NAO
National Audit Office
MALTA

Report by the Auditor General

Public Accounts

2022

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Annual Audit Report
Public Accounts 2022

Report by the Auditor General
December 2023

Table of Contents

Foreword

The issuance of this Annual Report on Public Accounts is an annual statutory requirement for the National Audit Office, as stipulated in the Auditor General and National Audit Office Act, 1997, (Cap. 396).

This publication includes 26 audits conducted by the Financial and Compliance Section on the operations of several departments, as well as public sector entities. As usual, it includes also an extensive analysis of the Financial Report 2022 and a detailed overview of the Statements of Arrears of Revenue for the same year, as submitted to Treasury by the respective Ministry, Department and Entity.

Once again, whilst conveying our appreciation to the cooperation extended to our audit teams by the majority of auditees across the public sector, it is my duty to report that in certain cases, thankfully the minority, the submission of the required documentation or information was either sent to our Office well beyond the established deadlines or, even worse, in some rare instances, not submitted in its entirety. Unfortunately, in such instances, our audit teams had no alternative but to include a limitation on scope of audit, as per international auditing standards. In the former cases, it was mostly thanks to the intervention of the respective Permanent Secretary that the information was finally sent to the audit team. There is surely no need to emphasise that such delays have a considerable negative impact on the efficient implementation of our challenging and ambitious NAO Audit Plan.

As I have often emphasised in various interventions made throughout the year, the main focus of each audit assignment that we perform is placed on a considerable number of feasible and doable recommendations proposed by our Office. Essentially, so that auditees could duly address in a timely and cost-effective manner any shortcomings identified by our audit teams during our work. Ultimately, this reflects NAO's principal objective, namely the continued promotion of good governance across the public sector.

I would like to take this opportunity to thank our Management team and all staff within the Financial and Compliance Section for their continuous commitment, competence and professionalism in their work, as this Report duly evidences.

Charles Deguara
Auditor General
December 2023

Annual Report 2022 at a Glance

17

Ministries

26

Financial and Compliance Audits

2

Write-ups

Analysis of the Financial Report

Arrears of Revenue

Main weaknesses encountered during the audits included:

- Limited internal controls and lack of segregation of duties.
- Public procurement regulations not adhered to.
- Shortcomings in the payments and authorisation of overtime and allowances.
- Insufficient enforcement to collect amounts owed to Government.
- Lack of audit trail and standard operating procedures.

List of Abbreviations

AACC	Active Ageing and Community Care Department
ARR	Arrears of Revenue Return
ARS	Accounting Receivable System
BCA	Building and Construction Authority
BoQ	Bill of Quantities
CA	Children's Allowance
CAB	Child Adoption Bonus
CAFR	Children's Allowance Flat Rate
CAS	Children's Allowance Supplement
CBB	Child Birth Bonus
CBM	Central Bank of Malta
CEO	Chief Executive Officer
CFMS	Corporate Financial Management Solution
CfR	Office of the Commissioner for Revenue
CMH	Commissioner for Mental Health
CSA	Court Services Agency
DAS	Departmental Accounting System
DFA	Department of Fisheries and Aquaculture
DMD	Debt Management Directorate
DSS	Department of Social Security
EAC	Evaluation and Adjudication Committee
e-PPS	Electronic Public Procurement System
ER	Echo Romeo
FCA	Foster Care Allowance
FMS	Foundation for Medical Services
FSS	Final Settlement System
GDP	Gross Domestic Product
HSF	Hard Standing Facility
IC	Investment Committee
IPSAS	International Public Sector Accounting Standards
ISSAI	International Standards of Supreme Audit Institutions
IT	Information Technology
MAFA	Ministry for Agriculture, Fisheries and Animal Rights
MAM	Medical Association of Malta
MCH	Mount Carmel Hospital

MCST	Malta Council for Science and Technology
MEFL	Ministry for the Economy, European Funds and Lands
MEYR	Ministry for Education, Sport, Youth, Research and Innovation
MFE	Ministry for Finance and Employment
MFIN	Ministry for Finance
MFS	Malta Foundation School
MGA	Malta Gaming Authority
MGI	Malta Government Investments Limited
MGOZ	Ministry for Gozo
MGS	Malta Government Stocks
MHS	Mental Health Services
MIP	Malta Industrial Parks
MPF	Malta Police Force
MPWP	Ministry for Public Works and Planning
MSFC	Ministry for Social Justice and Solidarity, the Family and Children's Rights
MSPC	Ministry for Social Policy and Children's Rights
MSPP	Malta Strategic Partnership Projects Ltd
MTCA	Malta Tax and Customs Administration
MTIP	Ministry for Transport, Infrastructure and Capital Projects
NAO	National Audit Office
NDSF	National Development and Social Fund
PBS	Public Broadcasting Services Limited
PHC	Primary Health Care
PPR	Public Procurement Regulations
PSC	Public Service Compensation
PSMC	Public Service Management Code
PSO	Public Service Obligation
PU	Privatisation Unit
PV	Photovoltaic
REWS	Regulator for Energy and Water Services
RfP	Request for Proposals
RHIB	Rigid Hull Inflatable Boat
SABS	Sistema għall-Amministrazzjoni tal-Benefiċċji Soċjali
SBN	School Bus Net
SOP	Standard Operating Procedure
TM	Transport Malta
TPS	Taxpayer System
UM	University of Malta
VAT	Value Added Tax

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 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 2022, each containing either the Ministry itself, or one or more Departments or Entities which were the subject of our review. Most audit reports 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

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 fulfilment of the provisions of Article 37 of the Public Finance Management Act, 2019, for the financial year subject to this analysis.

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 this analysis were free from material misstatement. Thus, it is not a guarantee that such analysis will always detect material misstatements, arising from fraud or error.

Basis for Opinion

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

This analysis involves performing procedures to enhance the degree of confidence that intended users have in the published figures and accounts which have been analysed. 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 avoided conflict of interest in line with Article 108(3)(c) of the Constitution of Malta and fulfilled the independence requirement laid out therein, in Article 108(12).

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 analysed.

Opinion

Unqualified 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 analysis were fairly presented in accordance with the Public Finance Management Act and any regulations made thereunder.

Emphasis of Matter

We draw attention to a letter dated 30 June 2023, addressed to the Minister for Finance and Employment and which was included in the Financial Report, wherein the Accountant General highlighted that the amounts published in the 2022 Financial Report were still in the process of being closed off. This was mainly due to outstanding balances in the suspense and the interdepartmental accounts. Any necessary revision of figures for financial year 2022 will feature in next year's publication under the respective column.

In this context, the analysis undertaken by the National Audit Office on the Financial Report for 2022 was based on the published figures. This analysis proposes a number of recommendations to this effect. Our opinion is not qualified in respect of this matter.

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

Charles Deguara
Auditor General
December 2023

Financial Report

Analysis of the Financial Report 2022

Introduction

The Financial Report was laid on the Table of the House of Representatives on 10 July 2023 during Sitting No. 145 of the Fourteenth Legislature. This Report, comprising statements and accounts for year 2022, was submitted by the Accountant General in terms of Article 37 of the Public Finance Management Act – Act XXI of 2019. The National Audit Office (NAO) performed an analysis of the figures reported in the Financial Report for year 2022.

In a letter dated 30 June 2023 addressed to the Minister for Finance and Employment, which was also included in the Financial Report, the Accountant General highlighted that the amounts published in the 2021 Annual Financial Statements and Financial Report were revised and updated figures were shown in the 2022 Financial Report. This was mainly due to outstanding balances in the suspense and the interdepartmental accounts, since the clearing exercise of these accounts was still ongoing by the respective departments[1]. Transactions were constantly being monitored to ensure accuracy of figures, especially at year-end. Any necessary revision of figures for financial year 2022 will feature in next year's publication under the respective column.

