period, clear instructions to staff will be issued so that access beyond a certain point is restricted to authorised personnel only. A procedure is already in place for material supplied in an urgent situation. Nevertheless, an updated procedure will be included in the standard operating procedures.

Moreover, the relocation of timber warehouse is also included in future plans for amendments to buildings.

Lack of Documented Standard Procedures

Standard operating procedures, providing stock control guidelines to ensure that the pertinent regulations are complied with, were not formalised. This poses the risk of lack of control which could result in pilferage.

Recommendation

The Ministry is to ensure that a set of stock control procedures is drawn up, clearly defining how stock records are to be maintained and items handed out. This will control access to stores, in order to mitigate associated risks, as well as to safeguard the stock held.

Management Comments

Stock control standard operating procedures are being compiled. Additional measures also include electronic requests for material and barcoding, which will be addressed with the new stores' software programme for all MTIP's stores.

Inadequate Storage Facilities and Upkeep

Kordin Stores

The stores were relocated from Marsa during 2020. However, due to insufficient storage space, Management decided to place a few containers outside the main store in Kordin for certain stock items, such as iron rods and lamps. Unfortunately, the container storing iron rods was not appropriate because of rainwater seepage.

Moreover, structural works were urgently required on the roof of the main warehouse and the adjacent store. The effects of the intense heat during the summer months was also detrimental to certain stock items. Additionally, the adjacent store was too small for a forklift to enter and therefore a ladder was used to reach the higher shelves; this was considered as unsafe.

Mrieħel Stores

These stores were partly used as a dumping ground for extra material which was not consumed on past projects. This stuff, which included lamp posts, tiles and other paving material has been left there for a number of years. With regard to the latter, it was questionable whether this castoff paving should be considered as a stock item as most probably it cannot be used for another project.

Additionally, 27 lamp posts out of the 28 originally purchased during 2018 for the Buġibba and Qawra promenade remained unused and were stored in a container; however, their condition was being compromised due to rain seepage.

Recommendations

MTIP is to ensure that all stock at both stores is kept in a well-preserved manner, to be usable when required. The Ministry is also to liaise with the respective authorities in order to further progress with fruitful discussions, aiming at obtaining the necessary permits which will enable adequate storage space at Kordin to increase. The foregoing store is expected to be adequately equipped in accordance with health and safety directives.

MTIP is also to tackle the dumping issue at Mrieħel stores and discuss how the surplus material can be used or written off and disposed of. It is advisable to establish a formal policy defining reusable procedures, to mitigate recurrence of accumulating used stock. In this regard, the proposals made by the Board of Survey in December 2020 are considered a step in the right direction. Moreover, adequate planning of projects is important to ensure that material requisitions do not excessively exceed actual requirements, thus preventing unnecessary long-term storage, as well as safeguarding public funds.

Management Comments

Replacement of containers and roofs are all included in plans for amendments to buildings. Recommendations made by the Board of Survey on 15 December 2020 with regard to surplus material stored at Mrieħel stores are to be implemented. Moreover, an inventory of surplus material shall be compiled, and this shall be eventually removed from Mrieħel stores through write-offs, sale or re-use of material.

The new stock control computer system shall have an alert function that will enable the purchasing officer to know the amount of stock of a similar item being requested prior to placing another requisition.

Stock Item Values not reliable or not available

A review of the Kordin stock list revealed instances of stock items with a negative balance. This was caused due to a flaw in the computer system, mainly triggered by goods returned to the stores, disrupting stock balances.

Furthermore, in the case of Mrieħel, the relative stock list, which was compiled from the bin cards for the purpose of the audit, lacked both the respective item price and the total stock value.

Thus, the actual valuation of the total stock held at both stores could not be reliably established.

Recommendation

MTIP is to accelerate, as much as possible, the introduction of the stock control module of CFMS in order to improve its stock recording system and eliminate problems arising through the use of an outdated application. This will also assist the Ministry when preparing the financial statements, to provide reliable and accurate information.

Management Comments

Such flaws have long been noted with the current system. Nevertheless, MTIP is looking forward to the introduction of a new digital stock control system. The actual valuation of the total stock held at both stores is to be conducted prior to the introduction of the new system.

Compliance Issues

Statutory Stocktake not performed

Treasury Circular No. 6/2004, section 4.3 requires the Ministry to furnish the Auditor General, amongst others, with an annual stocktake report duly signed. However, since the annual stocktake was not being performed, the required stock returns were not submitted to NAO at the end of each financial year.

Recommendation

Management is to ensure that entrusted officers are responsible for compliance with statutory requirements, including the annual submission of information to NAO and Treasury in accordance with the pertinent circular directives.

Management Comments

For both stores, MTIP shall be appointing two officers who shall be assigned with the end of year stocktakes. Standard operating procedures shall disclose all requirements, in line with Treasury Circular No. 6/2004. This will be accomplished by the end of June 2021.

Obsolete Items stored for lengthy Period

The latest list of obsolete and unserviceable items to be written off, following recommendation by the Board of Survey, was authorised by the Permanent Secretary in February 2020. This exercise was not being performed on a regular basis since most of the obsolete items listed had been stored at Kordin for over 12 years with no movement.

Furthermore, the stock condition assessment which was to be carried out at the same time as the stocktake, in accordance with the relative Treasury circular, was only carried out randomly by a superior officer when visiting the stores, with no formal procedure being followed.

Recommendations

Adherence to the prevailing circular outlining stock control procedures is to be observed. In particular, the stock condition is to be assessed and classified as stipulated when the stocktake is performed, preferably at year-end. Carrying out this procedure annually will reduce the quantity of items stored and which take up limited space unnecessarily.

Management Comments

It is the intention of MTIP that with every stocktake, the officers will check the conditions of the stock so as to identify any redundant or obsolete stock. The use of the automated system, whereby it will alert the officers of material still in stock, shall reduce the possibility of having redundant stock in stores. Moreover, adherence to the prevailing circulars and regulations regarding the assessment of stock condition and the procedure to be followed for obsolete and unserviceable items is to be included in the standard operating procedures adopted.

Energy Performance Certificates

Revenue

An audit on the **Energy Performance Certificates** at the Building and Construction Agency revealed a weak control environment. There was also a lack of audit trail from the respective application to the final stage when the certificate is issued, especially involving property that required approval from the Planning Authority and properties used for rental purposes. In such cases, the Agency is constrained by the lack of legislative provisions which make these certificates mandatory.

Background

The Building and Construction Agency[1] (BCA) was established in 2019 in accordance with the Building and Construction Agency (Establishment) Order, 2019 (L.N. 192 of 2019). It is responsible for the design, implementation and dissemination of policies, together with the consolidation and review of laws and regulations, in the form of a national building code. The Agency is authorised to collaborate with other agencies, corporations, authorities, Government and non-Government entities and other persons for the carrying out of its functions, as well as the necessary preparations for the setting up of the Building and Construction Authority[2]. Without such active collaboration on the part of these third parties, it is extremely difficult for the Agency to carry out its mandate and eventually meet the targets established by the European Union.

One of the roles of the Agency is to issue an Energy Performance Certificate (EPC) that gives a rating on the energy efficiency of a building. It is produced after a professional assessment is carried out of the property in question, by a warranted architect or warranted engineer[3]. Since 2012, an EPC became obligatory for property, either newly built, used for rental purposes, or subject to a transfer between one person and another. The regulatory need for an EPC arose from the European Union's Energy Performance Directive (Directive 2010/31/EU), which was transposed into national legislation through the Energy Performance of Buildings Regulations, 2018 (L.N. 47 of 2018). The main aim of an EPC is to promote the improvement of the energy performance of buildings within the territory of Malta, taking into account outdoor climate and local conditions, as well as indoor climate requirements and cost-effectiveness.

The revenue estimate from EPC for 2020, under Line Item 0357 within the pertinent Ministry was €2.5 million. During 2020, there was only one global amount of €1.15 million transferred[4] to this account, in December.

[1] As per Financial Estimates 2021, falling under the Ministry for the Environment, Climate Change and Planning.

[2] The Building and Construction Authority was set up during the time of the audit, on 6 April 2021, by means of the Building and Construction Authority Act (No. XIV of 2021). With the coming into force of this Act, the Agency will be absorbed by the new established Authority.

[3] Both known as the assessor.

[4] An approval from the relative Ministry is required before funds within the EPC revenue vote are transferred into the Central Bank of Malta Public Account.

The applicable fee of an EPC is €75, both for residential (dwelling) and non-residential buildings (non-dwelling). The engaged assessor pays the fee on behalf of the applicant via the Government's Payment Gateway, before the certificate is produced[5]. The EPC system is linked to a commercial bank account where funds are deposited for onward transfer to the Central Bank of Malta Public Account. During 2020, a total of 9,619 EPCs were registered, at an aggregate value of €721,425, which amount was recognised as income in the management accounts.

Since its introduction in 2012 till end September 2021, around 80,481 EPCs were raised.

Audit Scope and Methodology

The main scope of the audit was to determine whether the necessary level of internal controls was in place to ensure the collection of revenue due to BCA, which is then handed over to Central Government.

Testing was divided into the four below categories:

Assessors

A list of all EPCs carried out during 2020 was obtained from the auditee. The assessors who issued these certificates were checked against a list of authorised individuals as approved by the Agency[6].

Sale of Property

All property sales in Malta are made by means of a promise of sale, followed by a final deed of sale, both done in the presence of a notary public, in accordance with Article 13(3) of L.N. 47 of 2018[7].

While the onus to commission an EPC is placed on the property owner, the notary public is entrusted with the responsibility of making sure that this is always available to the new owner in case of sale of property. According to BCA, even local banks are aware of this legal notice and are bound to comply by not issuing a sanction letter for a new property loan unless an EPC is presented. The National Audit Office (NAO) sought to ascertain that this arrangement, between the Agency and both the Notarial Council and local banks, has been formalised.

Planning Authority Applications

Most of the testing was focused on those properties which, prior to commencing any structural works, had applied for a permit with the Planning Authority (PA).

For each year, BCA downloads a list of the PA applications received during that particular year. However, during the audit, the Agency was still working on 2017 applications, and this was the information that was made available for testing.

A list of all EPCs issued during the period 2017 to 2020 was obtained for audit purposes. Eliminating those PA permits that were refused by the Authority itself, or those withdrawn by the applicant, an exercise was then carried out in order to verify whether eligible PA applications issued in 2017 had duly obtained the certificate at some point during the four-year period in question.

[5] EPC is not issued before the payment is made; thus, there are no receivables in this respect.

[6] These assessors were engaged following successful completion of a specific course on energy performance.

[7] Stating that "*the owner of a building shall ensure that when buildings or building units are constructed, sold or rented out, the EPC or a copy thereof is shown to the prospective new tenant or buyer … … at the latest, before the date of entering the promise of sale or rent agreement*".

Rental Properties

In line with Article 13(3) of L.N. 47 of 2018, an EPC is required when a property is rented out[8] and should be invariably presented by the lessor to the lessee. A list of properties rented out was requested to ensure that an EPC was performed; however, this was not available at BCA.

Limitations on Scope of Audit

BCA did not have a record of the EPC applications and the details of the respective certificates. Since the process to identify those cases that needed a certificate, or otherwise, was done manually, this was time consuming. According to the Agency, only one person handles this task and has a back log of four years as detailed in the observations below. This hindered the planned verifications in this respect.

According to the Agency, it does not have the human resources necessary to check that lessors are in possession of an EPC for all rented property; thus, a list of rented property was not available. Consequently, testing in this regard could not be carried out.

Key Issues

Weak Control Environment

NAO noted that there was a weak control environment, as well as lack of audit trail from application to the final stage when the EPC is issued, especially where PA applications were concerned and certificates required in respect of properties used for rental purposes.

The Agency was not in a position to determine how many of the 5,768[9] PA applications that were approved in 2017 had in fact acquired an EPC. BCA was only made aware when an EPC form was submitted by the applicant or when the actual EPC was analysed following receipt. Thus, there is the risk that, in certain cases, the respective certificate is not obtained, and no enforcement measures can be taken. Apart from loss of revenue, Government will not have the relevant statistics. Further details are given under Control Issues.

Recommendation

BCA is to step up its internal controls to ensure that it is capable of enforcing timeframes and penalties as and when applicable.

Management Comments

Given the transition from Agency to Authority, the strategy going forward is to structure the Authority in such a way so as to manage and operate its full remit within a pre-planned timeline. The plan looks at human resources capacity building, as well as at investment in Information Technology (IT).

The scale of implementation is dependent on allocated resources and hence the Authority's plan for 2022 will be revised once the budget for the said year is announced.

[8] Both in the case of long and short lets.
[9] This amount was derived after excluding the withdrawn applications and those not permitted.

Lack of Audit Trail

Any type of alteration to a building, be it structural or otherwise, has to be authorised by the PA, thus a planning application is to be made. Some alterations could also have an impact on the property's energy performance characteristics. As a result, an EPC is necessary following a major renovation or alteration[10].

EPCs received are filed in hard copies, usually by BCA reference, but there is no cross reference to the related PA number; thus, making it close to impossible to find a particular EPC in due time.

As a result, BCA is not in a position to know which PA applicants carried out an EPC and how many EPCs are still pending. A BCA official estimated that, based on the number of property sales, applications for development, and registrants renting property for tourism purposes, there are around 85,000 pending EPCs still to be carried out, to the tune of more than €6 million.

Recommendation

BCA is encouraged to invest in a secure and reliable IT system that will enable a complete audit trail; from when a PA number is identified to when the EPC is issued and registered in the system. Having in place a duly updated system will render the process more efficient and effective. It will also show the status of each and gives an alert when a notification is necessary.

Management Comments

Discussions with PA have been in progress since early 2021, with a view to make use and build upon the IT system in use at its end.

The Authority's plan for 2022 will entail finalisation of agreement with PA and the determination of timelines for further system development.

Backlog in Planning Authority Applications to be analysed

NAO requested the list of those PA applications that the Agency analysed during 2020; however, the latter was still going through the 2017 applications; thus, a backlog of four years. This implies that, unless the applicant complied and carried out the EPC, timely action was not being taken[11].

Furthermore, the process to establish whether an application for alteration to property requires an EPC is very time consuming and, at this pace, the backlog of PA applications cannot be cleared.

Recommendation

BCA needs to find the resources to come up to date with all PA applications, so that the necessary follow-up on the required EPC is done on time. This might enable the applicant to make the necessary changes upon the assessor's recommendations, if they prove to be worth the energy saving procedures.

[10] A major renovation or alteration occurs when such renovation affects a building by 25% or more of its volume; where renovation of 25% or more of windows or roofs or external walls is made; where renovation of 25% or more of any energy consuming installations for artificial lighting, or heating or cooling of air or water or space ventilation is made; or where a change-of-use development permission application and, or notification concerning buildings, is submitted to PA.

[11] Except when the applicant enters a final deed of sale through a notary and/or a commercial bank, in which case, an EPC is mandatory.

Management Comments

As part of the 2022 plan, BCA is currently[12] taking action to identify and deploy the necessary resources to address backlogs.

Issues with the Submission of Notification Letters

Once the Agency identifies who is required to perform an EPC, BCA issues a notification letter to the PA applicant, followed by a second notification 60 days after. However, the Agency does not have the means to link each PA application number with an EPC by using the same PA number, to exclude those who already obtained the certificate.

Additionally, the process of issuing a second notification letter is done manually, since there is no system in place to trigger it automatically when a certificate is not duly issued. NAO was also informed that, after establishing whether an EPC is required or not, the Agency monitors all relative files of that particular year to verify that the certificate has been received. However, a record of this time-consuming monitoring exercise is not available.

Out of the 2,460 PA applications relating to 2016 that required an EPC, a number of notification letters were still to be submitted, although the Agency was not aware of the exact number of certificates actually obtained. The slow pace at which notification letters are submitted triggers a lot of delays in the process for Government to ensure compliance and collect what is due.

In relation to 2017, the verification process which was still ongoing during the audit, it was confirmed that no notification letters were sent for the first five months (January to May 2017) which were finalised.

Recommendations

Once a proper system is in place, the PA number can be used to track whether an EPC has been issued or not. PA applications which are pending an EPC would be easily established so that notification letters will only be sent accordingly to the respective individuals. Reminders can also be automatically generated from the system, thereby eliminating human error and freeing time to allow for more EPC assessments to be carried out.

Management Comments

With the introduction of a system where a PA applicant would be required to commission an EPC prior to have an executable permit, EPCs would be undertaken in a timely manner and no backlog would emanate for new PA applications.

No Control on Compliance vis-à-vis Certificates required for Rented Property

When property is rented out, an EPC should be presented by the lessor to the lessee, both for long and short-term rentals[13]. However, no control for compliance in this respect is in place. According to BCA, discussions with the Malta Tourism Authority were underway so that data of property being leased on short-term basis is shared with BCA to eventually ensure compliance. Other discussions with the Parliamentary Secretary responsible for construction and the Housing Authority were also in progress.

[12] Management comments submitted on 6 October 2021.
[13] This would enable the lessee to make an informed decision on which property to rent partly based on its efficiency.

Recommendation

BCA should step up action with regard to the verifications of the compliance aspect of property rentals in order to ensure that what is due to Government is received. This cannot be achieved without the full cooperation of the various entities concerned, possibly through the promulgation of the necessary legislative provisions to make such certificates mandatory.

Management Comments

This entails substantial work but will be integrated in the new Authority's plan of action. BCA shall liaise further with the Housing Authority (responsible for registration of private residential rental agreements) and the Malta Tourism Authority (responsible for private commercial leases), as well as with the Lands Authority and Joint Office (regarding leases of Government property), so as to establish a proper control mechanism for related EPCs. BCA will enter into discussions with the said entities prior to the end of 2021.

Control Issues

No formal Agreement with the Notarial Council and Commercial Banks

NAO was informed that a memorandum of understanding was in place between BCA and the Notarial Council of Malta to ensure that, whenever there was a deed for a new property being sold, the notary public verifies that the sale is accompanied by an EPC. However, it transpired that this agreement was only verbal.

This procedure should also be carried out by local commercial banks, whenever the buyer is taking up a loan to purchase a new property; in such cases, the latter should be asked to provide an EPC before issuing the sanction letter, but there is also nothing official to this effect.

Recommendation

Since so much reliance and cooperation is being placed on notaries and commercial banks, BCA is to formalise its verbal understanding with the entities concerned, to ensure compliance.

Management Comments

BCA considers that, in accordance with the Energy Performance of Buildings Regulations (S.L. 513.01), there is an indirect obligation on notaries to ensure that the law is being observed. For avoidance of doubt, BCA shall be formally communicating further with the Notarial Council to clarify and, if necessary, formally agree on way forward with a view to maximise compliance. This will be in addition to a risk-based controls check to be instituted by BCA.

As to an agreement with commercial banks, BCA will likewise be informing all commercial banks of the requirement to ensure that an EPC is in place in the circumstances established by law.

BCA will enter into such discussion prior to the end of 2021.

No Penalties for Lack of Compliance

While the notification letters sent to PA applicants requiring an EPC mention that a fine of between €1,500 and €5,000[14] will be applied to those who do not comply, no such enforcement was made to date[15]. However, the weak internal controls in this area, are proving to be very difficult for BCA to identify the defaulters and keep a track record of where the process stalled to penalise accordingly.

Recommendation

The purpose of an enforcement fine is to encourage individuals to abide with laws and regulations. NAO opines that the process should be enhanced to ensure that effective enforcement is in place and the necessary fines are imposed.

Management Comments

Effective enforcement is crucial and BCA will strengthen its capacity to do so with major focus to foster a system of compliance with limited need to impose fines.

No Segregation of Duties

The process that is undertaken when PA applications for changes to existing property are filed, is dependent on one officer and his judgement. This implies a lack of segregation of duties, which undermines internal controls and the efficiency of the process. It also increases the possibility that human error remains undetected.

Recommendations

It is advisable to exploit the advantages of an IT system, in order to reduce the manual work, simplify the process and mitigate human error. Such a system will indicate whether a property owner has carried out the required EPC, when a notification letter needs to be submitted, and also indicate any fines which may be charged. In the beginning of the process, the reason for a PA application can be chosen from a drop-down menu, following which certain applications will automatically be flagged for the necessary certificates; thus, reducing the number of applications required to be reviewed to identify whether an EPC is needed in the first place.

Management Comments

The newly set up Authority is planning to have the required IT infrastructure.

General Management Comments

BCA is committed to implement the recommendations made by NAO to the utmost extent possible. Some limitations may be encountered depending on funding and resources, but business planning will be tuned to the recommendations made by NAO.

[14] Or a term of imprisonment or both or an administrative fine, of €5 a day for the first month from date of the notification letter; €10 a day for the following month up to the sixth month from the date mentioned; and €15 a day after the sixth month from the date mentioned until payment of the administrative fine shall be imposed.

[15] Up to conclusion of audit testing in June 2021.

Ministry for Gozo

Upgrading of St Francis Square

Capital Expenditure

Various shortcomings were identified in the contract management pertaining to the capital project for the **Upgrading of St Francis Square**. Amongst others, these included extension to project works not covered by a signed contract and incomplete documentation regarding the progress of the project.

Background

In 2016, the Ministry for Gozo (MGOZ) embarked on a project to regenerate one of the main open spaces in Victoria, namely St Francis Square. The plan also included the building of steps and a passenger lift to link the area to the bus terminus. Although the square was inaugurated on 27 July 2020, as at time of audit fieldwork, some works were still incomplete[1].

Between 2016 and 2020, an aggregate of €3.8 million was allocated for this project under Line Item 7369. The actual costs which were incurred from inception till end December 2020 amounted to €3.1 million. Chart 1 depicts the budgeted and actual expenditure during the five-year period.

Chart 1: Project Costs per Year – Budget[2] vs Actual[3] (2016 –2020)

	2016	2017	2018	2019	2020
Financial Allocation (€)	300,000	900,000	600,000	1,000,000	1,000,000
Actual Expenditure (€)	271,607	222,167	35,226	873,077	1,743,835

[1] As at December 2020, works relating to the stairs and church parvis were still incomplete.
[2] Budget figures were according to the amounts presented for Line Item 7369 in the Financial Estimates 2016 – 2020.
[3] The actual amounts were based on information submitted by MGOZ. Total expenditure for 2016 (quoted by MGOZ) did not reconcile with the corresponding figure recorded in the Financial Estimates 2018, which stood at €280,619.

Audit Scope and Methodology

The main scope of the audit was to verify whether procurement procedures adopted were in compliance with the Public Procurement Regulations (PPR), as well as other applicable circulars. The National Audit Office (NAO) also sought to determine the level of existing internal controls over the expenditure incurred. The reliability and adequacy of information available for decision-making and accountability purposes was also considered.

An introductory meeting was held with Management to discuss the audit objectives and to obtain a general understanding on the execution of the project. The audit team also carried out a site visit in November 2020.

NAO obtained a list of project costs from where the main contractors were identified. An aggregate expenditure of over €1.4 million, representing 47% of total payments over the five-year period, was selected for audit verification.

Key Issues

Extension to the Works Contract not covered by Agreement

The execution of works in connection with the contract for the paving and embellishment works at St Francis Square was to be finalised by end June 2020[4]. Subsequently, an addendum granted a two-month extension till end of August 2020. However, this was only signed on 23 October 2020, following audit queries. As at November 2020, the respective works were still incomplete due to cultural heritage found in the area.

Recommendation

All project work extensions are to be authorised through addenda to original agreements, which are to be signed by both parties prior to the execution of work; hence, ascertaining the contractor's obligations and safeguarding the taxpayer's interest.

Management Comments

A request for extension to the Department of Contracts was submitted on 26 June 2020. The General Contracts Committee approved this extension on 14 July 2020; however, the addendum was signed on 23 October 2020. The process for the signing of the addendum is within the remit of the Department of Contracts, but such delay might be resultant to the COVID-19 procedures enforced at that time.

Incomplete Documentation

NAO was not provided with the order to start work pertaining to the contract for the paving of stairs and cladding of facade at St Francis Square. On the other hand, the performance programme in file was not updated as required in terms of Article 15 of the two main contracts.

Recommendation

Management is expected to strengthen the administration of contracts by ensuring that all documentation is collected in a timely manner and filed for future reference.

[4] The contract stipulated an execution period of nine months. According to the order to start works, this had to commence by 1 October 2019.

Management Comments

No reply was forthcoming from Management.

Control Issues

Retention Money not deducted

According to Article 45 of the contract for the paving and embellishment works at St Francis Square, 5% of the value of works carried out was to be retained as retention money for a duration of two years from the issue of the provisional acceptance certificate. However, the first three payments, amounting to an aggregate value of €965,012, were paid in full.

Recommendation

Management is to ensure that retention money is duly deducted from the value of works paid to safeguard Government's interests and guarantee the contractor's obligations.

Management Comments

This omission has been recitified through deductions from subsequent payments.

Shortcomings related to the Engagement of Professional Services

In October 2017, MGOZ issued an expression of interest for the provision of architectural and project management services. The letter of acceptance sent to the selected Architect dated 15 December 2017, stipulated a total of 200 hours at the rate not exceeding €25 per hour, excluding Value Added Tax (VAT). This meant that expenditure approved by the Ministry's Permanent Secretary was capped at a maximum of €5,900.

However, although the actual expenditure amounted to €18,880, specific approvals to this effect were not made available by the time the audit findings were communicated to Management.

Recommendations

Procurement is to be made in line with standing regulations; thus, goods and services above the established PPR threshold of €10,000 (VAT excl.) are to be invariably acquired following a public call for tender. In exceptional cases, where it is absolutely necessary to purchase direct from the open market, prior approval from the Ministry for Finance is to be obtained.

Management Comments

Negotations were based on the outcome following the expression of interest issued in October 2017 which resulted in an hourly rate of €25 (VAT excl.). The Ministry, in agreement with the Department of Contracts, was conscious that such rates were economically feasible and below market prices. Hence, MGOZ insisted that these are to be maintained.

[5] After the Management comments were submitted, NAO was provided with an approval from the Department of Contracts, dated 9 May 2018, for a negotiated procedure comprising four service providers (including the Architect in question) at a total cost of €190,000 (VAT excl.). Although NAO requested a breakdown of payments relating to this authorisation, no further information was provided. Hence, it could not be ascertained that the expenditure tested was covered by this approval.

On 9 May 2018, the Ministry received an approval from said Department for a negotiated procedure covering such services, which had a limit of €190,000 (VAT excl.) across four architects who were being outsourced for various services by MGOZ[5].

Shortcomings during the Evaluation Process of the Main Tender

The initial two reports, drawn up following the evaluation of bids for the paving and embellishment works at St Francis Square, both quoted the cheapest offer incorrectly. As a result, the evaluation report was withdrawn two times and a third report was subsequently issued. The Evaluation Board also claimed that the technical evaluation process proved to be challenging due to the missing technical information and/or drawings in the tender document. As a result, the final evaluation report was issued after four months instead of the required four weeks[6].

Recommendations

Management is to ascertain that all necessary information is included within the published tender document to facilitate the respective evaluation of submissions. Moreover, all information presented in the evaluation report is to be thoroughly checked for accuracy prior to publication.

Management Comments

There is always room for improvement in every tendering procedure. However, in line with the guidelines given by the Department of Contracts, it is not the remit of the Evaluation Committee to make claims on the published content of the tenders. The role is limited to evaluate in a transparent and equal manner the offers against the published specifications and clarifications. In this particular case, it is being confirmed that all clarifications requested at tendering stage were addressed on time and to the satisfaction of potential bidders. Moreover, if any potential bidder felt aggrieved he could have opted to seek a request for remedy through the Public Contracts Review Board.

Compliance Issues

Procurement not published in Government Gazette

The award of the two main contracts, having an aggregate value exceeding €2.5 million (VAT excl.), was not published in the Government Gazette. Evidence showing the publication of a direct order for mosaic works, amounting to €15,000 (VAT excl.), was also not provided for audit purposes.

Recommendation

In accordance with regulation 111(2) of PPR and Contracts Circular No. 02/2017 – 'Submission of a List of Contracts by Contracting Authorities', all contracts whose value exceeds €5,000 (VAT excl.) are to be published in the Government Gazette.

Management Comments

No reply was forthcoming from Management.

[6] Offers unlocked on 18 October 2018; final evaluation report dated 26 February 2019.

Defaulters not reported

During 2020, defaulters were not reported to the VAT Department for non-compliance with fiscal obligations.

Recommendation

In line with pertinent circulars, suppliers who fail to submit adequate fiscal documentation are to be reported to the VAT Department on a quarterly basis.

Management Comments

This shortcoming was referred to the attention of the Accounts Department.

Subsidies and Schemes to Gozo Residents

Expenditure

The audit of a number of **Subsidies and Schemes to Gozo Residents**, administered by the Ministry for Gozo, revealed inadequate management information supporting disbursements, as well as shortcomings pertaining to internal controls.

Background

The following subsidies and schemes administered by the Ministry for Gozo (MGOZ) were selected for audit purposes. The budget and actual expenditure of each, for financial year 2020, is shown in Table 1.