To this effect, the analysis undertaken by NAO on the 2022 Financial Report was based on the published figures.

Discrepancies between the 2021 and 2022 figures

The major changes in comparative figures as mentioned in the preceding paragraph are detailed in the sections below.

Discrepancies between Figures reported in the 2021 and 2022 Financial Report

An exercise was carried out by NAO, whereby 2021 figures as reported in the related year's Financial Report were compared to the comparative figures as reported in the Financial Report of the subsequent year (2022). The major differences found are listed in the Tables below.

[1] Throughout this write-up, mention of Department or Entity refers either to the Ministry, the Department itself, or any Government Agency, as applicable.

Table 1: Appendix B – Abstract of the Consolidated Fund Account

Description	2021 Figures in 2022 Financial Report €'000	2021 Figures in 2021 Financial Report €'000	Differences €'000	
Balance as at 1 January	**(807,682)**	**(807,682)**	**-**	
Recurrent Revenue	5,417,642	5,412,213	5,429	Table 2
Capital Revenue	1,857,806	1,857,806	-	
Total Revenue	**7,275,448**	**7,270,019**	**5,429**	
Recurrent Expenditure	5,716,480	5,715,011	1,469	Table 3
Public Debt Servicing	681,891	681,891	-	
	6,398,371	**6,396,902**	**1,469**	
Capital Expenditure	782,724	781,331	1,393	Table 4
Total Expenditure	**7,181,095**	**7,178,233**	**2,862**	
Balance as at 31 December	**(713,329)**	**(715,896)**	**2,567**	

(Source: Financial Report 2022 page xvi – Actual 2021 column, pages 2-5, Financial Report 2021 page xvi – Actual 2021 column, pages 2-5)

More detail with regard to the different categories in Table 1 can be seen in the tables below.

Table 2: Recurrent Revenue by Type[2]

Description	2021 Figures in 2022 Financial Report €'000	2021 Figures in 2021 Financial Report €'000	Differences €'000
Direct Taxation[3]	3,292,592	3,290,400	2,192
Indirect Taxation	1,607,240	1,607,029	211
Departmental Receipts	263,118	261,341	1,777
Grants[4]	171,712	170,463	1,249
Recurrent Revenue	**5,334,662**	**5,329,233**	**5,429**

(Source: Financial Report 2022 page xvi – Actual 2021 column, pages 6-13, Financial Report 2021 page xvi – Actual 2021 column, pages 6-12)

2 Only those categories of revenue which had differences were listed in the table.
3 The largest difference was found in the Social Security Benefits within Vote 21.
4 This difference related to the Ministry for Health in Vote 12.

Table 3: Differences in Recurrent Expenditure by Vote[5]

Description	2021 Figures in 2022 Financial Report €	2021 Figures in 2021 Financial Report €	Differences €
Vote 6 Office of the Prime Minister	52,472,792	52,477,371	(4,579)
Vote 7 Information	1,143,650	1,146,445	(2,795)
Vote 8 Government Printing Press	1,710,603	1,710,372	231
Vote 9 Electoral Office	3,168,018	3,051,028	116,990
Vote 10 Public Service Commission	607,292	607,485	(193)
Vote 11 Industrial and Employment Relations	1,940,793	1,940,882	(89)
Vote 12 Ministry for Health	873,611,318	873,609,546	1,772
Vote 13 Ministry for Foreign and European Affairs	48,904,631	49,103,439	(198,808)
Vote 14 Ministry for Senior Citizens and Active Ageing	196,918,006	196,948,669	(30,663)
Vote 15 Ministry for Equality, Research and Innovation	14,407,503	14,407,904	(401)
Vote 16 Ministry for the National Heritage, the Arts and Local Government	57,175,120	57,187,112	(11,992)
Vote 17 Local Government	53,264,080	53,271,907	(7,827)
Vote 18 Ministry for Transport, Infrastructure and Capital Projects	112,489,532	112,484,780	4,752
Vote 19 Ministry for Social Justice and Solidarity, the Family and Children`s Rights	66,979,977	67,090,100	(110,123)
Vote 20 Social Policy	389,601,573	389,601,397	176
Vote 21 Social Security Benefits	1,115,010,364	1,114,687,720	322,644
Vote 22 Pensions	104,180,930	104,166,740	14,190
Vote 23 Ministry for Justice and Governance	47,095,090	47,027,954	67,136
Vote 24 Ministry for Agriculture, Fisheries, Food and Animal Rights	41,283,893	41,185,304	98,589
Vote 25 Ministry for Social Accommodation	29,752,051	29,752,912	(861)
Vote 26 Ministry for Education	303,260,306	302,744,404	515,902[6]
Vote 27 Education	360,535,854	360,505,936	29,918
Vote 30 Ministry for Inclusion and Social Wellbeing	48,390,728	48,389,902	826
Vote 31 Ministry for the Environment, Climate Change and Planning	69,787,918	69,789,168	(1,250)
Vote 32 Ambjent Malta	15,537,913	15,524,521	13,392
Vote 33 Ministry for Gozo	52,455,496	52,415,388	40,108
Vote 34 Ministry for Home Affairs, National Security and Law Enforcement	73,958,091	73,913,468	44,623
Vote 35 Armed Forces of Malta	67,729,585	67,178,418	551,167[7]

[5] Only those Votes which had differences were listed in the table.
[6] The main difference arose from Account 5058: Blockchain Based Official Records - Pilot Project.
[7] The main difference arose from the Social Security Contributions account.

Table 3: Differences in Recurrent Expenditure by Vote *cont./*

Description	2021 Figures in 2022 Financial Report €	2021 Figures in 2021 Financial Report €	Differences €
Vote 36 Police	82,611,683	82,830,476	(218,793)
Vote 37 Probation and Parole	1,442,645	1,443,028	(383)
Vote 38 Civil Protection	10,936,667	10,926,821	9,846
Vote 39 Ministry for Tourism and Consumer Protection	151,660,222	151,394,971	265,251
Vote 40 Ministry for Energy, Enterprise and Sustainable Development	694,240,120	694,252,539	(12,419)
Vote 41 Ministry for Finance and Employment	352,998,954	353,000,086	(1,132)
Vote 43 Treasury	30,841,850	30,823,138	18,712
Vote 45 Commissioner for Revenue	23,494,961	23,537,976	(43,015)
Vote 46 Customs	13,189,231	13,190,300	(1,069)
Vote 47 Contracts	1,991,711	1,992,214	(503)
Totals	**5,566,781,151**	**5,565,311,821**	**1,469,330**

(Source: Financial Report 2022 pages 45-142, Financial Report 2021 pages 47-148)

Table 4: Capital Expenditure Differences by Ministry[8]

Description	2021 Figures in 2022 Financial Report €	2021 Figures in 2021 Financial Report €	Differences €
Office of the Prime Minister	35,547,617	35,312,309	235,308
Ministry for Health	50,125,245	50,052,866	72,379
Ministry for Foreign and European Affairs	9,701,332	9,705,690	(4,358)
Ministry for Senior Citizens and Active Ageing	6,738,228	6,708,243	29,985
Ministry for Social Justice and Solidarity, the Family and Children`s Rights	6,082,418	6,083,867	(1,449)
Ministry for Justice and Governance	2,570,555	2,570,524	31
Ministry for Agriculture, Fisheries, Food and Animal Rights	37,235,455	37,234,455	1,000
Ministry for Social Accommodation	1,531,098	1,530,388	710
Ministry for Education	59,517,794	59,517,329	465
Ministry for Inclusion and Social Wellbeing	11,031,198	10,110,306	920,892
Ministry for the Environment, Climate Change and Planning	35,261,539	35,144,497	117,042
Ministry for Home Affairs, National Security and Law Enforcement	50,745,613	50,733,014	12,599
Ministry for Tourism and Consumer Protection	20,804,831	20,811,276	(6,445)
Ministry for Energy, Enterprise and Sustainable Development	58,143,591	58,128,769	14,822
Totals	**385,036,514**	**383,643,533**	**1,392,981**

(Source: Financial Report 2022 pages 143-187, Financial Report 2021 pages 149-196)

[8] Only those Ministries which had differences were listed in the table.