Table 1: Budgeted and Actual Expenditure of the reviewed Line Item during 2020

Line Item	Budgeted Expenditure[1]	Actual Expenditure[2]
	€	€
5166 – Gozitan Workers Subsidy	1,300,000	859,096
5188 – Gozo Employment Scheme	1,300,000	178,552
5272 – Subsidy to Gozitan Students following Courses in Malta	1,600,000	1,383,626
Totals	**4,200,000**	**2,421,274**

Gozitan Workers Subsidy

Government employees, who were registered as living in Gozo, previously received a reimbursement for daily expenses incurred to travel to Malta. Along the years, all Gozitan residents working in Malta became entitled to an annual subsidy[3] of €650. Teachers and learning support educators receive a reduced benefit of €525.

Gozo Employment Schemes

- **Gozo Employment Refund Scheme**[4] – This measure was introduced in 2018 to support the possibility of full-time employment in Gozo. Employers, who are located and registered on the island, may apply for a partial wage reimbursement when engaging a Gozitan resident on a contract of employment of at least three years. In this regard, the refund is equivalent to 30% of the average wage costs of the first three years, up to a maximum threshold of €6,000[5], for each eligible employee.

[1] According to the Financial Estimates 2020.
[2] Figures obtained from the Corporate Financial Management Solution transaction listings provided by MGOZ.
[3] This includes reimbursement for collective transport, organised by the workers, from Ċirkewwa to the place of work and vice versa, payable in two instalments.
[4] This scheme was on a first come, first served basis, subject to an annual ceiling depending on the financial allocation.
[5] Refund is paid as follows: 20% in year 1 (€1,200), 30% in year 2 (€1,800) and 50% in the final year (€3,000).

- **Work Trial Scheme for Youths** – Job seekers between the age of 16 and 20, who are unemployed[6], may apply for a five-week work exposure in Gozo and receive a total grant of €450. Youths may perform such work with either the private sector or voluntary organisations. An agreement is signed between the employer, the youth, as well as MGOZ, to whom respective attendance sheets are to be submitted. The administration of this scheme fell under the Ministry's remit as from 2017.

Subsidy to Gozitan Students following Courses in Malta

- Students following a full-time course in Malta are entitled to a subsidy of €1,500 per scholastic year[7]. Initially, this was introduced solely to University students. Over the years, this benefit was extended to all post-secondary Gozitan students studying in Malta and Maltese students studying in Gozo. In 2017, Gozitan students attending the National Sports School, Visual and Performing Arts School and the Alternative Learning Programme also became entitled to this subsidy.

- As from 2019, Gozitan students, who rent accommodation in Malta whilst receiving tertiary education, could apply for an additional benefit to assist with rental costs[8]. A maximum of €900 for each scholastic year is paid to every eligible applicant.

Audit Scope and Methodology

The scope of the audit was to assess the adequacy and effectiveness of internal controls over expenditure incurred during 2020 on the subsidies and schemes under review, as well as to establish whether Government resources were used prudently and in a judicious manner. The National Audit Office (NAO) also assessed whether the administrative procedures adopted were in compliance with the applicable terms and conditions.

An introductory meeting was held with Management[9] to discuss the audit objectives and to obtain a general understanding on the various subsidies and schemes financed through the three line items under review.

For each subsidy and scheme, a sample was selected through a systematic random system. The accuracy and validity of these payments were ascertained by analysing the established criteria, applications, respective agreements and third party confirmations, as applicable.

Disclaimer

The subsidies issued to individuals who work or follow courses in Malta are only payable to Gozitan residents. However, this is only based on the individual's registered address on the identification card. Thus, NAO was not in a position to ascertain that the beneficiaries were actually residing in Gozo, in order to ensure that the respective financial assistance met its intended purpose.

[6] May include youths enrolled in post-secondary education.
[7] Payable on a monthly basis.
[8] To be eligible for this subsidy, the rented accommodation should not be shared by more than three individuals.
[9] MGOZ Permanent Secretary, Director (Services Gozo Directorate) and Director (Tourism and Economic Development Directorate).

Key Issues

Inadequate Management Information

Discrepancies were noted between the transaction listings[10] for the subsidies and schemes when compared to the records supporting the individual payments held by the Ministry which were initially provided for audit purposes. This implied that no reconciliations were being carried out.

Moreover, the audit revealed that MGOZ relies heavily on the use of multiple spreadsheets for the purpose of recording this financial assistance, risking erroneous payments.

Recommendations

MGOZ is to ensure the accuracy and completeness of its records by maintaining updated information. Regular reconciliation between the accounting system and the Ministry's own records is highly recommended. This will enable officers to detect any discrepancies and take timely remedial action.

Management Comments

Recommendation is accepted. Checking is already being carried out.

Fragmented Information and Ambiguous Eligibility Criteria

The terms and conditions for the payment of both the Student and Workers Subsidy were not clearly set out in an official document. Instead, the evolution of these reimbursements was documented through fragmented decisions taken since their introduction and related approvals. In these circumstances, the Office did not exclude the possibility of other applicable prerequisites which were not brought to its attention and inevitably disregarded throughout the audit review.

On the other hand, the computation of the rental subsidy to Gozitan students, which is included in the relative eligibility criteria, was deemed ambiguous and may be subject to interpretation. In fact, Management confirmed that the Housing Authority, which previously administered such disbursement, had to be consulted for clarification on this matter when MGOZ took over.

Recommendation

To meet their intended purpose, subsidies are to be supported by a set of updated and clear terms and conditions stipulating who is eligible, documentation to be submitted, all applicable criteria and amounts payable.

Management Comments

The terms and conditions for the Rental Subsidy were forwarded by the Ministry for Finance and Employment. However, the Ministry will take on board NAO's recommendation as the terms and conditions could be more clear.

[10] Extracted from the Corporate Financial Management Solution. As from 2020, this was the accounting system used by certain Government Ministries and Departments.

Control Issues

Monitoring Visits on the Work Trial Scheme for Youths not performed

Although Article 1.XI of the Work Trial Scheme for Youths[11] contracts stipulate that Ministry's personnel may perform monitoring visits without prior notice, MGOZ confirmed that the youths' work schedules were not requested in order to enable the planning of the necessary inspections. Management also claimed that visits were not conducted due to the lack of authorised inspectors.

Recommendation

Management is expected to enforce the provisions of the contract by requesting the planned work schedules and liaise with Jobsplus[12] to conduct the required monitoring.

Management Comments

Recommendation to liaise with Jobsplus to carry out such monitoring visits is accepted.

Insufficient Control on Gozitan Students Subsidies

The review of the students' subsidies revealed the following concerns:

a. Although Management claimed that students' enrolment was confirmed with the respective educational institution on a quarterly basis[13], payments covering the period between April and June 2020, exceeding €462,000[14], were not supported by such evidence. Information obtained by MGOZ retrospectively also revealed that a University student, who received the last subsidy payment in July 2020[15], had resigned the month before.

b. Payments for the Rental Subsidy were not verified by Management, leading to the possibility of errors being overlooked. Instead, the computation was calculated automatically through the respective system. To this effect, sample testing revealed an instance where although MGOZ had a copy of the rental agreement, a student was incorrectly paid as he declared a higher rent.

Recommendation

Management is to ensure that the necessary confirmations from educational institutions are obtained within reasonable timeframes and verification is performed prior to effecting payments.

Management Comments

Students' enrolment is confirmed with the respective institution on a quarterly basis; however, for the payment indicated, this was mistakenly overlooked. Following the audit, Management introduced a system of reminders to ensure that checking is carried out on a quarterly basis without fail. As for the Rental Subsidy, a system of double checking was immediately introduced to eliminate the possibility of erroneous payments as soon as NAO Auditors highlighted this concern. Both overpayments identified during the audit were subsequently recouped.

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[11] Signed by the employer, the individual and MGOZ.
[12] According to MGOZ, Jobsplus had authorised personnel which could perform such inspections.
[13] In December, March and June of each scholastic year.
[14] Around €456,199 pertaining to the Students Subsidy and a further €6,280 for the Rental Subsidy.
[15] Covering June 2020.

Ministry for the Family, Children's Rights and Social Solidarity

Service Pension

Expenditure

An audit of the **Service Pension** administered by the Ministry for the Family, Children's Rights and Social Solidarity revealed a weak internal control environment, substantial overpayments, and inconsistencies between the systems. Additionally, the award of pension involving a group of employees was deemed questionable.

Background

Officers who qualify for a Service Pension (SP)[1] are:

- Government employees who started service with Government before 15 January 1979;
- Police, Armed Forces of Malta (AFM) personnel, Correctional Facilities officials and members of the Civil Protection;
- Widows of public officers who held a pensionable post and who contributed to the relative pension scheme;
- Members of Parliament; and
- Members of the Judiciary and the Attorney General.

SP is based on the annual salary of the retiring official and cannot exceed two-thirds of the highest income ever received. In particular instances[2], eligible officers may opt to reduce their pension by a quarter and receive a one-time lump sum payment, referred to as gratuity. The administration of SP falls within the remit of the Treasury (Service) Pension Section[3], which is located in Gozo.

The total budget allocation[4] for SP for 2020 amounted to €100,664,000. This was subsequently augmented to cover actual expense of €101,979,941.

The number of beneficiaries for the pension in question over the last five years together with the respective disbursements are outlined in Table 1 and Chart 1.

Table 1: Service Pension between 2016 and 2020

Description	2016	2017	2018	2019	2020
Number of beneficiaries[5]	15,455	15,531	15,251	14,257	14,123
Actual SP paid (€)[6]	96,880,876	107,707,312	105,480,277	101,468,473	101,979,941

[1] Previously known as Treasury Pension.

[2] Government employees, including Police, AFM personnel, Correctional Facilities officials and members of the Civil Protection, who started service with Government before 15 January 1979, as well as Members of the Judiciary and the Attorney General.

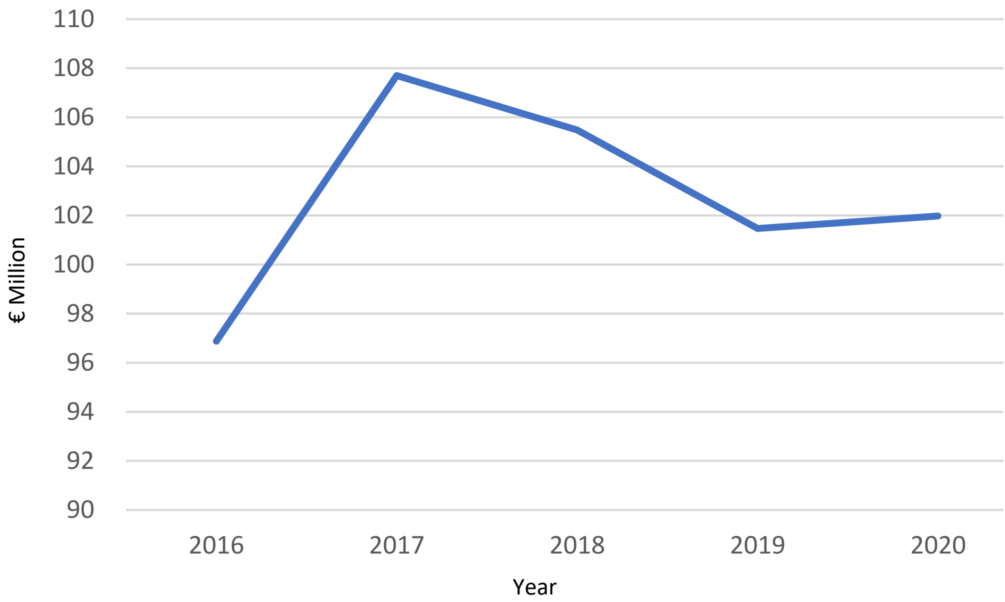
[3] Responsibility fell under the remit of Treasury until March 2016, since subsequently it was undertaken by the Department of Social Security.

[4] Financed through Recurrent Vote 40.

[5] Information as provided by Management.

[6] Actual expenditure for the years from 2016 to 2019 was obtained from the Financial Estimates. For the year 2020, the figure was obtained from the Departmental Accounting System and confirmed by Management.

Chart 1: Actual Expenditure incurred for Service Pension between 2016 and 2020



(Source: Information obtained from the Financial Estimates and the Departmental Accounting System)

Audit Scope and Methodology

The scope of this audit was to determine whether adequate internal control procedures were embedded in the SP administration system, from the assessment of eligibility up to the respective payment. Furthermore, the National Audit Office (NAO) assessed whether these benefits were made in an accurate and timely manner, in accordance with the provisions laid out in the respective legislation.

Two introductory meetings were held with Management[7] to discuss the audit objectives and to obtain a general understanding of the relevant procedures adopted in the administration of this pension.

A list of beneficiaries[8] who received SP during 2020 was provided. From this information, NAO identified four categories and a sample of 20 beneficiaries was selected for testing purposes as follows:

Table 2: Breakdown of Sample Selected

Details	Sample Selected
Benefit ending during 2020	5
Benefit starting during 2020	5
SP payments to Director Active Ageing and Community Care for State Financed Residential Services	5
Police, AFM personnel, Correctional Facilities officials and members of the Civil Protection	5

[7] The meetings were held with the Director General (Department of Social Security), as well as Assistant Director (Central Salaries and Service Pension Section).

[8] As at end of November 2020.

The sample selection was mainly based on a systematic random sample. However, the choice also included risk factors identified during the walkthrough exercise. The relevant information from the respective departmental files, Sistema għall-Amministrazzjoni tal-Benefiċċji Soċjali (SABS) and the SP system[9] was used for detailed substantive testing.

From the list of overpayments effected to beneficiaries receiving SP[10], five cases created in 2020, which remained unsettled as at 8 February 2021[11], were also selected for verification based on materiality.

Disclaimer

This Office was not in a position to ascertain the completeness and accuracy of the information relating to SP, that was provided for audit purposes. In particular, when the pension was entirely payable to the Welfare Committee in respect of state-financed residential services, no records were available in the system. As a result, the actual number of SP beneficiaries in 2020 could not be ascertained.

Limitation on Scope of Audit

The following information, which was requested for audit purposes, was not made available:

a. Supporting documents with respect to two sampled SP beneficiaries[12].

b. A report[13] issued by the Malta Information Technology Agency in May 2016 identified several shortcomings within the SP system. When this Office enquired whether the current software was enhanced to address the highlighted issues, no reply was forthcoming.

c. In November 2020, NAO was informed that a new SP system was being developed by a service provider and was intended to be completed by end of 2021. However, the respective contract was not made available for verification purposes.

The absence of such information limited the extent of audit testing carried out by the Office.

Key Issue

Questionable Eligibility of Service Pension

In line with Article 21 of the Pensions Ordinance (Cap. 93), only officers appointed to the public service prior to 15 January 1979 may be eligible for SP. According to the respective manual, reckonable service commences on the day when the pensionable public officer begins to receive either full or half pay.

However, NAO could not ascertain the eligibility of a group of 31 individuals, who were granted SP on an ex-gratia basis, on the condition that any legal claims are dropped. No explanation was forthcoming upon further enquiry regarding the claims in question.

[9] Software used by the Treasury (Service) Pension Section to administer SP.
[10] This was extracted by the Department of Social Security from SABS. The list of overpayments included both settled and unsettled balances. Some of the amounts were settled through a part-payment.
[11] Date when list of overpayments was provided.
[12] Management confirmed that their files were misplaced.
[13] Treasury Pensions Replacement System - Systems Development Requirements Document.

Recommendations

Management is to ascertain that the award of SP is invariably in line with the pertinent legislation to ensure a transparent, fair and equal treatment to eligible applicants. Any pensions awarded on an ex-gratia or personal basis are to be supported by adequate documentation enabling proper audit trail.

Management Comments

The award was approved by the Prime Minister following recommendations made by a working group set up to investigate a complaint lodged by a group of 31 public officers.

The Prime Minister's decision, dated 26 October 2016, was communicated to the Permanent Secretary[14] by the Principal Permanent Secretary. A copy of the communication should have been inserted in claimants' SP files.

Control Issues

Inconsistencies between Systems

SP is being administered through a bespoke system, while the Department of Social Security (DSS) makes use of SABS for the other pensions and benefits. However, there was no link between the two systems and inconsistent information was noted.

a. The amount of SP received by beneficiaries is inputted manually in SABS. It transpired that the actual pension, received in 2020 by three sampled beneficiaries, was not in agreement with the amount recorded in the latter system.

b. New beneficiaries in the category of Police, AFM personnel, Correctional Facilities officials and members of the Civil Protection, who started to receive their pension in 2020, were not yet recorded on SABS by March 2021[15]. DSS officials confirmed that although such information is received from the Treasury (Service) Pension Section, SP details are not updated in SABS until the beneficiary applies for the respective contributory pension. A note is inserted on SABS and, in the meantime, liaison forms[16] are filed in alphabetical order.

   Similarly, widows who started to receive their pension in 2020, following the demise of their spouse, did not have their records updated on SABS in May 2021 when the audit was in its final stages.

Recommendation

Management is encouraged to find ways how to minimise errors and inconsistencies.

Management Comments

New SP beneficiaries' liaison forms forwarded by the Treasury (Service) Pension Section will be recorded on SABS to reflect current beneficiaries. Therefore, recommendation will be complied with immediate effect.

[14] Of the then Ministry for Family and Social Solidarity.
[15] When audit was in progress.
[16] A liaison form is sent by the Treasury (Service) Pension Section to DSS as means of notification for each new pension awarded.

Insufficient Management Information

NAO was provided with a list of overpayments to SP beneficiaries created on SABS, which in aggregate exceeded €1 million, and which were still outstanding as at February 2021. Some of these had been pending for over 18 years. There were several instances where the reason triggering the overpayment was not indicated. NAO was not in a position to quantify the amounts overpaid as a result of the entitlement to SP, which had not been previously taken into consideration[17]. A similar observation was already highlighted in the Report by the Auditor General for Public Accounts 2018.

Recommendation

DSS is to ensure that the reason for the creation of overpayments on SABS is not left blank. This would provide better management information for the analysis of amounts overpaid, to identify suitable corrective action and control recurrence.

Management Comments

It is to be stated that SABS does not permit a user to leave the field for reason of overpayment empty, as a message 'This field cannot accept null' is displayed and user cannot continue if a reason is not entered[18].

Overpayments in Pensions recorded on SABS

As already indicated, outstanding overpayments of other benefits and pensions to SP beneficiaries, created on SABS totalled €1,015,794[19]. An analysis of these overpayments revealed the following concerns:

a. A pensioner was overpaid €20,340 over a period of four years[20] notwithstanding that the foregoing had immediately informed the Department that SP entitlement was in March 2016. Only the overpayment in relation to the previous two years, equivalent to €9,344, was accounted for in SABS since the remaining balance of €10,996 was waived on the premise that the beneficiary was not at fault.

b. In December 2019, a pensioner was awarded SP, with effect from 15 June 2019, implying that the Retirement Pension (RP) should have been reduced as from that date. However, this continued to be paid in full up till June 2020[21]. To this effect, an overpayment of €6,937 was subsequently created on SABS covering more than 12 months.

c. Even though a pensioner correctly declared the receipt of SP in the application for RP, an overpayment[22] of €6,649 was created since this information, dated November 2019, was not taken into account at reviewing stage. This occurred even though the respective personal file included the correct SP amount payable, two months prior to the commencement of RP.

The Report by the Auditor General for Public Accounts 2012 had already pointed out three instances where material overpayments were made to beneficiaries under similar circumstances.

[17] When a beneficiary starts to receive SP, any other pension/s received from DSS will be deducted accordingly.
[18] In actual fact, the records provided to NAO for verification purposes contained several missing fields in this respect.
[19] According to information provided by DSS, dated 8 February 2021.
[20] Overpayment covered between 9 June 2016 and 29 May 2020.
[21] Overpayment covered between 15 June 2019 and 26 June 2020.
[22] Overpayment covered between 28 February 2020 and 25 December 2020.

Recommendations

Whilst every effort is to be made to prevent overpayments, DSS is to ensure that ongoing monitoring of the amounts due is carried out in order to maximise recoverability and prevent any amounts from becoming statute-barred. Thus, particular attention is to be given to older pending amounts, as well as dormant debts.

Unless communication between the Service (Treasury) Pension Section and the rest of DSS is enhanced, substantial overpayments will persist. Given the age of the beneficiaries, as well as the repayment rate quoted by the Act[23], the recoverability of the outstanding amounts is questionable, leading to possible loss of public funds.

Management Comments

The error in the first case occurred due to an oversight by the assessor.

The submission of the liaison form by the Treasury (Service) Pension Section and update of the respective details on SABS will eliminate as much as possible such occurrences.

Service Pension Overpayments

The review of SP overpayments revealed the following shortcomings:

a. Records were being kept on spreadsheets, thus lacking proper audit trail. Consequently, the completeness of the recorded amounts could not be ensured.

b. Newly accrued amounts recorded in 2020 included also overpayments pertaining to deceased pensioners dating back from 2017. This raised concerns regarding the reliability and accuracy of records.

c. Audit queries revealed that the Treasury (Service) Pension Section does not take action to record and recoup amounts overpaid to deceased beneficiaries unless the Common Database is updated accordingly. By way of example, Management was informed about the passing of a beneficiary by the Director General DSS in 2018; however, the overpayment of €2,580 was still not recorded by February 2021.

Recommendation

Management is encouraged to implement a system which facilitates the proactive management of debtors in order to prevent amounts from becoming time-barred, thus safeguarding public funds, as well as reduce the risk of error.

Management Comments

Mentioned pensioner was a resident in Australia. Action will be taken so that lists of deceased beneficiaries will also be forwarded to Treasury (Service) Pension Section to update records as soon as possible and thus stop any subsequent pension payments.

Insufficient verification of Applications

The following control issues were noted:

a. No evidence was traced showing that each application is assessed and reviewed by different officers, before the eligibility is confirmed.

[23] According to Article 102 of the Social Security Act (Cap. 318), when an overpayment has resulted due to a fault by DSS, only 104 weeks retrospectively can be collected, and the repayment rate cannot exceed 5% of any benefit due to the individual.

b. According to Article 5(2) of the Ordinance, if an officer is guilty of misconduct, negligence or irregularity, SP may be reduced or withheld. This verification which was previously part of the eligibility check[24], was being overlooked in more recent assessments.

c. The Section relies on third parties, such as residential care homes and individuals, to be notified about the passing of beneficiaries. Such practice contrasts with the system used throughout the rest of DSS which allows the upload of weekly official reports on SABS.

   In the case of a sampled beneficiary, no records were traced in file that the pensioner passed away on 9 July 2020. SP continued to be issued to the Welfare Committee until November 2020. Corrective action to recoup overpayment was only taken in February 2021, following audit queries.

d. SP is issued to new beneficiaries upon the authorisation of the President of Malta. However, such evidence was not kept in the respective file/s for audit trail purposes.

e. The personal files were not updated to reflect relevant changes in the status of the respective individuals. The latest recorded information in three sampled files dated back to 1990, 2007 and 2012.

f. Throughout the audit, NAO noted substantial reliance on paper documents which could be easily misplaced. In fact, no documentation was presented pertaining to two out of twenty beneficiaries sampled for audit purposes, as already mentioned in the 'Limitation on Scope of Audit'.

Recommendations

Management may consider updating the application form (GP61) by including a section where heads of departments can confirm that the applicant has no ongoing disciplinary proceedings.

Personal files are expected to have an audit trail which provides evidence of the entire procedure from the initial assessment to the final approval of the pension awarded. Computations are to be duly certified correct following checking. Subsequent changes should also be documented. Additionally, the necessary arrangements are to be in place to ensure that the section is notified periodically through official reports of registered deaths.

The Treasury (Service) Pension Section is encouraged to maintain an electronic version of documentation held for each pensioner to avoid the risk of losing information.

Management Comments

The application for SP[25] will include a reference to Article 5(2) of the Pensions Ordinance regarding any guilt of misconduct. This will ensure that claimant's department has to indicate such instances. The Treasury (Service) Pension Section is not in a position to know of such cases as the personal file is held at the applicant's department.

With reference to notifications regarding the passing of pensioners, the majority of cases are either reported by the respective relatives or the residential care home officials. SP system does not cater for any automatic uploads. As from September 2021, monthly death reports will be forwarded to the Treasury (Service) Pension Section, for eventual monitoring and verification.

Personal files may not be updated as long as due action is taken through the computerised system, such as entry of date of death or admission to residential homes.

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[24] Management claimed that it is the responsibility of the respective department to inform the Service (Treasury) Pension Section (through the application form) regarding any disciplinary proceedings.

[25] GP61 Form.

As regards to the reliance on documentation, having a physical file and an electronic version of same documentation will result in duplication of work. The possibility of having an electronic procedure from the initial application by respective departments to the payment of pension and gratuity, may be considered. This will involve discussions with various stakeholders on the best possible workflow.

No Life Certification System

In 2011, DSS launched a life certification system for pensioners residing abroad and receiving a pension from Malta. A form is sent to the beneficiary's address, which has to be returned with the necessary information. This procedure is required to detect unreported deaths. However, the Department does not apply such system with respect to SP.

Recommendation

Management is expected to adopt a formal system of life certification to prevent fraud and possibly abuse, which could result in inefficient use of public funds.

Management Comments

A life certification procedure similar to that used by the rest of DSS will be adopted.

Absence of Standard Operating Procedures

Management did not provide formal operating procedures for the administration and management of SP. Only a Treasury Pensions Manual, which is in the public domain, was made available. However, this was not comprehensive as it did not cover all pensioner categories, such as Members of Parliament and the Judiciary. This scenario increases the risk of an inconsistent approach in the computation of pensions, as well as knowledge drain in the event of employee turnover. Similarly, there are no policies and procedures for the creation, administration and management of overpayments.

Recommendation

It is recommended that Management sets comprehensive internal standard operating procedures, which serve as a step-by-step guide in administration and management of SP. This will ensure the adoption of a fair and uniform approach to all pensioners, as well as compliance with pertinent regulations.

Management Comments

Recommendation noted and action will be taken accordingly.

Basis for Widows Pensions Computation not confirmed

The Treasury (Service) Pension Section did not provide the basis, whether legal or otherwise, supporting the computation of the Widows Pension. Consequently, NAO could not ascertain the accuracy of such payments.

Recommendation

Management is recommended to seek legal advice in order to identify the framework regulating such pension and thus ascertain the accuracy of the respective payments.

Management Comments

The Widows and Orphans Pensions are assessed as per Chapter 58 of the Laws of Malta and a spreadsheet is used for computation purposes. This procedure dates back several years, even before SP assessments were transferred to Gozo Back Office.

Lack of Audit Trail upon Pensioners' Admission to Residential Care

Following admittance to a home or hospital offering state-financed residential services, residents are obliged to pay a contribution to Government in accordance with the applicable legislation[26]. When reviewing the files of these SP sampled beneficiaries, the following shortcomings were noticed:

a. The letters sent to the Treasury (Service) Pension Section, to inform the foregoing regarding the effective date and amount to be deducted from SP, were not kept in the beneficiaries' personal files for audit trail purposes. Changes to the deductible amount were also not documented in file.

b. The personal files did not include an official form showing the computation of the deduction from the respective pension when one is admitted to residential care. Instead, scribbled handwritten workings, with no evidence of independent checking, were filed separately. This practice increases the risk of inaccuracies.

c. SP system does not contain records of amounts deducted in favour of the Welfare Committee from each individual's pension.

Recommendation

Adequate audit trail is expected to be maintained in each pensioner's file to substantiate the respective figures and support decisions taken.

Management Comments

Proper documentation will be kept if files are retrieved from storage; however, this comes at a charge. The new SP system will be based on similar procedures and reports as those already in place within DSS computerised system.

General Management Comments

Most of the highlighted shortcomings will be actioned upon implementing the new system, that is currently[27] being developed. NAO can rest assured that all observations will be duly considered in the Department's continued efforts to improve this pension.

[26] State Financed Residential Services Rates Regulations, 2004 (L.N. 259 of 2004).

[27] Management comments submitted on 23 August 2021.

Housing Programmes

Expenditure

A lack of an enforcement policy for certain schemes of the **Housing Programmes**, as well as the possibility of undeclared income by the beneficiaries were observed.

Background

The Housing Authority was established in 1976 by an Act in Parliament with its main functions to promote and finance the development of housing estates and other residential accommodation, in an effort to support home ownership, as well as improve the housing conditions in Malta.

There is a range of schemes for different levels of earnings, most of which are aimed for those with low income. During the year 2020, the Authority had 13[1] ongoing schemes, the most material being the Housing Benefit Scheme, 'Sir Sid Darek' Scheme, Equity Sharing Scheme and Scheme on 10% Deposit for the Purchase of a Property.

The initial budget allocation for Housing Programmes for 2020, under Recurrent Vote 37, Line Item 5287 was €7 million. However, this was further supplemented by three increases, amounting to an additional €8.81 million, consisting of two warrants totalling €7.5 million, as well as a virement of €1.31 million. Therefore, the final budget allocation amounted to €15.81 million.

The total expenditure for the year under review, covering all schemes by the Housing Authority, whether funded from the said line item or not, amounted to €19,702,620[2]. These were taken up by 4,675 beneficiaries under the various schemes. Table 1 refers.

[1] However, no expenses were made in respect of one of these schemes.

[2] This amount includes expenditure from line item 5404 for payments related to Grant on First Residence Scheme and line item 6793 which is related to Subsidy on Adaptation Works. There is also an element of timing differences, since the Accounts Section issued payments to individuals which were not yet accounted for by the Schemes Section.