A number of Appendices in the Financial Report also had substantial differences, as reported hereunder.

Table 5: Appendix A – Abstract of the Receipts and Payments of the Public Account

Description	2021 Figures in 2022 Financial Report €	2021 Figures in 2021 Financial Report €	Differences €
Opening Balance	25,851,617	25,851,617	-
Add Receipts	8,740,585,765	9,740,818,279	(1,000,232,514)
Less Payments	(8,434,447,415)	(9,667,021,242)	1,232,573,827
Closing Balance	**331,989,967**	**99,648,654**	**232,341,313**

(Source: Financial Report 2022 page 1, Financial Report 2021 page 1)

Table 6: Appendix J – Statement of the Treasury Clearance Fund

Description	2021 Figures in 2022 Financial Report €	2021 Figures in 2021 Financial Report €	Differences €
Deposit Accounts			
Sinking Funds for the Redemption of Loans	309,931,752	277,055,253	32,876,499
Court Deposits	101,097,832	102,597,832	(1,500,000)
Other Deposits	122,134,462	116,119,005	6,015,457
Totals	**533,164,046**	**495,772,090**	**37,391,956**

(Source: Financial Report 2022 page 208, Financial Report 2021 page 218)

Table 7: Appendix G2 – Statement in Terms of Social Security Act, 1987

Description	2021 Figures in 2022 Financial Report €	2021 Figures in 2021 Financial Report €	Differences €
Receipts:			
Source of Funds			
Social Security Contributions	819,735,563	817,557,048	2,178,515
Payments:			
Application of Funds			
Total Expenditure on Benefits payable under the Contributory Schemes	916,028,989	916,213,514	(184,525)
Administration Expenses	7,464,037	7,463,861	176
Expenses in connection with Health Recurrent Services			
Ministry for Health	874,134,990	874,133,218	1,772
Ministry for Senior Citizens and Active Ageing	110,193,240	203,183,795	(92,990,555)
Totals	**(1,088,085,693)**	**(1,183,437,340)**	**95,351,647**

(Source: Financial Report 2022 pages 197-198, Financial Report 2021 pages 207-208)

Discrepancies between 2021 Comparative Figures as reported in the 2022 Financial Statements and Financial Report

The comparative figures for 2021 also differed between the 2022 Financial Report and the 2022 Financial Statements as listed in Table 8.

Table 8: 2021 Figures

Description	2021 Figures in Financial Report 2022 €	2021 Figures in Financial Statements 2022 €	Differences €
Abstract of the Consolidated Fund			
Total Ordinary Revenue	5,417,641,940	5,414,651,486	2,990,454
Total Capital Expenditure	748,224,226	746,977,230	1,246,996
Statement of the Treasury Clearance Fund			
Short-term Borrowing	599,420,000	559,420,000	40,000,000
Sinking Funds for the Redemption of Loans	309,931,752	277,055,253	32,876,499

(Source: Financial Report 2022 pages 2, 5, 208, Financial Statements 2022 pages 1, 4, 5)

Discrepancies between the 2022 Comparative Figures reported in the 2022 Financial Statements and 2022 Financial Report

The main variances between the 2022 figures as reported in Financial Report 2022 and Financial Statements 2022 are listed below:

Table 9: 2022 Figures

Description	2022 Figures in Financial Report 2022 €	2022 Figures in Financial Statements 2022 €	Differences €
Abstract of the Consolidated Fund			
Opening Balance	(713,328,693)	(715,323,247)	1,994,554
Total Ordinary Revenue	5,847,182,249	5,845,139,444	2,042,805
Total Recurrent Expenditure	5,839,892,120	5,833,024,963	6,867,157
Capital	767,354,014	767,251,838	102,176
Closing Balance	(1,096,635,681)	(1,093,703,706)	(2,931,975)
Statement of the Treasury Clearance Fund			
Other Investments as at 31 December 2022	332,441,466	307,941,051	24,500,415
Sinking Funds for the Redemption of Loans as at 31 December 2022	336,824,388	277,055,253	59,769,135

(Source: Financial Report 2022 pages 2, 4, 5, 208, Financial Statements 2022 pages 1, 3, 4, 5)

Treasury commented that discrepancies have occurred since departments failed to reconcile and close on time before publishing the figures.

Suspense Accounts

Background

A suspense account is an account that supports the reconciliation process. It is used to temporarily hold transactions[9] that need further investigation before they can be classified correctly in the corresponding account in the general ledger.

Reporting

Reports of the suspense accounts as at 31 December 2022 could not be generated by Treasury on date of request made by NAO, at the beginning of September 2023, as these reports had to be generated at year-end and thus, Treasury has no copy of such reports available. Suspense accounts are live and updated daily in the Corporate Financial Management Solution (CFMS).

Suspense accounts relating to years 2021 and 2022 were provided to NAO as at 17 October 2023. These consisted of a total of 27 accounts with a net credit balance of €111,788,522. Out of this figure, a net aggregate amount of €1,938,230 related to 2022 while the remaining balance was brought forward from the previous year. The said amounts pertained to eight accounts; the other nineteen had a nil net balance since all transactions were matched by October 2023 when this analysis was concluded. These accounts were categorised in Table 10.

Table 10: Suspense Accounts as at 17 October 2023

Description	2021 €	2022 €	Totals €
Interdepartmental transactions	(59,245,575)	-	(59,245,575)
Interdepartmental control account	(54,308,652)	178,708	(54,129,944)
Fixed assets capitalisation	-	1,562,131	1,562,131
Unallocated receipts	-	198,091	198,091
Budgetary allocations	(172,525)	-	(172,525)
General suspense	-	(700)	(700)
Totals	**(113,726,752)**	**1,938,230**	**(111,788,522)**

The unmatched transactions still in suspense could not be identified by NAO, as the matched transactions were still included in the reports provided.

Interdepartmental Transactions

In the last quarter of 2020 and the first quarter of 2021, 15 pre-agreed sites took part in a pilot exercise where the respective departments operated exclusively through CFMS, whilst the remaining departments were still posting their entries in the Departmental Accounting System (DAS). Following this piloting stage, CFMS went live in all departments on 1 April 2021.

[9] Transactions created either by the computerised accounting system, automatically balancing a previously imbalanced manual journal entry or the accounting officer recognising an amount directly to the suspense account as part of a manual journal entry.

During the six months of the piloting exercise, single sided journal entries were posted by the respective departments for the interdepartmental transactions affecting those departments which were using DAS; thus, suspense accounts had to be used as the corresponding debit or credit entry.

No journal entries had been posted on CFMS to clear these balances in the suspense account. Treasury stated that discussions on the impact from an accrual accounting perspective will be done internally.

Interdepartmental Control Account

CFMS automatically creates control entries which should then be cleared automatically by the system once interdepartmental transactions are matched. However, several transactions relating to both 2021 and 2022 were not automatically matched by CFMS. Treasury carried out the necessary reconciliation and identified the transactions from which the pending balance was arising. The required adjustments have been prepared and will be uploaded into the system accordingly.

Fixed Assets Capitalisation

In the case of purchases of fixed assets, apart from the cash transaction which accounts for the actual purchase, a second non-cash transaction needs to be posted on CFMS by the departments to process the actual capitalisation of the fixed asset on accrual basis. Several of these non-cash transactions relating to the year 2022 were not yet finalised in October 2023 since a number of departments were still reconciling from their end. Treasury was in the process of analysing all unreconciled entries, cost centre by cost centre, to assist the respective departments to make the necessary journal entries, so that the latter can finalise the capitalisation process, thus clearing this suspense account accordingly.