Table 1: Total Expenditure during 2020 by the Housing Authority

Name of Scheme	Amount €	Number of Beneficiaries €
Housing Benefit Scheme	5,925,136	3,437
'Sir Sid Darek' Scheme	4,326,060	110
Equity Sharing Scheme	3,670,750	56
Scheme on 10% Deposit for the Purchase of a Property	1,944,110	117
'Nikru Biex Nassistu' Scheme	1,173,248	189
Grant on First Residence Scheme	997,350	344
Disability Scheme	690,616	159
Subsidy on Adaptation Works in Residences occupied by Owners or Tenants	464,289	206
Lift Scheme	259,253	30
Home Assist Loans – Housing Authority Repayment Assistance Scheme	178,438	20
Scheme for the Rehabilitation of Vacant Dwellings for Rent	65,000	3
Subsidy on Adaptation Works related to Dangerous Structures in Private Dwellings held on Lease or Emphyteusis prior 1 June 1995 Scheme	8,370	4
Totals	**19,702,620**	**4,675**

Audit Scope and Methodology

The main scope of the audit was to verify that the necessary internal controls were in place to monitor the amounts paid with regard to payments for housing programmes and accuracy thereof. Eligibility of participants benefitting from the respective schemes was also ensured.

The National Audit Office (NAO) held a virtual introductory meeting with the pertinent Permanent Secretary, the Chief Executive Officer and other officials at the Housing Authority, in order to obtain an overview vis-à-vis the procedures in place relating to the different schemes, from the initial stage when an application form is received, to the relative payment and the respective follow-ups that were undertaken during the subsequent years where deemed necessary.

Information, including detailed lists of all schemes and the respective beneficiaries, was requested and analysed accordingly. Walkthrough tests were then carried out to understand the entire process, from the receipt of an application to the respective payment to the beneficiary.

Further substantive tests were carried out by reviewing files pertaining to different schemes. The five largest schemes were selected by means of a risk scoring procedure, based on the weighted average of two criteria; the total amount spent per scheme and the average amount spent per beneficiary. As a result, a sample of 30 transactions was selected, amounting to €1,837,111 (9.3%).

Details of the selected schemes refer:

Housing Benefit Scheme

This scheme, which started in 2019, provided financial assistance on rent paid by recognised tenants for premises leased as their ordinary residence, thus rendering the rent more affordable. The housing benefit depended on the maximum annual income of the household, ranging from €19,000 for a single person to €32,000 for a couple with two children and more. The financial assistance was limited to a maximum of €5,000 every year.

'Sir Sid Darek' Scheme

This scheme was introduced to encourage residents of apartments, houses and maisonettes owned by the Housing and the Lands Authorities to become owner occupiers and continue using the property as their ordinary residence.

Equity Sharing Scheme

The scheme was targeted for persons over the age of 40 who intended to buy their residence, by initially purchasing at least 50% of the property while the Housing Authority pays for the remaining portion which will have to be purchased by the beneficiary after 20 years at the same price paid by the Authority. The share paid by the Authority was not to exceed €100,000.

Scheme on 10% Deposit for the Purchase of a Property

The aim of the scheme was to assist persons under the age of 40, who despite being eligible for a home loan, did not have the necessary liquidity to pay the required 10% down payment on signing the promise of sale. The entire loan, which is capped at €175,000, is payable to the bank over a 25-year period, during which the Housing Authority will finance the interest incurred until the loan is repaid.

Scheme for the Rehabilitation of Vacant Dwellings for Rent

The scheme was an initiative intended to encourage private owners to invest in the rehabilitation of unoccupied, substandard residential dwellings and lease them to the Authority to accommodate social housing applicants. This consisted of a cash grant up to a maximum of €25,000 and works must be completed within 12 months from the date of approval authorising the rehabilitation.

It was ensured that the selected files of the related schemes had the necessary documentation, including the application form accompanied with supporting documentation, such as, information from the Common Database (CdB) of the Department of Civil Registration, Jobsplus employment history, records supporting declared income, rental agreements, promises of sale and final property deeds, amongst others.

Control Issues

Housing Benefit Scheme – Possible undeclared Income

The Housing Authority confirmed that it places total reliance on information and declarations provided by the applicant when establishing eligibility and in the calculation of the benefit entitlement. In the circumstances, undeclared income will pass by unnoticed, while the actual benefit granted will be overstated. From testing carried out, two cases revealed the following:

a. A couple who applied for the Housing Benefit Scheme in 2019, declared that it had no employment history; this was confirmed from Jobsplus records. However, correspondence in 2020 revealed that, although registered as self-employed, the couple practically had no income, other than unemployment benefits. The income received from the latter in 2019 amounted to €4,896. In the meantime, the monthly rent paid was €1,100, totalling €13,200 per annum. Thus, taking into consideration social benefits and the maximum benefit of €5,000 provided by the Authority, the applicant was still expected to fork out a total of €3,304 for rent. When one also takes into consideration the money required for basic needs, one would certainly conclude that this situation is not sustainable.

b. The Jobsplus employment history up to 2019 showed that another couple was not in employment since 2013. This contrasts with the fact that their unemployment income was tapered[3], which implies that the couple had in fact found employment; in which case records of Jobsplus were not updated and thus not considered reliable for this purpose.

The income from unemployment assistance for this household during the preceding year (2018) amounted to €1,292. While the actual monthly rent paid during 2020 for the first five months amounted to €500, said rate was then augmented to €750 per month as from June 2020; totalling €7,750 for the whole year.

In both cases, NAO doubts the beneficiaries' eligibility for the benefit in question. The beneficiaries could afford a relatively high rent and therefore, the possibility of them under declaring income cannot be excluded.

Recommendations

Where the Authority has an indication that the applicant's declaration contrasts with the information obtained from other sources, it is to investigate further, besides communicating with the pertinent authorities, such as Jobsplus, Inland Revenue Department and the Ministry, and immediate action taken where necessary. Furthermore, in cases of identified false declarations, the Authority should disqualify the relative applicant from benefiting from any schemes for a five-year period, as also stated on the respective application form.

Management Comments

Income from employment is verified from the Payee Statement of Earnings (FS3) which is the official documentation regarding income earned from employment. The job history list provided by Jobsplus is verified to ensure that a statement was submitted for each employment listed. Furthermore, the financial status of the beneficiaries is verified every two years.

One cannot exclude the possibility that such persons would be paying rent by depleting savings from previous income, or through financial assistance from others, however the Authority is taking note of this recommendation. A meeting will be held with the Inland Revenue Department to explore whether cases where the rent paid takes up a substantial portion of the income (or exceeds total income) should be referred for further investigation from their end.

The responsibility of ensuring that the job employment history is complete and up to date lies with Jobsplus; however, further attention will be paid to the possibility that their records could be missing the latest employment wherever tapering of unemployment benefit is noted.

'Sir Sid Darek' Scheme – Lack of an Enforcement Policy

One of the main conditions imposed when selling property originally purchased through the 'Sir Sid Darek' Scheme is that the purchasers shall occupy the property as their ordinary residence for a period of at least 10 years from the date of the signing of the final deed. However, no policy is in place spelling out an established procedure how this verification is to be carried out. According to the Housing Authority, confirmation of residence is only performed through the CdB provided by the Department of Civil Registration every couple of years.

[3] Tapering of benefits is given for a three-year period to those beneficiaries who become engaged in employment or also as self-occupied, as long as they earn the national minimum wage or more. Source: servizz.gov.mt.

Recommendations

In order to mitigate the risk of the property being re-rented to other individuals, a number of checks need to be carried out throughout the 10 years, following the signing of the final deed, in order to confirm that the applicants are residing at this address. NAO feels that checking from the CdB ought to be coupled with random visits, evidence of which is to be kept in the respective files. In addition to this, the Authority could periodically request the applicant to provide other sources of evidence, such as water and electricity bills or bank statements.

Management Comments

Experience indicates that very few beneficiaries infringe this clause of the scheme conditions since most beneficiaries are elderly and would not wish to move out of the property. Furthermore, the property cannot be sold without the Authority's consent as a hypothec in favour of the latter is registered to ensure that this does not happen. Verification is therefore limited to CdB checks and further investigation is carried out whenever suspicions arise. However, NAO's comments are being noted and an inspection will be carried out in a representative sample of properties to verify whether they are still occupied by the beneficiaries. The Authority's standard operating procedures will be amended if this exercise indicates that abuse is widespread.

Equity Sharing Scheme – Independent Valuation of Property not performed

The Authority does not conduct an independent valuation of the property for the purpose of the respective financial assistance but relies on the price as quoted by third party on the promise of sale and on the final deed.

Clause 3(c) of the relative scheme states that "*applications for the purchase of property exceeding the two hundred thousand Euro (€200,000) in value, will not be considered. The Housing Authority reserves the right to inspect the property to ascertain its value*". Notwithstanding this, no record was found in the respective files showing that such inspections were ever performed. This triggers the risk that the value of the property may be undervalued; besides benefitting both the applicant and the seller, the possibility of ineligibility also cannot be excluded.

Recommendation

Prior to the application approval, the Housing Authority is expected to perform its own independent valuation of the property in consideration. This would provide the Authority with comfort that the price quoted reflects the current market value.

Management Comments

The Authority believes that the valuation carried out by the architect engaged by the bank is fair and reasonable as the bank has every interest to ensure this. Clause 3(c) was inserted as a safeguard and will only be used should the Authority feel that the valuation might be distorted.

General Comments

NAO was satisfied that the documentation requested was submitted in a timely manner, officers involved in the process were cooperative and knowledgeable on their area of work and replied to all queries raised by this Office in a timely manner.

In-work Benefit

Expenditure

An audit of **In-work Benefit** falling within the remit of the Department of Social Security revealed that numerous payments to varous beneficiaries were not in line with the underlying regulation. Inconsistencies in the treatment of gross income, required for the calculation of this benefit, were also noted.

Background

The In-Work Benefit (IWB) is one of the non-contributory benefits managed by the Department of Social Security (DSS) within the Ministry for Social Justice and Solidarity, the Family and Children's Rights[1].

Originally introduced in 2015, IWB is aimed to financially assist couples and single parents who are employed and have dependants under the age of 23 years still living with them. During 2016, a new category was added to include couples with only one working parent.

A rate per child under 23, ranging up to €26.92 weekly, is payable to applicants in accordance with their income bracket. Even though calculations are based on income declared in the previous calendar year, payments are only processed by DSS if the applicant was in employment during the period for which the payment is being made.

Payments are done quarterly in arrears throughout the calendar year. Ad hoc payments are also processed, to encapsulate applications which are received in between these payment dates.

The estimated expenditure for 2020 from Vote 39, Line Item 5843, amounted to €5,500,000, whilst actual expenditure, according to the respective system[2] used by the Ministry amounted to €4,618,114[3]. This was paid to a total of 5,337 beneficiaries.

Of the total amount paid in 2020, €2,325,152 related to benefits pertaining to that year whilst an amount of €2,292,962 was paid as arrears for prior periods, the bulk of this being for 2019 (€1,842,024).

[1] Previously known as the Ministry for the Family, Children's Rights and Social Solidarity.
[2] Namely Sistema għall-Amministrazzjoni tal-Benefiċċji Soċjali.
[3] Of this amount, €55,826 was withheld by DSS to set off various overpayments due by beneficiaries. Furthermore, a discrepancy between this figure and the relative amount in the Departmental Accounting System (€6,521,970) was noted. Part of the difference was attributed to In-work Supplement; however, no explanation was given to NAO with regard to the remaining balance.

Audit Scope and Methodology

The scope of the audit was to assess the processes and controls in place in the administration of the benefit in question, from the assessment of eligibility up to the respective payment process.

Meetings were held with officials from the Ministry, to discuss the audit objectives and obtain a general understanding of existing procedures. To this effect, walkthrough tests were performed.

DSS provided the National Audit Office (NAO) with data from the highlighted system used by the Department showing details of all the payments made to IWB beneficiaries during 2020, irrespective of the period to which the payment related, together with details[4] pertaining to the respective category each beneficiary falls into. Every payment made by DSS related to either one or multiple periods[5] (either in 2020 or before).

Data was analysed to ascertain the total amount paid, as well as the number of part payments processed to each beneficiary in every quarter during 2020.

A risk assessment was carried out on the available data, where each beneficiary was assigned a risk rating on the basis of a number of criteria. This exercise resulted in numerous beneficiaries obtaining a high score in every risk area identified, 10 of which, who were paid the most during 2020, were selected for testing purposes. The sampled beneficiaries were paid an aggregate of €60,012 during the year under review.

Key Issues

Payments made to Beneficiaries outside Regulation Parameters

In line with Government Gazette number 19,749 of 28 March 2017, an individual may acquire the right to benefit from IWB through an application, in which the members of the household are declared, indicating any children under 23 years of age, as well as the aggregate income of the parents for the year prior to the application[6]. Following the vetting of the application forms, the relative payments are worked out and then processed.

Walkthrough testing revealed that, if an individual who applied for IWB during a particular year would have also been eligible had he or she applied in previous years, DSS pays IWB for at least two years in arrears. This period is extended to three years if the application is filed with DSS before the first payment for the year is processed, that is during January to March.

This was confirmed in eight of the ten sampled cases, where 77% (€36,953) of the total amount paid to these beneficiaries in 2020 (€47,767) related to arrears for periods dating as far back as 2017.

This procedure is not included in the respective legislation, and there is no formal policy to support it either. DSS gave instructions to adopt this approach, similar to cases referred to in Article 97(2)(c)(ii)(a) of the Social Security Act (Cap. 318), which states that payments are permitted for up to 104 weeks in arrears in those cases where an individual can prove to the Director's satisfaction that his or her late application was not due to negligence.

[4] Being either couple and both in employment, or couple with only one in employment or employed single parent.
[5] Typically, a payment period is of three months.
[6] This is done either in the form of a Profit and Loss Account if the individual is self-occupied, or by way of Payee Statement of Earnings (FS3) forms if the individual is employed.

However, the respective beneficiaries were not being asked to provide any justification for their late applications. In fact, back payments were flowing out automatically following a request for additional documentation from the applicant pertaining to earnings for previous years, whenever these were not available directly from the system.

This may lead to inconsistencies amongst beneficiaries, which could ultimately result in the perception of unequitable treatment.

Recommendations

The legislation is expected to be amended in order to include the benefit in question. DSS should also have a policy in place, that clearly explains in which instances arrears are to be paid to beneficiaries. Furthermore, the individual is expected to give reasons for late application. It is also important that beneficiaries are made aware of this, to ensure that treatment is equal and fair amongst all applicants.

Management Comments

IWB is paid to low income earners as part of the Making Work Pay initiative. It primarily aims at better supporting families with children under 23 years to ward them off the risk of poverty and achieve a better quality of life.

Throughout the years, from the introduction of IWB, it was realised that persons who were entitled to the benefit, for some reason failed to apply in the first instance, but when they became aware of their entitlement, they submitted an application. For the sake of social justice, it was administratively decided to assess backdated applications and to award them their entitlement for previous years, if found to be eligible.

The recommendation has been noted and the terms and conditions of the scheme have been accordingly amended to read, this benefit can be paid backdated by two calendar years from date of application.

Inconsistent Treatment in the calculation of Gross Income

A walkthrough test revealed that through an unofficial procedure, the calculation of income for the purposes of IWB is based on the individual's gross income earned during the year of assessment, net of Social Security Contributions (SSC).

In some instances, DSS intentionally omits the amount, or part thereof, paid as SSC from the calculation of gross income in a way so as to ensure that income earned by the beneficiary for the period under assessment does not fall below the applicable thresholds, thus increasing the likelihood that the individual benefits from IWB. However, if SSC was deducted in line with the Department's practice, the beneficiaries would have not been entitled to this benefit.

DSS confirmed that "*there is no specific regulation but … … this was an administrative measure*".

NAO opines that through such practices, the Department risks being unfair towards its beneficiaries, especially on those individuals who refrain from applying for this benefit because their income is below the applicable thresholds.

Recommendations

Practices regarding the calculation of gross income for IWB calculation as adopted by DSS should be in line with the spirit of the pertinent legislation. Any decisions taken are then to be formalised so as to ensure an equitable and fair system across the board.

Management Comments

The recommendation has been noted and is being acted upon with an amendment of the terms and conditions of the scheme. Article 3(d) of the scheme is in line with NAO proposal. This now reads, this benefit may also be paid to those persons whose amount of SSC paid when deducted, the net income will result less than the minimum threshold according to that category the family has applied for.

Housing Maintenance and Embellishment Company Limited

Revenue and Expenditure

The audit revealed major shortcomings in the overall project management by the **Housing Maintenance and Embellishment Company Limited**, from the procurement stage, including the assignment of additional works, up to billing by the contractors.

Background

The Housing Maintenance and Embellishment Company Limited (HME) was incorporated on 28 December 2016, with the role of undertaking contracts and sub-contracts relating to the maintenance and embellishment of property for social housing purposes. This includes the provision of masonry works, mechanical and electrical repairing, woodwork supplies, plastering services, painting, landscaping, redecoration and redesigning.

The company's shareholders are Malta Government Investments Limited, holding 80% of the shares, and Malta Investment Management Company Limited, with the remaining 20% shareholding. Thus, HME is ultimately entirely owned by the Government of Malta. During 2020, the management and administration of the company was entrusted to a Board of Directors composed of a Chairman and six Board members.

According to the management accounts[1] for the year ended 31 December 2020, the company reported a net profit of €200,145 (2019: €228,117) after tax. HME's turnover exceeded €2.3 million, while direct costs incurred stood at €1.4 million. As at December of the same year, the company had twenty-five employees on its payroll, and another nine persons were engaged on a contract for service basis.

[1] The latest audited financial statements were those for the year ended 31 December 2019.

One of HME's objectives is to ensure that the Housing Authority's projects are completed in an efficient manner. To this effect, since 2018, the company entered into two memoranda of understanding with the Authority, whereby it bound itself to provide various maintenance and embellishment services to the Authority's social housing property. From its end, the Authority prepares Bills of Quantity (BoQs) and estimates for each premises prior to the commencement of works. The applicable rates for each task are based on those approved in a Framework Agreement for Repairs in Government Tenements issued by the Housing Authority[2]. Works carried out are measured[3] by the same Authority, and HME issues sales invoices to the former accordingly, topping up the amount with a 5% management fee. The three-year agreement[4] in force as from 1 January 2020 between the two entities is for an annual maximum budget of €3 million.

Until 2020, i.e., the year under review, the Housing Authority was HME's only client. However, the latter confirmed that towards the last quarter of 2021, it started works on property held by another Government Agency.

Audit Scope and Methodology

The National Audit Office (NAO) sought to assess the extent and adequacy of internal controls over payments effected by HME during the year under review, as well as to verify the completeness and accuracy of the amount of sales recorded by the company.

An introductory meeting was held with HME's Chief Executive Officer, to discuss the audit objectives and to obtain a general understanding of the company's operations. NAO also reviewed the 2019 audited financial statements, as well as the management accounts, trial balance and nominal ledger for the year ended 2020, for better insight on HME's financial position.

Considering the materiality of the company's turnover and direct costs, this Office mainly focused on the related amounts.

For verification on turnover, NAO randomly selected a project which started during the year under review, namely refurbishment works at the Bormla Housing Estate. All related sales invoices, amounting to almost €430,000 and representing 15% of the total turnover for the year, were reviewed.

Detailed testing on direct costs was also carried out on the same project. Restoration works on the facades of buildings forming part of this Housing Estate were entrusted to a contractor, engaged following the issue of a tender. Payments to this effect up to time of audit totalled €232,495. Other restoration works on the Bormla project, including those on roofs and common areas, were carried out by HME personnel. Materials utilised for these works, totalling €36,035, were partly verified. However, the cost of salaries of the respective employees, although forming part of the direct costs, did not fall within the audit scope.

To assess the pervasiveness of the audit findings relating to the Bormla project, testing on direct costs was extended further to cover payments effected to two contractors who were awarded the tenders for facade works on another two projects, namely the Naxxar and Żabbar Housing Estates[5] respectively.

[2] This agreement was following an invitation for participation issued through the Department of Contracts, whereby the Authority intended to appoint several contractors to undertake structural and repair works in Government tenements in various localities across Malta and Gozo. This agreement specified the maximum payable rates for each task. Although following this issue, the General Contracts Committee recommended 12 potential contractors who were willing to carry out the necessary tasks, major refurbishment works were entrusted to HME through a memorandum of understanding. To fulfil its obligations, the latter outsourced the execution of parts of the projects to different contractors by means of various tenders.

[3] On the basis of percentage completion, as identified in the corresponding progress reports by the designated Housing Authority officer.

[4] The memorandum of understanding between the Authority and HME obliges the company to adhere to all Governmental and legal procurement regulations, including the Public Procurement Regulations, 2016. In the latter legislation, HME is also listed as a Contracting Authority.

[5] Payments to the contractor carrying out works on the Naxxar project totalled €96,170, while €290,196 was paid to the contractor entrusted with the facade works at the Żabbar Housing Estate.

Furthermore, from the nominal and purchases ledgers for 2020, NAO identified a number of expenses which did not appear to be in line with Government policies, as well as possible purchases of fixed assets that were not capitalised. The relevant supporting documentation was obtained and reviewed.

Key Issue

Major Shortcomings in Project Management and in the Company's Modus Operandi

A review of the contracts for restoration works carried out at the Bormla, Naxxar and Żabbar Housing Estates revealed that HME did not always follow the established procedures for contracted works, from the procurement to commissioning of the final project. NAO has concerns over the issue of tenders, the assignment of additional works to contractors and the overall project management. Shortcomings were also noted in the certification of works and billing by contractors, which differed from the requirements stipulated in the General Conditions for Works.

The majority of weaknesses identified during the audit were common to all three contracts, indicating that the deficiencies were part of the company's modus operandi. The following relate:

a. None of the contractors charged HME according to the rates agreed upon in the contract.
b. Works in progress were not measured; thus, both the billing by the contractors and sales invoices issued by HME were based on estimates.
c. All three contracts reviewed were extended for an indefinite period and unspecified amount, without indicating the additional works to be carried out.
d. Contractors' invoices did not distinguish between works covered by the original agreements and additional works carried out upon HME's request.
e. Retention money was not kept by the company.
f. Total payments for works on facades at the Bormla Housing Estate were more than three times the value of the original contract, while those on the Żabbar project were double the respective contract value.
g. Penalties for late completion were not enforced, even though projects were not ready by the stipulated timeframes.
h. No performance guarantees were submitted by contractors.
i. Works on the projects reviewed were not covered by insurance policies issued in the names of both the respective contractors and HME.

Recommendations

HME is to revisit the way it manages the projects entrusted to it by the Housing Authority and is to ensure that this is in line with standing regulations and policies. The company is also to ascertain that contractors fully abide with the conditions stipulated in their contracts and it is obliged to take corrective action when deemed necessary.

Management Comments

Concurrently to the audit, HME was in contact with the Department of Contracts to draw up a Framework Agreement[6] to cover restoration works of external facades and other repair works in different Housing Estates. Once approved by the said Department, HME adopted the Framework Agreement as the basis for its tendering process. This agreement, which addresses the various observations and recommendations made in the Management Letter, was activated under the auspices of the Department of Contracts in April 2021.

Notably, a good number of recommendations which were listed have been taken on board.

[6] This was submitted to NAO together with the Management comments.

Control Issues

Direct Costs

Differing Bills of Quantity

The BoQs prepared by the Housing Authority for every project clearly identified each task to be performed, including measurements and quantities, as well as the rate at which the Authority should pay HME for each item. NAO noted that the BoQs forming part of the tender documents issued for facade works at the Bormla Housing Estate, were not identical to those drawn up by the Authority, with some measurements differing considerably. Moreover, for the Naxxar project, the tender included works which did not even feature in the BoQ prepared by the Housing Authority.

An adequate explanation for these divergences was not given. During the audit, HME claimed that the differences could be due to errors or rounding up differences and expressed its willingness to investigate further. It also confirmed that tenders were prepared by a person engaged on a contract for service basis and no subsequent checks on the tender document were carried out by the company.

Recommendation

The BoQs forming part of the tender documents are to accurately reflect the work planned to be carried out, thus reducing the incidence of variations or extensions to the agreements in force, which would lead to an increase in contract prices.

Management Comments

No comments were received.

Concerns over the Issue of Tenders for Works

The BoQs prepared by the Housing Authority prior to the commencement of the Bormla and Żabbar projects showed that refurbishment works planned on these Housing Estates were for a larger number of blocks than those covered by the respective tenders for facade works[7]. Thus, at award stage, HME was already aware that the contracts for these two projects were not entirely covered[8]. In fact, another agreement for similar additional works at the Bormla Housing Estate was entered into on 1 July 2020, less than a month after the deadline for the submission of tenders for the same contract[9].

HME stated that although other works on the Bormla project were proceeding, refurbishment on the facades had not commenced. Thus, it decided to issue a tender covering facade works on only half of the blocks within the Housing Estate, claiming that otherwise, the tender would have had to be issued through the Department of Contracts, resulting in longer timeframes. When HME ensured that the work carried out by the successful bidder was satisfactory, the company entered into a separate agreement with the contractor awarding additional works by direct order under the same conditions. However, this procedure adopted by HME is not in line with standing regulations.

[7] The agreements between the respective contractors and HME duly reflected the works identified in the tender documents.
[8] The title of the Naxxar Housing Estate tender did not specify the blocks on which facade works would be carried out.
[9] This contract was not dated.

Recommendations

HME is to ensure that procurement regulations are invariably followed. Tenders issued are to duly reflect the work planned to be carried out. Unless works by the same contractor are performed within the parameters of the agreements in force, these constitute a direct order, for which a Finance approval would be required.

Management Comments

Reference is made to the Framework Agreement. If HME is faced with situations identified in NAO's recommendation, the necessary Finance approval will be sought.

Billing by Contractors not in line with Applicable Agreements

According to the BoQs forming part of the tender documents pertaining to the three projects reviewed, tasks to be carried out by the contractors were classified under different categories, with each task measured separately and the bidders submitting their price rates for every item. In line with the General Conditions for Works Contracts, payments were only to be effected in respect of actual permanent works completed. However, the audit revealed that amounts invoiced by the contractors carrying out works on facades at the Bormla, Naxxar and Żabbar Housing Estates were calculated on one flat rate multiplied by the estimated area of work completed, irrespective of the type of work it covered.

Management claimed that actual measurements will be taken at the end of the project, prior to issuing the final invoice and any differences would then be taken into consideration. The contractor's final bill was only to be settled when a certificate, confirming that the works had been satisfactorily completed, was issued by the Housing Authority. However, the only such document issued by the Authority, certifying completion of the Żabbar project[10], still did not give detailed measurements for each task carried out, in line with the BoQs, but instead indicated a total area for each block. Furthermore, this document was dated when the audit was concluded, even though it was claimed that the respective measurements were taken when works were still in progress. It is pertinent to note that works on this project were completed in 2020.

Additionally, NAO could not establish how the flat rates charged by the contractor were arrived at since no supporting documentation was made available[11]. This Office also questions the efficiency and effectiveness of the monitoring performed over each project, particularly in identifying variations and in ensuring that the contract prices were not exceeded.

Recommendations

Invoicing is to be based on actual measurements and at the rates spelled out in the contract, thus ensuring that amounts paid by HME are based on the value of works carried out. Any deviations from the originally planned works as per initial BoQs are also to be flagged and immediately acted upon if these are not duly approved.

Management Comments

NAO's recommendation has been noted and will be acted upon accordingly.

[10] According to the invoices for the three projects reviewed, this was the only project for which a final invoice was issued by the contractor.
[11] HME claimed that these flat rates were derived from the contract price and a pre-determined number of square meters required.

Interim Payment Certificates not prepared

Interim payment certificates were not issued for restoration works at the Bormla Housing Estate as required by the General Conditions for Works Contracts. HME justified this non-compliance by claiming that the company was always behind in payments to the contractor purposely, thus offering a kind of guarantee if something went wrong. This statement could not be validated for the three contracts reviewed since no such evidence was provided. The absence of interim payment certificates, together with the fact that invoicing by the contractors was not based on the BoQs submitted with the tender document, hindered testing on the accuracy of amounts being claimed for payment.

Recommendation

HME is to ascertain that interim certificates are issued as required by the General Conditions for Works Contracts, thus ensuring that amounts remitted to contractors duly reflect the certified work completed to date.

Management Comments

The recommendation has been duly noted and will be adhered to.

Extension of Contracts for Works not in line with Regulations

The three contracts for facade works reviewed during the audit, awarded through a tendering process, were extended to cover additional works necessary on the respective projects, stating that these were to remain valid until HME decided so and works were completed. However:

- no Finance approval was obtained for these extensions, which essentially constituted a direct order for works[12];
- the extensions did not make reference to the original contracts entered into between both parties, chargeable rates, as well as the applicable terms and conditions; and
- the nature of additional works to be carried out through these extensions was not indicated.

The original contract price was exceeded in all the three projects reviewed; aggregate payments for the Bormla project were more than three times as much, while that for the Żabbar project was more than double. Projected costs for the facade works at the Naxxar Housing Estate were also exceeded by 38%.

Furthermore, although these extensions were intended to cover additional works, by the time these were endorsed, the contractors for the Naxxar and Żabbar facade projects were already paid more than the contract value.