Unallocated Receipts

Several receipts relating to the year 2022 were not allocated to the respective invoice on CFMS. Out of the total net balance of €198,091 of unallocated receipts, €160,955 pertained to one particular Ministry. A meeting was held by Treasury with the foregoing on 6 November 2023 to resolve this issue.

Budgetary Allocations

This account includes transactions relating to an accounting period (for example 2021) different from the actual cash period (for example 2022). The accounting period is recorded on CFMS manually by the officers in charge who post the respective journal entries, whilst the cash period is automatically generated by the system.

Treasury clarified that these discrepancies arose from errors made by the respective departments, since this account was erroneously used. Treasury has communicated with the respective Consortium accordingly to address this matter, but no reply has been received up to mid-November 2023 from the latter. In the meantime, Treasury is looking for a possible solution to rectify this issue.

General Suspense

This account included various types of unmatched transactions for the year 2022, the majority of which did not include sufficient details about the nature of the transaction. In the meantime, Treasury identified the transactions leading to the balance in the suspense account and a journal entry has been raised to clear this balance accordingly.

Recommendations

In the context of a statement of financial position, a suspense account is not desirable, as it can hinder the accurate balancing of financial records. If suspense accounts are not adequately monitored and controlled, there is an increased risk of incorrect financial results and fraudulent activity. Thus, it is expected that all suspense accounts will be cleared before the annual financial statements are finalised.

In the meantime, it is important to generate reports for all suspense accounts, including all unmatched transactions that remain unresolved at year-end when finalising the financial statements. This is important for maintaining a comprehensive audit trail.

To this effect, Treasury commented that in October, the end of year circular that it issues indicates the respective deadlines to close the financial year. The intention is to close all suspense accounts by the end of February of the following year, as was done in the previous years. However, this depends on whether timely action is taken by the departments to clear their accounts and close the year accordingly.

Consolidated Fund Statement – 2022

As detailed in Article 102(1) of the Constitution of Malta, the Consolidated Fund incorporates all monies raised or received by the Government of Malta[10]. 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 2022 Budget (Estimates)[11] for a total expenditure of €6.9 billion and a further €844 million was approved by Supplementary Estimates[12].

During 2022, total expenditure[13] increased by 1% when compared to prior year. Meanwhile, the aggregate revenue fell by 5%. This led to a deficit of over €383 million throughout this period. As a result, the closing balance of the Consolidated Fund as at 31 December 2022 further worsened to €1.1 billion. A line graph comparing this closing balance with the prior four years is depicted in Chart 1[14].

[10] Does not include amounts payable into any other fund established by or under any law, in force in Malta for a specific purpose.

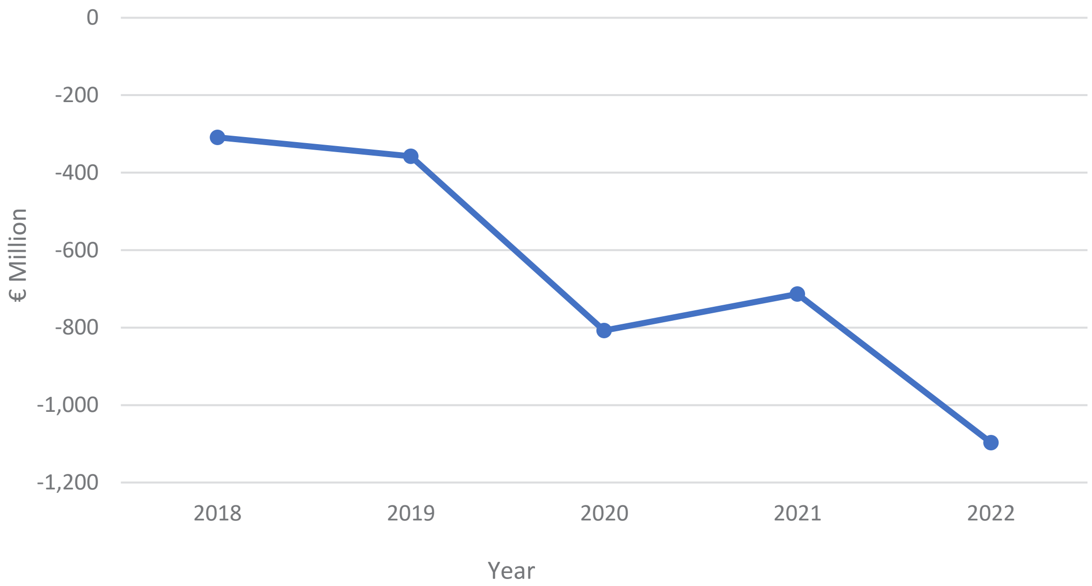
[11] As authorised by Warrant No. 1 of 2022 issued on 3 January 2022.

[12] As authorised by Warrant No. 2 of 2022 dated 4 January 2023.

[13] Total expenditure includes recurrent expenditure, public debt servicing and capital expenditure.

[14] As indicated further up, the closing balance for the year 2021 as per Financial Report 2021 (€715,896,000) did not reconcile with the figure reported in Financial Report 2022 (€713,329,000).

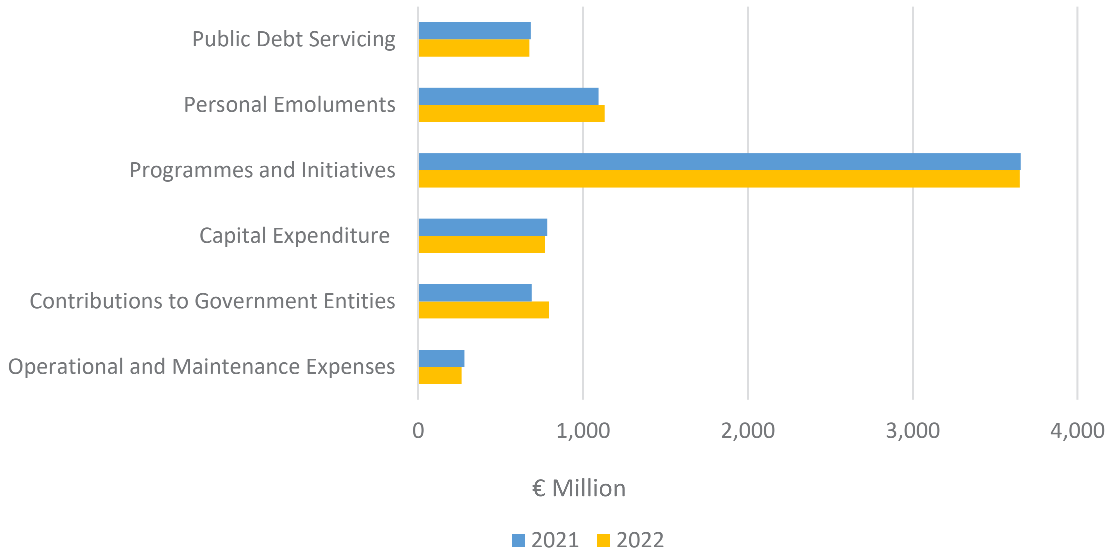
Chart 1: Trend Analysis of the Closing Balance of the Consolidated Fund (2018 – 2022)



(Source: Financial Report 2018 page xv, Financial Report 2019 page xvi, Financial Report 2020 page xvi, Financial Report 2021 page xvi, Financial Report 2022 page xvi)

As depicted in Chart 2[15], the most significant increase in expenditure incurred during 2022 pertained to Contributions to Government Entities, which went up by €108 million. This was followed by Personal Emoluments, which in 2022 was augmented by nearly €38 million.