Recommendations

HME is to ensure that tenders fully cover the work required on the related projects. If, in exceptional circumstances, additional work is necessary, procurement regulations are to be duly followed. Agreements are not to be open-ended and these are to specifically include the work required to be carried out, prices to be charged, as well as the applicable terms and conditions. The company is also expected to closely monitor its projects to ensure that no payments are effected over and above the agreed contract price without proper justification and approval.

Management Comments

The terms and conditions of the Framework Agreement will be applied accordingly.

[12] Payments over and above the contracted value, effected up to time of audit, were: Żabbar – €169,252; Bormla – €160,526; and Naxxar – €26,325.

Major Shortcomings in invoicing by Contractors

Audit testing revealed weaknesses in invoicing by contractors. The following refer:

a. Monthly works progress reports drawn up by the Housing Authority for the Bormla project, between May 2020 and January 2021[13], indicating percentage of works completed to date, lacked detailed information. Invoices issued by the contractor were also not detailed, thus hindering NAO from establishing the extent to which billing correctly reflected work carried out. Notwithstanding this limitation, this Office still noted one particular case where, according to one of the inspections carried out, plastering works on a block of flats forming part of the Bormla Housing Estate had not yet commenced. However, by time of inspection carried out by the Authority, HME had already paid the contractor €41,925 for plastering and pointing works on this building.

   Invoices for facade works on the Żabbar and Naxxar projects were also not detailed to be able to determine whether payments effected related to the original contracts or were completely new tasks.

b. The timing at which HME was invoiced for facade works at the Żabbar Housing Estate was also of concern. The contractor entrusted with the respective works billed €94,400, equivalent to 78% of the total contract value, within less than a month from the signing of the agreement[14].

c. The first invoice raised by the contractor entrusted with the Bormla facades project related to works on a block of flats which was not covered by the contract. On the other hand, HME confirmed that works on the Naxxar project commenced in September 2019, while the contractor issued the first invoice 11 months later[15].

d. Three invoices issued by the sampled contractors working on the Naxxar and Żabbar projects, having an aggregate value of almost €84,000, were paid in full by HME although the actual bills were neither certified correct nor indicated that the invoiced works were actually carried out[16].

Recommendations

Invoices issued by contractors are to be accompanied by BoQs, clearly identifying the type and amount of works carried out to date, as certified by the quantity surveyor or architect. This would help HME in keeping track of all costs incurred on the different parts of the ongoing projects and facilitate the identification of any variances which arise. Furthermore, to enable monitoring over the execution of the original contract, the respective contractor should be requested to invoice any additional works separately.

Management Comments

Management agrees with NAO's recommendation.

Contracts for Works not covered by Performance Guarantees

The contactors awarded the tenders for facade works of the Bormla and Żabbar Housing Estates did not submit the performance guarantees required by the respective agreements. Additionally, although a performance guarantee was presented by the contractor entrusted with works at the Naxxar Housing Estate, this was valid for less than three months and therefore did not cover the entire contract period, which was set at a maximum of 30 weeks from the order to start works. HME confirmed that this guarantee was not renewed.

[13] With the exception of September 2020.

[14] The contract had an execution period of 16 weeks and was for a total value of €102,495 (VAT excl.).

[15] The project was to be completed within 30 weeks.

[16] NAO noted this shortcoming in invoices relating to works carried out on other projects not falling in the audit sample.

Recommendations

All contracts are to be covered by valid performance guarantees throughout the whole duration of the project. This will ensure that the company is covered in case the contractor fails to perform the contractual obligations in full. In the absence of guarantees, HME is not to allow the contractor to commence work on the respective project.

Management Comments

Management has already taken the recommendation on board and contractors have been made aware of this obligation. Copies of the performance guarantees will also be submitted to the Department of Contracts.

No Insurance Policies

According to the special conditions governing the agreements for facade works on the three projects reviewed, the contractors were required to provide a standard Contractors' All Risks Insurance Policy[17], also covering third parties, for the whole duration of the contract. HME confirmed that insurance policies were not submitted by these contractors.

Recommendation

HME is not only to ensure that all contractors have an adequate insurance as protection against third party liabilities, as well as potential losses or damages, but retain a copy at its end covering the duration of the respective contracts.

Management Comments

Management takes note of the recommendation.

Penalties for Late Completion not charged

The contractors entrusted with facade works on the projects reviewed by NAO were not penalised for works covered by the original contract, but which were not delivered within the established deadline.

Management claimed that timeframes were not respected due to the additional works which the contractors were requested to carry out. However, given the lack of details on invoices, this justification could not be corroborated.

Recommendation

When, without justified reasons, contractors do not respect the binding completion deadlines in line with the contract, HME is to refer to the special conditions attached to the contracts and enforce the relevant penalty clauses, as applicable.

Management Comments

Due to COVID-19 restrictions, HME had to cope with difficult situations. The outbreak had a knock-on effect on works due to shortage of manpower, late deliveries from suppliers and other issues. Furthermore, due to social distancing, works in confined spaces could not be ordinarily undertaken. Unavoidably, severe delays were experienced.

[17] Taken jointly with the Contracting Authority but the onus rests with the contractor.

Retention Money not kept

HME confirmed that invoices issued by the contractors were paid in full and no 5% retention money was kept in accordance with the special conditions to the contracts. It was claimed that contractors always billed for a lesser value of works than actually completed, but this statement could not be corroborated since no evidence was provided that measurements were actually being taken before invoices were raised.

Recommendation

HME is expected to settle only 95% of all invoices issued by contractors, with the remaining 5% being kept as retention money. This will ensure that the company is adequately covered for any defects or works not satisfactorily carried out.

Management Comments

Management notes the recommendation and refers to the Framework Agreement which stipulates that performance guarantees are to remain in place for two years following approval of the final certification and will be released after the expiry of defects liability period.

Order to Start Works not formally communicated

HME was required to set a date on which restoration works on facades were to commence and communicate the date to the respective contractors. However, no formal order to start works was issued for any of the sampled projects. Management confirmed that works on each project commenced during the same month in which the agreement with the respective contractor was signed[18]. However, this could not be corroborated, particularly in the case of restoration works at Bormla Housing Estate since the agreement with the respective contractor was not even dated[19].

Recommendation

HME is to formally communicate the date of commencement of works to the contractor, thus ensuring that the contract period is clearly defined. This is essential to enable verification as to whether works were completed within the stipulated timeframe.

Management Comments

Management noted NAO's recommendation and has acted upon accordingly.

Inconsistent Signatures

Although bearing the same name, the signature on two documents forming part of the bid submitted by the successful contractor for the Bormla project tender differed entirely from that featuring on the contract.

Recommendation

HME is to investigate this matter and report outcome to NAO.

[18] According to HME, works relating to the Naxxar project started in September 2019; however, the first invoice by the contractor was only issued in August 2020.

[19] According to the electronic public procurement system, at end September 2021, when this write-up was being drafted, the tender was marked as still at evaluation stage.

Management Comments

This matter has been investigated and it transpired that the relevant documents were signed by the two partners forming the contracting company which won tender. To HME, the partnership was denoted under the name of one of the partners, but on signing the mentioned documents, the second partner used the former partner's name. Of course, this is unacceptable and staff have been duly notified that such practice would not be tolerated. Any person signing a document has to do so in his own name and present an identification document, with the respective reference recorded near the signature. A staff member from HME will countersign as witness to the signature. Furthermore, HME will ensure that, as part of the tendering process, if the need arises, contractors will be asked to sign a power of attorney.

Purchase of Materials not compliant with Public Procurement Regulations

During 2020, over €74,000 worth of materials, out of which approximately €11,000 was utilised in the Bormla project, were purchased by direct order from the same hardware store. According to Management, the decision to acquire materials for most of its projects from the supplier was because of the excellent relationship between the two parties, which included the import of goods exclusively for HME, as well as free delivery to worksites. However, Finance approval to this effect was not sought.

Recommendation

Being a Contracting Authority, HME is to ensure that it follows all pertinent procurement regulations.

Management Comments

HME's Management agrees with the recommendation, and Finance approval will be sought accordingly.

Turnover

Works certified without being measured

Works carried out on the Bormla project by HME, as well as by other contractors on behalf of the company, were being periodically verified by an officer from the Housing Authority. As previously indicated, actual measurements were not taken; instead, an approximate percentage of works completed for every task, up to date of inspection, was calculated for each block of flats[20]. The average percentage of completion of the whole project was subsequently established and the sales invoices issued accordingly. Thus, amounts charged to the Authority were also approximations of what was actually due.

Recommendation

In order to ensure the accuracy of sales invoices and that these duly reflect the progress of works on the project up to that date, it is advisable that certification takes place periodically through actual measurement of works carried out. This will also ensure that any variations from the initial BoQs are taken into consideration in a timely manner.

Management Comments

Management agrees to follow up the recommendation within the terms and conditions of the Framework Agreement.

[20] According to the memorandum of understanding, the Housing Authority was to prepare BoQs based on measurement of works executed by HME, which were to be subsequently submitted to the latter for vetting and confirmation prior to recommendation for payment.

Understated Estimated Value of Works

According to BoQs prepared by the Housing Authority for each of the 13 blocks of flats forming part of the Bormla project, the total value of works was estimated at €665,282. However, this estimate was inadvertently understated by almost €6,900 in the progress reports, and HME invoiced the Authority accordingly. HME upheld this observation and subsequently noted another error in the original BoQs prepared by the Authority, also affecting the related payments.

Recommendations

Management is to ensure that the estimated cost of works indicated in the progress reports reflects that in the respective BoQs, as these form the basis upon which invoices are issued. Any errors identified are to be corrected in a timely manner.

Management Comments

Management agrees to follow up the recommendation within the terms and conditions of the Framework Agreement.

Progress Reports not supporting Invoice

The amounts charged by HME to the Authority on the latest invoice pertaining to the Bormla project available at time of audit were approximately €11,700 higher when compared to the aggregate amount indicated in the progress reports. In the absence of a more recent estimate supporting the amounts invoiced, NAO could not establish whether this difference was settled in the next sales invoice issued.

Recommendations

Workings and calculations supporting amounts charged are to be thoroughly checked. These are to be attached to the respective invoices for ease of reference.

Management Comments

Management agrees to follow up the recommendation within the terms and conditions of the Framework Agreement.

Memorandum of Understanding signed retrospectively

Neither of the two memoranda of understanding entered into between HME and the Authority since 2018 were endorsed in a timely manner. The two-year memorandum in force during 2018 and 2019 was only signed four months before its expiry, while that covering the subsequent three years, i.e., 2020 to 2022, was signed more than six months after it became effective. By this signature date, HME had already invoiced the Authority at least €1,161,776, excluding Value Added Tax (VAT)[21].

Recommendation

All agreements are to be entered into and endorsed in a timely manner. This will ensure that the applicable terms and conditions regulating the relationship between the respective parties have been formally laid down before the services are actually rendered.

[21] As per nominal ledger.

Management Comments

Management notes the recommendation and will ensure agreements are endorsed in a timely manner.

Other Matters

No Formal Plan to utilise Substantial Funds held at Bank

According to the management accounts, on 31 December 2020 HME had a positive balance of €643,141 in a current account held with a local commercial bank[22]. The company claimed that it intended utilising these funds for capital investment in equipment and machinery, due to planned increase in operations and workforce, as well as for emergency purposes. However, HME confirmed that no formal budget was in place to substantiate this statement.

Recommendation

HME is to draw up formal plans indicating how it intends to utilise the funds which are in excess of the company's needs.

Management Comments

The recommendation will be referred to HME Board and, at the same time, advice will be sought as how best to utilise accruing funds, including capital investments.

Expenditure considered as Hospitality not in line with Government Policies and Regulations

During the audit, NAO identified purchases for an aggregate value of €2,466, which were not considered to be in line with Government policies and regulations. Amongst others, these included Christmas hampers, perfumes, jewellery items and a donation.

Recommendation

HME is to refrain from utilising public funds for such expenditure.

Management Comments

The recommendation has been noted and will be complied with. However, it is to be noted that as a socially responsible entity, part of the referred funds were contributions to charitable causes. The rest were mainly Christmas presents and hampers.

No Fixed Asset Register

HME does not maintain a register for its fixed assets which, according to the December 2020 management accounts, cost €34,120. These included computers and electronic equipment, furniture and fittings, as well as motor vehicles. Consequently, accuracy of the total asset value in the balance sheet, and the completeness of the depreciation charged thereon, could not be ascertained. The absence of a register also hinders the necessary monitoring expected to be performed over the assets, as well as to obtain reasonable assurance on their existence.

[22] The company's retained earnings on the same date stood at €514,154.

Recommendations

HME is to take stock of all its assets and compile a fixed asset register, which is to include the necessary details to identify each item, and update it regularly to reflect acquisitions, write-offs and disposals. Periodical assessment of recorded assets and their respective condition is to be carried out by Management to identify any impairment. All items are also to be tagged with a unique asset code, to facilitate the identification of each fixed asset.

Management Comments

HME is in the process[23] *of producing a fixed asset register which will be forwarded to the company's accountants for verification and insertion in relevant accounting records.*

Compliance Issue

Invoices not compliant with Fiscal Regulations

NAO noted instances of lack of conformity with fiscal regulations. The following refers:

a. None of the invoices issued by the contractor working on the Bormla project indicated HME's VAT registration number; thus, these were not considered as being compliant with standing VAT regulations. Consequently, the respective payments, totalling €232,495, were not covered by valid fiscal documentation.

   The same shortcoming was noted on invoices issued by the contractor entrusted with facade works at the Żabbar Housing Estate, with payments effected in this respect totalling €290,196[24].

b. The sales invoices reviewed during the audit were also not compliant with standing fiscal regulations, as these did not indicate the name of the entity being invoiced, the VAT amount charged and respective rate, as well as HME's own VAT registration number. The aggregate value of these invoices, billed by HME to the Authority for the Bormla project, was €429,494.

Lack of compliance with fiscal obligations is likely to encourage tax evasion, resulting in loss of revenue to Government.

Recommendations

HME is to ensure that it is invariably furnished with proper tax invoices for all services procured and purchases effected, in line with standing fiscal regulations. Invoices raised by HME itself are also to be compliant with such regulations.

Management Comments

Management agrees with the recommendation and action has been taken to ensure that invoicing is compliant with regulations.

[23] Management comments submitted on 25 October 2021.
[24] An invoice, for the value of €47,200, relating to another project carried out by the same contractor also did not indicate HME's VAT number.

Aġenzija għall-Ħarsien tat-Tfal

Personal Emoluments

Lack of formal procedures with respect to on-call service and non-observance of established provisions related to overtime were noted at **Aġenzija għall-Ħarsien tat-Tfal**.

Background

Up till end December 2019, the Aġenzija għall-Ħarsien tat-Tfal (AĦT) functioned under the Aġenzija Appoġġ falling under the responsibility of the Foundation for Social Welfare Services (FSWS).