Chart 2: Fluctuations in Categories of Expenditure during 2022



(Source: Financial Report 2022 page xvi)

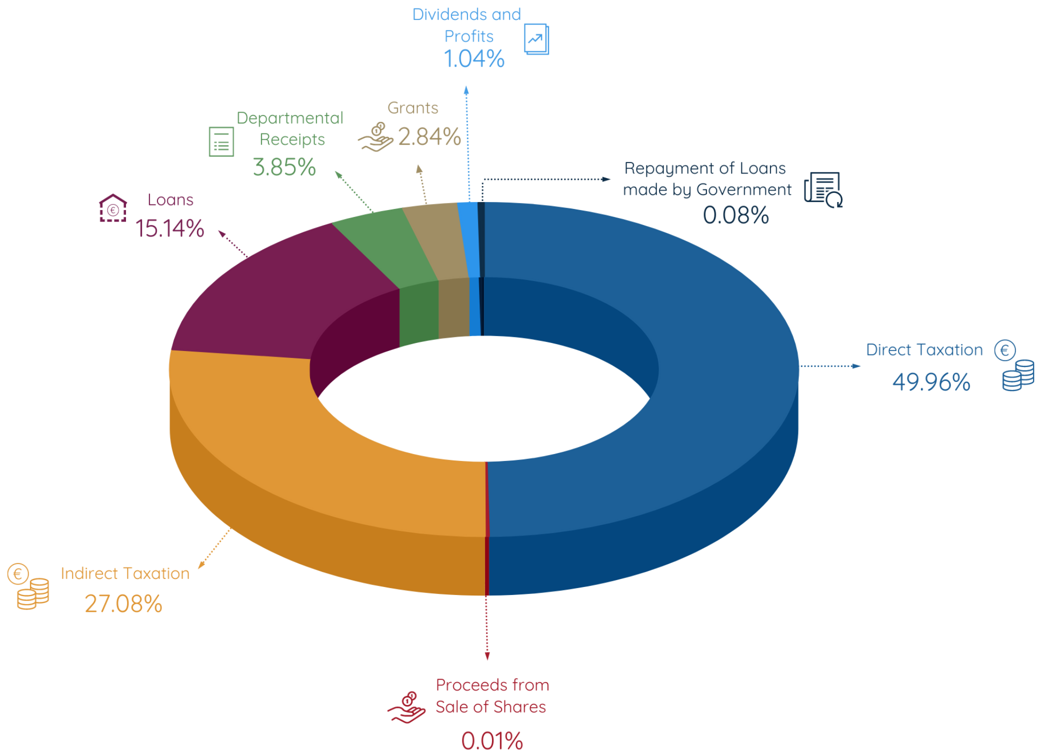
[15] Various amounts pertaining to year 2021 (used in this Chart), published in Financial Report 2022 (page xvi), did not reconcile with figures presented in Financial Report 2021 (page xvi).

Revenue

Revenue by Category

Actual total revenue collected during 2022 amounted to €6.9 billion, representing a decline of 5% over the previous year. Chart 3 shows the different categories of revenue as a percentage of total consolidated amount.

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



(Source: Financial Report 2022 pages xix, xxi)

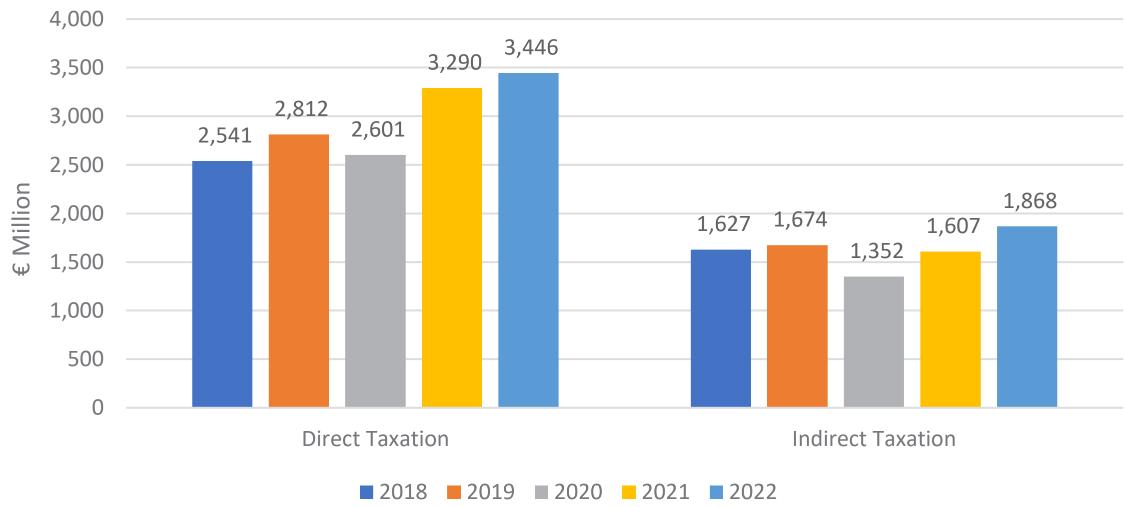
Five-year Trend Analysis

Recurrent Revenue

a. Tax Revenue

An analysis of tax revenue for the years 2018 to 2022 is shown in Chart 4.

Chart 4: Tax Revenue between 2018 and 2022



(Source: Financial Report 2018 page xviii, Financial Report 2019 page xix, Financial Report 2020 page xix, Financial Report 2021 page xix, Financial Report 2022 page xix)

Following a decrease in revenue arising from income tax and social security contributions during 2020, direct taxation resurged by €689 million (27%) in 2021 and €156 million (5%) during the subsequent year. This occurred due to higher economic activity as the COVID-19 pandemic periods were phasing out.

Indirect taxation also experienced a drop of 19% during 2020. However, this income stream recovered in 2021 with an increase of €255 million (19%) and a further €261 million (16%) in 2022. This growth occurred mainly in the categories mentioned in Table 11.

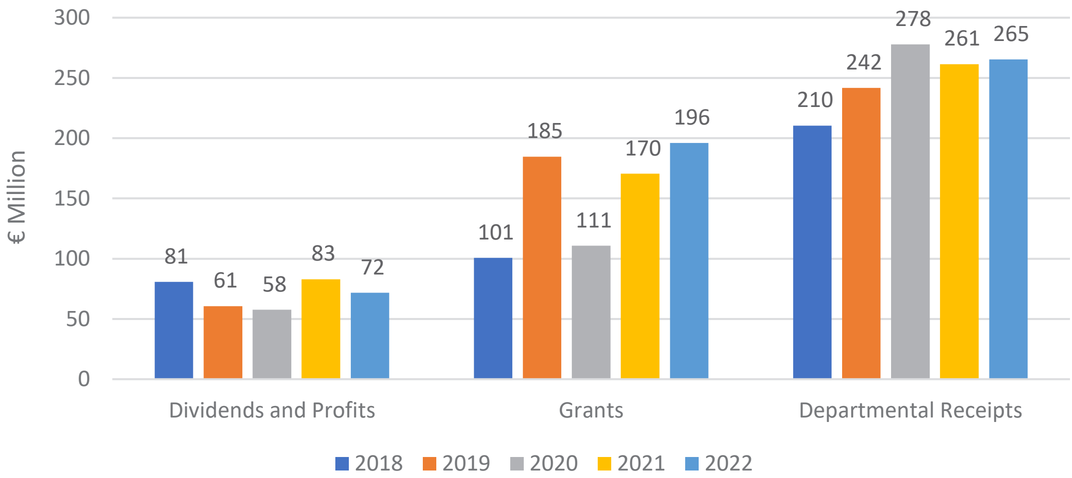
Table 11: Main Increases in Indirect Taxation during 2022

Revenue from Indirect Taxation	Increase during 2022	
	Increase Amount €'000	Percentage Change %
Value Added Tax	261,342	27
Duty on Documents	15,155	10
Excise Duty on Machine-made Cigarettes	6,653	8
Import Duties	5,574	25
Excise Duty on Spirits	3,381	27

b. Non-tax Revenue

Chart 5 depicts non-tax revenue for the five years 2018 to 2022. An analysis of these figures follows.

Chart 5: Non-tax Revenue between 2018 and 2022



(Source: Financial Report 2018 page xviii, Financial Report 2019 page xix, Financial Report 2020 page xix, Financial Report 2021 page xix, Financial Report 2022 page xix)

Dividends and Profits – Despite the increase registered in 2021, income generated from dividends and profits declined by over €11 million. This was mainly influenced by a decrease in revenue collected by the Central Bank of Malta (CBM), which fell by nearly the same amount.

Grants – During the last five years, grants experienced considerable fluctuations. The most significant increase of 83% which was registered in 2019, was followed by a fall of 40% in 2020. Subsequently, this income category registered two consecutive increases, i.e., 54% in 2021 and a further 15% in 2022. These variations occurred due to timing differences in the actual receipt of funds from the European Union.

Departmental Receipts – After the increases registered between 2018 and 2020, miscellaneous departmental receipts experienced a drop of over €16 million during 2021. However, this revenue recuperated in 2022 by nearly €4 million. This was mainly due to a 10% increase in income collected from Fees of Office, primarily driven by the increase of over €38 million collected from Concession Fees.

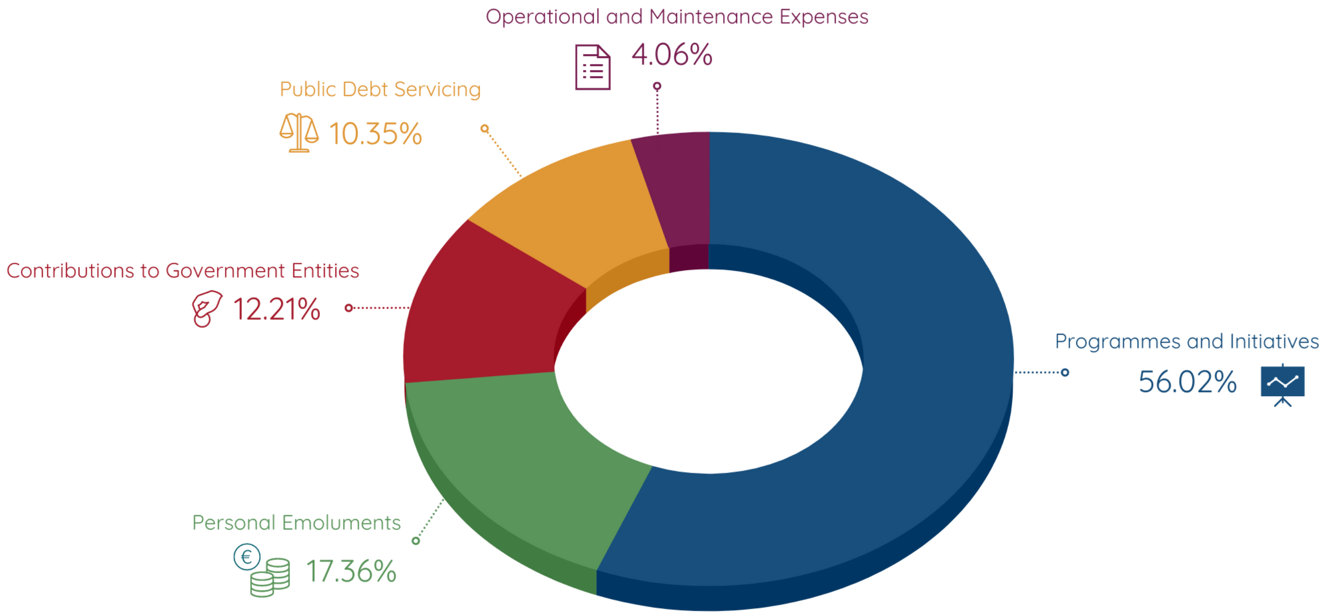
Expenditure

Recurrent Expenditure and Public Debt Servicing

The total recurrent expenditure during 2022 was around €6.5 billion, an increase of nearly 2% over the previous year. This amount includes €675 million in relation to Public Debt Servicing. Chart 6 shows the different categories of expenditure as a percentage of total recurrent expenditure[16].

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

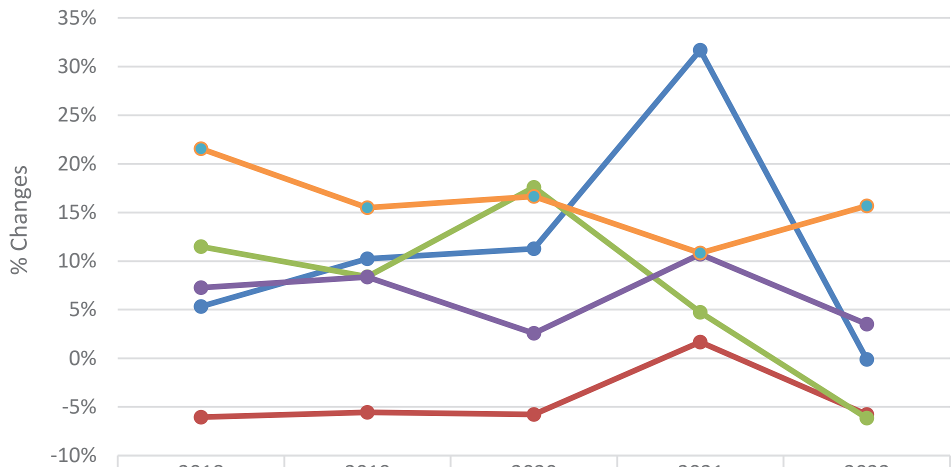
Chart 6: Recurrent Expenditure by Category as a Percentage of Total Recurrent Expenditure



(Source: Financial Report 2022 page xxviii)

The fluctuations of the various categories[17] of recurrent expenditure over the last five years are depicted in Chart 7.

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



	2018	2019	2020	2021	2022
Programmes and Initiatives	5%	10%	11%	32%	-0.1%
Public Debt Servicing	-6%	-6%	-6%	2%	-6%
Operational and Maintenance Expenses	11%	8%	18%	5%	-6%
Personal Emoluments	7%	8%	3%	11%	4%
Contributions to Government Entities	22%	15%	17%	11%	16%

The most significant increase in recurrent expenditure during 2022 was noted in Contributions to Government Entities, which registered an increase of 16%. The main contributors for the rise in this category of expenditure are summarised in Table 12.

[17] Any repayments and contributions made to sinking funds were excluded from Public Debt Servicing expenditure.