With effect from January 2020, a new Directorate, namely Alternative Care Directorate was set up, reporting directly to the Foundation. This brought a change in the operations; services previously catered for by AĦT, together with other services related to children that were still managed by either Aġenzija Appoġġ or FSWS, were migrated to the new Directorate.

Actual expenditure on personal emoluments, reported by AĦT for 2019, from Recurrent Vote 40, Line Item 6832 for the Agency, amounted to €2,809,589[1]. Following the set-up of the Directorate, the projected expenditure on staff emoluments was set at €4,907,037 for financial year 2020, reflecting the increase in the number of employees. As at end March 2020, the Directorate had a total of 234 employees, of which 102 were previously engaged with AĦT.

All employees were given the opportunity to perform tasks beyond their normal duties, whilst receiving additional remuneration. Several AĦT employees provided leader and co-ordinator services in various areas, as well as on-call services related mainly to emergency support on a roster basis.

Audit Scope and Methodology

The main objectives of the audit were to identify and assess the operating effectiveness of risk management and key controls in relation to the payroll process, and determine whether the payment of personal emoluments was accurate and in line with the applicable regulations, policies and agreements.

Audit procedures were performed to obtain reasonable assurance as to whether the internal control structure was adequate. This comprised online meetings, email correspondence, document reviews, and sample testing of transactions.

Walkthrough tests were carried out, wherein mitigating controls in place were assessed against those set out in policies and procedures. Salaries and allowances paid between January 2019 to March 2020 to a sample of officers were verified for accuracy through detailed substantive testing, ensuring payments were effected in line with standing policies and regulations. Attendance sheets, overtime claims, vacation and sick leave forms, as well as rosters and time off in lieu records, were also reviewed for audit purposes.

[1] Of which €50,525 was recharged to other entities in 2019.

Control Issues

Daily Duties not recorded for Audit Trail Purposes

The majority of professionals performed most of their duties out of the office for meetings and visits; however, the only records provided for audit purposes were manual attendance records kept by the employees, showing the start and end of their working hours. Management assumes responsibility by signing the attendance sheet, but these are only endorsed at the end of each month, since attendance sheets, vacation leave, sick leave and time off in lieu records are all retained by the employees and handed for the necessary verifications every four weeks.

Recommendations

AĦT is to be guided by the provisions of section 6.4 of the Attendance Verifications Systems – Policy and Guidelines, regulating the attendance of non-office bound workers, wherein it is stated that a proper system should be in place for the recording of duty outside the office premises. For control purposes, AĦT is also to consider introducing a log showing the daily tasks performed.

Management Comments

These guidelines are not applicable in our case due to the fact that our offsite interventions are very delicate and require maximum trust and confidentiality. In such cases, staff accompany minors and/or other vulnerable service users, and due to the circumstances of that particular instance, the professional may decide on the spot to shift the locality for security or similar reasons. The absolute majority of cases are assigned either through a court order or a similar quasi-judicial authority and the same order would indicate flexibility of setting for the encounters, always for the best benefit of the service users.

Documented Processes not comprehensive

The manual detailing operating procedures related to the payroll process did not specify the related duties and who should perform them. Moreover, while Auditors were informed that payrolls were checked by the Finance and Accounts Department, the actual process was not documented in the manual.

Recommendations

It is important that the risks related to the payroll process are assessed and the applicable procedures duly documented. These are expected to cover the monitoring and control aspect, as well as checking of accuracy. Respective roles, responsibilities and duties are also to be spelled out. This will not only ensure that the applicable procedures are implemented and all risks appropriately addressed, but also serves as a guidance to potential new employees.

Management Comments

FSWS invested in the latest and best payroll software package available on the market, which has inbuilt checks and balances to minimise risk as much as is humanly possible. Further actions which the Foundation is taking to further minimise any perceived risk, include the centralisation of all payroll functions to ensure greater conformity and more controls in place, as well as the recruitment of a person with the appropriate experience who will be tasked with reviewing the processes and proposing ways and means of strengthening and improving them.

Overtime operating effectiveness

Documented policies specify that overtime should be endorsed in advance by Management. The respective internal policy further stipulates that, as much as possible, overtime shall be resorted to "… *in the event of a crisis situation*" and only planned activities after 20:00, that are endorsed by Senior Management, may be claimed as overtime. The following shortcomings were noted:

a. Despite the set provisions, overtime before 20:00 was often resorted to.

b. Overtime[2], was not being approved in advance. Moreover, in certain instances, no supporting documentation evidencing the need for overtime was provided.

c. According to the collective agreement, on-call employees required to make interventions which exceed 30 minutes, were to log the exact time and duration of the call, together with a short note of the intervention; this log was in fact intended for audit purposes. However, no such record was provided. Consequently, the National Audit Office could not ensure that the time claimed for overtime actually exceeded 30 minutes.

d. In many instances, the details of the required intervention were not recorded in the overtime claim sheet, with the description limited to emergency on-call.

Recommendations

As far as possible, especially when this is due to lack of staff, overtime is to be adequately planned, approved in advance by the relevant officer, and includes all details of work performed enabling independent verification. It is also to be ensured that overtime is only resorted to in exceptional circumstances, logged in line with the requirements of the collective agreement and verified with overtime records prior to its approval by Management. Moreover, overtime requests are to be duly documented.

Management Comments

It has to be emphasised that unnecessary overtime is neither given nor approved. Overtime is only allowed for valid reasons. Being that practically such situations happen at all times of day, leaders, executives and person responsible of the unit, are allowed to plan overtime and then inform Management accordingly with all requests of the previous month. Emergency on-call means that a crisis situation has occurred. This is normally related to child abuse, child monitoring, domestic violence or other such crisis situations. It is not good practice, to write down the exact reason of situation due to the General Data Protection Regulations issues emanating from the sensitivity of such cases, especially since the papers are handled by administration staff. However, staff members cannot decide on their own to stay overtime, and it is always the person in charge who details a staff member to stay overtime to deal with a situation. In all circumstances the worker would be required to log the executed intervention into Case Management System and the person in charge would thus be in a position to know what occurred during that intervention.

Issues related to Shift and On-call Allowances

It was noted that no policy was in place establishing how the on-call service operates, also indicating the number of co-ordinators and timing of shifts. Consequently, accuracy of payments based on set rosters could not be ascertained.

The respective roster of the four employees who carried out on-call duties for a week each, was not documented. It transpired that one of these employees was working for very long hours, often foregoing the mandatory eight hours rest. In addition, two instances were noted where the overtime hours claimed by this employee overlapped with the respective normal working hours.

[2] Not related to crisis intervention.

Recommendations

Detailed procedures, necessary to ensure consistency, transparency, and the adequate address of risks, are to be developed, documented and enforced. The established policies are to include the parameters of the service, as well as the necessary monitoring. Moreover, Management is to ensure that hours worked by the employees are in line with standing legislation. Rosters are to be in line with standing regulations and formally approved.

Management Comments

Management takes note of these observations and will take the necessary action.

Ministry for European
Affairs and Equality

Ministry for European Affairs and Equality

Expenditure

An audit of expenditure incurred by the **Ministry for European Affairs and Equality** was conducted with limitations on the scope of the audit due to the lack of documentation available. Testing revealed instances whereby Public Procurement Regulations were not being observed.

Background

The then Ministry for European Affairs and Equality (MEAE) focused its efforts on ensuring that Malta's foreign policy objectives are pursued through active participation in the European Union's Common Foreign and Security Policy, together with other fora. It also aimed at reaching goals in the areas of civil liberties, equality and non-discrimination, as well as the integration of migrants.

Information, contractual and professional services, as well as training[1], under Operational and Maintenance Expenses for 2020, initially featuring under MEAE Recurrent Vote 42, had a budget of €893,000. This was later revised through virements from other line items but only €754,743 was actually utilised.

Following a Ministerial reshuffle in January 2020, cost centre 01 and part of cost centre 03 became the responsibility of the Ministry for the National Heritage, the Arts and Local Government while the other four cost centres[2], as well as the remaining part of cost centre 03, started to be managed by the Ministry for Foreign and European Affairs (MFEA).

Audit Scope and Methodology

The main scope of this audit was to ascertain that public funds were utilised in the best economical manner and for their intended purposes, in line with the provisions of prevailing Public Procurement Regulations and applicable policies.

A qualitative sample comprising 24 transactions, amounting to €100,600, resulting in an overall coverage of 13%, was selected. This was based on financial materiality. The sample was chosen randomly from all six cost centres, where amounts were deemed material. Testing was performed to ensure compliance with the respective provisions of the Public Procurement Regulations and other prevailing policies and procedures. With respect to, procurement pertaining to the Permanent Representative for Malta to the European Union, compliance with MFA Internal Circular No. 3/2012 – 'Management of Monthly Accounts by Missions', was confirmed.

[1] Line Items 29 to 32.
[2] Cost centres 02, 04, 05 and 06.

Testing also included assessing the effectiveness of internal controls and verifying that the amounts charged to MEAE were in accordance with the related agreements and other substantiating documentation. It was also ensured that the expenses were supported by the appropriate fiscal documentation.

Limitation on Scope of Audit

Following the changes in the Ministerial reshuffle, key personnel who were previously responsible for procurement at MEAE were transferred to other Ministries. Consequently, the National Audit Office (NAO) encountered problems in obtaining all documentation required for audit purposes. Out of the 24 sampled transactions, audit testing could only be performed in 17 cases (71%) and NAO had no option but to conclude the audit assignment accordingly.

Control Issue

Expired Contracts

Provision of Security Services

The original contract between MEAE and the service provider for the provision of security services was signed on 16 May 2017, intended to last for a period of 24 months and could be further extended for another 12 months, i.e., until mid-May 2020, or until the value of €120,000 excluding Value Added Tax (VAT) was exhausted.

It transpired that in 2018, the then MEAE Permanent Secretary approved two variations for additional security services, in January and April respectively, for an aggregate amount of €205,500 (VAT excl.). In March 2019, another variation of €110,000 (VAT excl.) was approved by the foregoing. A new contract was expected to be signed in April 2019; however, this was not done. Security services continued to be rendered, despite the expired contract.

Payments in 2020 to this effect amounted to €262,441. These extensions, which constitute a direct order, were neither covered by Ministry for Finance approval nor a valid new contract. Moreover, NAO did not trace the original departmental tender document, thus was not able to verify whether the possibility of extensions was provided for therein.

Provision of Cleaning Services

The original contract for the provision of cleaning services signed between MEAE and the service provider on 6 August 2015 was valid for six months. It also stated that this could be renewed for periods of a further six months each, up to a maximum of 60 months, i.e., until 5 February 2021 or until the value of €120,000 (VAT excl.) was exhausted. However, the original departmental tender document could not be traced to confirm that this provision was included.

In March 2019, the then MEAE Permanent Secretary approved a variation for additional cleaning services, amounting to €80,500 (VAT excl.). A new contract was to be signed in September 2019; however, this was not done. Further payments amounting to €66,035 were issued during 2020 for cleaning services provided to the Ministry, with neither Ministry for Finance approval nor a new contract being signed for this service to cover this period.

Recommendations

Services provided by third parties are to be covered by contracts, duly signed. The Ministries, which are still making use of the security and cleaning services are urged to rectify the situation and publish a call for tenders in line with standing regulations. This will also enable the respective Ministries to take ownership of the recurrent expenditure in relation to the services in question.

Management Comments

Management accepted the recommendations put forward by NAO. During 2020, MFEA had taken action to issue a tender for the provision of security services. Following the evaluation process, the contract was signed in 2021. Meanwhile, until the tender for security services was awarded, MFEA sought and obtained a direct order approval from the Ministry for Finance for security services as an interim measure. As regards to cleaning services, MFEA also issued a tender for the provision of such services, late in 2020 and a contract was eventually signed.

Compliance Issues

Fiscal Receipts not submitted

Several fiscal receipts in aggregate amounting to €35,774, representing over 35% of the sampled transactions were not submitted to support the respective payments, in accordance with MF Circular No. 5/2002 – 'Submission of Fiscal Receipts to Government Departments'.

Recommendations

Officers in charge are to ensure that fiscal receipts are attached to the respective payments made to service providers. In cases where suppliers fail to adhere to VAT regulations, defaulters are to be reported to the VAT Department.

Management Comments

MFEA will ensure that fiscal receipts are attached to the respective payments.

Standing Regulations for Government Vehicles by Dar Malta not followed

The two vehicles leased by Dar Malta in Brussels, were not registered in the Fleet Management System in line with the Manual on Transport and Travel Policies and Procedures. It also transpired that fuel pumps are fully automated and, according to MFEA, fuel is purchased using debit or credit card but receipts are very often not provided.

Recommendations

For the sake of completeness and good practice, Government vehicles[3] are to be included in the pertinent system upon acquisition, in accordance with the Manual directives. Moreover, fuel purchased is also to be recorded thereon. Guidance in this regard is to be obtained accordingly in case of necessary divergence by any of the Missions.

Management Comments

Management accepted the recommendation made by NAO. For the period January to June 2020, the purchase of fuel of the leased vehicles could not be recorded in the Fleet Management System, given that the software was tailormade for Malta fuel stations, whereas the infrastructure and method of payment in Belgium is different to that in Malta. Moreover, the system was partially adapted for diplomatic Missions by mid-November 2020. In December 2020, the vehicles used by the Permanent Representative for Malta to the European Union were registered accordingly. From January 2021, all fuel consumption and expenditure were recorded in the system. This is an ongoing process.

2020-2021 (to date) Reports issued by the NAO

NAO Annual Report and Financial Statements

May 2021	National Audit Office Annual Report and Financial Statements 2020

NAO Audit Reports

December 2020	Report by the Auditor General on the Public Accounts 2019
December 2020	A review of implementation of Sustainable Development Goal 1 - Malta's efforts at alleviating poverty
January 2021	Performance Audit: Is LESA suitably geared to perform its traffic enforcement function adequately?
February 2021	Performance Audit: The effectiveness of plastic waste management in Malta
April 2021	The contract awarded to the JCL and MHC Consortium by the St Vincent de Paul Residence for the management of four residential blocks through a negotiated procedure
May 2021	Performance Audit: Preliminary review: NAO's role in reviewing Government's measures relating to the COVID-19 pandemic
June 2021	Follow-up Reports by the National Audit Office 2021 Volume I
July 2021	Performance Audit: Fulfilling obligations in relation to asylum seekers
October 2021	Information Technology Audit: Examinations Department
October 2021	Follow-up Reports by the National Audit Office 2021 Volume II
November 2021	Performance Audit: Smart and RF meters' contribution to more accurate and timely utilities billings
November 2021	Information Technology Audit: IT Asset Management across Government Ministries and Departments
December 2021	Performance Audit: A Strategic Overview on the Correctional Services Agency's Operations at the Corradino Correctional Facility