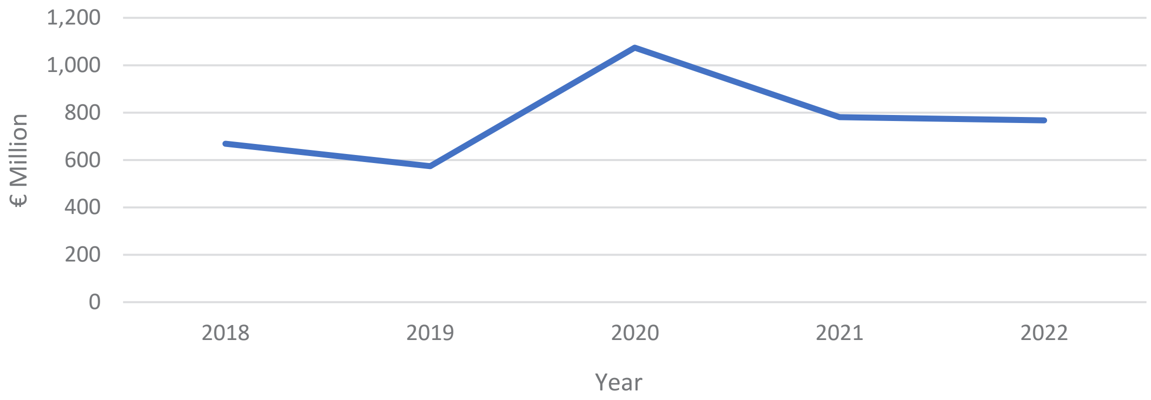
Table 12: Main Increases in Contributions to Government Entities during 2022

Ministry	Entity	Increase €
Office of the Prime Minister	Resource Support and Services Limited	66,203,003
Ministry for Tourism and Consumer Protection	Malta Tourism Authority	7,600,000
Ministry for Education	University of Malta	4,220,000
Ministry for Health	Mental Health Services	3,846,191
Ministry for Finance and Employment	Financial Intelligence Analysis Unit	2,700,000
Ministry for Education	Malta College of Arts, Science and Technology	1,965,000
Ministry for Justice and Governance	Court Services Agency	1,737,616
Ministry for Health	Karen Grech Rehabilitation Centre	1,602,358
Ministry for Inclusion and Social Wellbeing	Sapport	1,470,001

Capital Expenditure

An analysis of total capital expenditure over the last five years revealed that costs in this category continued to decrease during 2021 and 2022. In fact, the outlay during 2022 was around €767 million, i.e., a decline of 2% when compared to prior year. Chart 8 refers.

Chart 8: Capital Expenditure over the Last Five Years



(Source: Financial Report 2018 page xxx, Financial Report 2019 page xxxi, Financial Report 2020 page xxxi, Financial Report 2021 page xxxi, Financial Report 2022 page xxxi)

Analysis of Appropriations

The appropriations for expenditure during 2022, authorised by the Ministry for Finance and Employment (MFE) Warrant Nos. 1 and 2, were made under the following Statutes:

		€
a.	Appropriation Act	5,749,110,934
b.	In terms of Special Laws	2,038,336,350
c.	In terms of the Constitution	5,069,716
	Total Appropriations	**7,792,517,000**

a. Appropriation Act

	€
Appropriated by Act LXIX of 2021 (Original Budget)	4,924,383,934
Appropriated by Act XXVII of 2022 (Supplementary)	824,727,000
Total	**5,749,110,934**

b. In terms of Special Laws

The following amounts, including Supplementary Estimates as detailed in Warrant No. 2 of 2022, were appropriated in terms of the various laws as indicated in Table 13.

Table 13: Amounts Permanently Appropriated in terms of the Various Laws

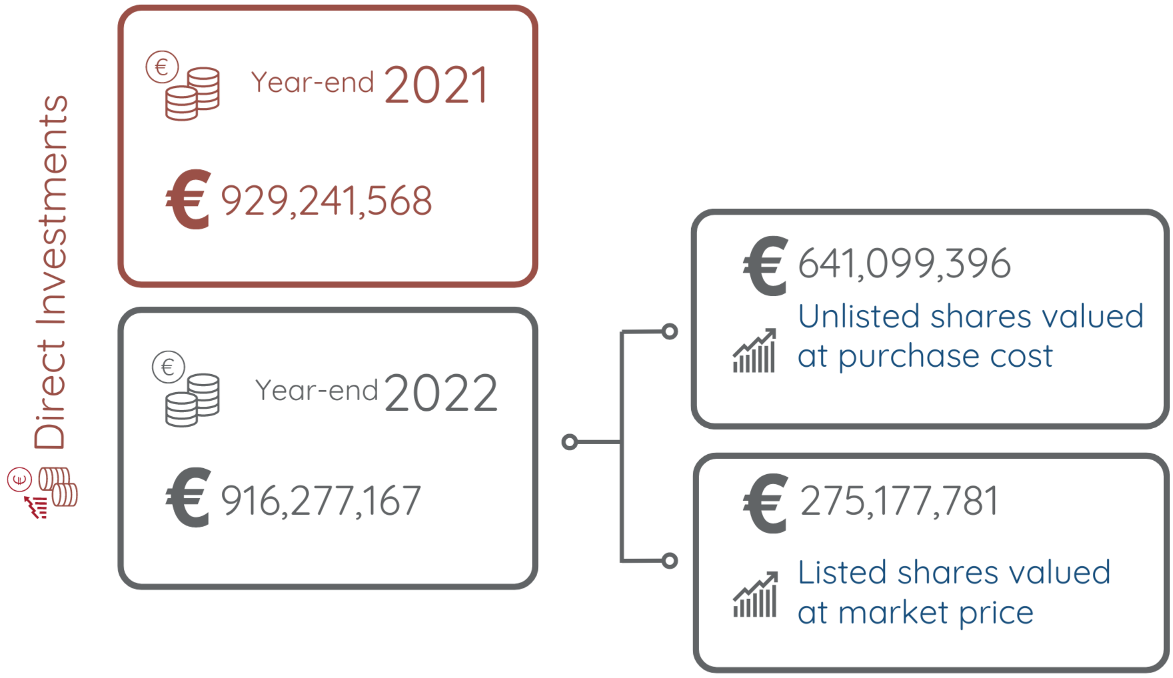
Description	**2022 €'000**	**2021 €'000**
Social Security Act (Cap. 318)	1,231,984	1,118,069
Government Borrowing and Management of Public Debt Act (Cap. 575)	681,884	706,993
Pensions Ordinance (Cap. 93)	98,000	98,600
Parliamentary Services Act (Cap. 562)	8,058	8,030
Lease of Parliament Building – Budget Measures Implementation (Act V of 2012)	4,619	4,618
Auditor General and National Audit Office Act (Cap. 396)	3,900	3,850
Value Added Tax Act (Cap. 406), Customs Ordinance (Cap. 37) and Excise Duty Act (Cap. 382)	3,000	3,800
Members of Parliament (Retiring Allowances) (Act XVII of 1966) and Members of Parliament Pensions Act (Cap. 280)	2,550	2,320
Ombudsman Act (Cap. 385)	1,420	1,427
Standards in Public Life Act (Cap. 570)	759	478
Broadcasting Act (Cap. 350)	582	583
Widows' and Orphans' Pensions Act (Cap. 58)	500	470
Local Loans (Registered Stock and Securities) Ordinance (Cap. 161)	450	200
General Elections Act (Cap. 354)	330	330
Permanent Commission Against Corruption Act (Cap. 326)	150	100
Arbitration Act (Cap. 387)	125	125
Personal Injuries (Emergency Provisions) Ordinance (Cap. 111)	25	25
Totals	**2,038,336**	**1,950,018**

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	96,891
The Attorney General	103,662
Judges and Magistrates	4,775,163
The Public Service Commission	94,000
Total	**5,069,716**

Public Credit – Shareholding



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

Movements in Values of Existing Investments

During 2022, the cost of investments in the entities below collectively increased by €8,822,075, mostly due to changes in the exchange rate of the American Dollar while Mdina Weave Limited was officially struck off the Malta Business Registry, thus registered a nil value (2021: €3,237,829).

- Asia Infrastructure Investment Bank
- Council of Europe Development Bank
- International Bank for Reconstruction and Development
- Malta Freeport Corporation Ltd

- Malta Air Travel Ltd
- Mediterranean Offshore Bunkering Company Ltd
- Multilateral Investment Guarantee Agency

Errors in Values Quoted

During NAO's analysis, Treasury confirmed two instances whereby erroneous figures were quoted in the Financial Report 2022. The necessary adjustments will be reflected in the Financial Report 2023 and related to the following:

European Stability Mechanism

The correct number of shares under the European Stability Mechanism should read 6,327, with the nominal value totalling to €632,700,000, 11.4288% paid-up share capital[18].

International Bank for Reconstruction and Development

The number of shares in the International Bank for Reconstruction and Development reads 1,533, an increase of 172 shares over the previous year. Thus, the correct nominal value should read USD184,933,455 with a cost of investment totalling €10,912,944, with 5.901% paid-up share capital.

Public Credit – Other Investments

Investment in Industry

The Schedule of Investments submitted by Malta Government Investments Limited to the Accountant General showed that Government's total cost of investment in 42 companies as at 31 December 2022 amounted to €56,385,485 (2021: €31,885,070). The increase when compared to previous year was mainly due to an injection in capital of €24,500,000. However, since the estimated net book value of these investments was €55,349,577, this led to an aggregate unrealised loss of €1,035,908. This figure includes nine companies that were in the process of liquidation.

At the end of 2022, the Investment in Industry, as reported by Treasury, amounted to €56,407,768. As in previous years, this figure did not tally with the aggregate amount stated by the Malta Government Investments Limited; a difference of €22,283. This mainly represents an investment of €22,369 in Topwear Ltd that was not reported on the Malta Government Investments Limited records. This investment was made by the former Malta Development Corporation. Treasury is expected to liaise with the Malta Government Investments Limited to ensure completeness of investments recorded.

Treasury agreed that, as a best practice, communication is to be regularly done each year with Malta Government Investments Limited to keep abreast with information on investments.

[18] 5613.60 shares of €100,000 each (12.90% paid-up) were reported in the Financial Report 2022.

Movements in Other Investments

Euro Coins

In 2022, CBM issued Euro Coins, totalling €5,312,970, on behalf of Treasury, bringing the total amount of Euro Coins in circulation as at 31 December to €98,814,970.

Malta Development Bank

The Government also increased its paid-up capital of €20 million in the Malta Development Bank, to support the bank in embarking on several new projects. As a result, the total investment in this bank as at 31 December amounted to €80,000,000.

Surplus Funds and Dividends Received

Central Bank of Malta

By the end of financial year 2022, CBM had distributed a total dividend of €22,172,636 back to Government.

Malta Business Registry

During 2022, Treasury also received surplus funds, amounting to €9,000,000, generated from the Malta Business Registry.

Inspection of Securities and Investments – Government Securities Board

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 kept by Treasury. The Board is made up of three members, comprising MFE Permanent Secretary as Chairperson, a representative from Malta Investments Management Company Limited and the Accountant General.

When this Annual Audit Report went for publication, NAO was still awaiting the signed List of Securities[19] verified by the respective Board. To this effect, earlier submission of the Government Securities Board report is highly recommended.

Public Credit – Loans made by Government and Repayments thereof

Balances of all loans issued by Government as at 31 December 2022, as reported in Appendix E of the Financial Report 2022, totalled €46,798,350.

[19] An unsigned copy of the Government Securities Board report was provided to this Office on 14 November 2023.

Water Services Corporation

In 1999, Government granted an interest-free loan of €10,482,180 to Water Services Corporation. According to the applicable agreement, this loan was to be repayable as and when the cash flow of the Corporation permits.

A loan repayment of €250,000 was made during the year 2022, bringing the closing balance at year-end to €3,617,885.

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[20] (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, but the actual contribution amounted to €50,683,923.

Four loan repayments, totalling €5,068,392, were made during 2022 and at year-end, the closing balance stood at €42,974,631.

Loan – Mariam Al Batool School

As per agreements dated 28 April 2011 and 14 December 2011, Government lent a total of €399,854 to Mariam Al Batool School, following a suspension of the financial subsidy which the School used to receive from Libya. The repayment schedule was set at €25,000 at end of each quarter from March 2014 to December 2017. However, this commitment was not honoured.

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

Subsequently, a total drawdown of €112,397 was made by the School in December 2018, following a request by the foregoing, to cover salaries for the last two months of the year. In October 2023, the Budget Office approved the writing-off of the entire amount.

Moreover, to assist the School addressing its financial constraints, besides the outstanding loan of €112,397, 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 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, 2020 and 2021, and €300,000 lent in 2022, as per said agreement, were accounted for as Advances in Appendix L[21].

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

[21] As reported later in Table 15 under Advances (Receivables).

As per agreement, these balances should have been reclassified under Loans made by Government, to ensure that the respective rights and obligations are disclosed in the Financial Report. However, as indicated in the Advances section later in this analysis, this Government loan was written off following a Cabinet decision dated 8 June 2022.

Loan – Malpro Ltd

The loan of €389,971 was given by the Government in the 1990's to Malpro Ltd to cover part of the refurbishing costs at the Malta House in London. This loan was never reported by Treasury in the previous years' Financial Reports. It was fully repaid by Malpro Ltd on 15 November 2022.

In collaboration with MFE, Treasury is to ensure completeness of information of all the loans made by Government to show an accurate figure in the Financial Report, and eventually in the Statement of Financial Position.

To this effect, Treasury plans to hold a meeting with MFE to ensure that similar instances will not be repeated in the future.

Investments held on behalf of Sinking Funds

In line with 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, Treasury was required to invest any contributions made in the Sinking Fund, as well as the return generated from the investment in other financial assets. These are invested in Government Securities.

Table 14 shows a breakdown of investments held on behalf of Sinking Funds.

Table 14: Sinking Funds' Investments

Investment	Sinking Funds - Local €	Sinking Funds - Foreign €
Central Bank of Malta Deposit Accounts	117,833,842	436,246
Treasury Bills	25,000,000	-
Malta Government Stocks (MGS)	193,554,300	-
Totals	**336,388,142**	**436,246**

(Source: Financial Report 2022 pages 202, 212-213)

Advances (Receivables)

Accounting for Advances

Article 87 of the General Financial Regulations, 2017, which regulates Advances, 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 2022, in respect of advances made to various Ministries on behalf of Government Departments, Agencies and Organisations.

The total outstanding Advances as at 31 December 2021 and 2022 are reported in Chart 9.

Chart 9: Outstanding Advances

2021

€ 12,945,292

2022

€ 9,791,477

Outstanding advances as at 31 December 2022, as reported in Table 15.

Table 15: Outstanding Advances

Description	Amount €
Ministry of Finance, advanced to Mid-Med Bank Employees Foundation, for the purpose of investment, pursuant to the agreement dated 3 December 2002 and entered into between Malta Government and the Foundation in the interest of the members of the Foundation	6,638,863
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	1,668,399
Ministry of Finance to the Bank of Valletta Employees Foundation, for the purchase by the Foundation of 1,385,406 ordinary shares by the same Foundation, in Bank of Valletta Ltd in 1995	1,484,215
Ministry for Education and Employment, advanced loan facility to Mariam Al Batool School	-[22]
Total	**9,791,477**

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

Remarks

Mid-Med Bank Employees Foundation

The loan continued to be repaid through annual instalments in accordance with the loan agreement. During 2022, a repayment of €76,136 was effected.

Maltacom Employees Foundation

Following verifications carried out by MFE in 2022, tax which was paid at source by the Maltacom Employees Foundation, amounting to €1,697,679, was considered as a partial repayment of the loan amount due. To this effect, the amount was transferred from Item 7189 – Contributions Towards the Treasury Clearance Fund.

Bank of Valletta Employees Foundation

MFE confirmed that since Bank of Valletta plc did not declare any dividend distribution, there was no recovery of the amount due by the Bank to the Foundation.

Mariam Al Batool School

By means of a Cabinet decision dated 8 June 2022, an aggregate outstanding balance, amounting to €1,680,000, due by the Mariam Al Batool School was written off. This was reflected by means of a transfer of this amount from Item 7189 – Contributions Towards the Treasury Clearance Fund.

Central Bank of Malta Public Account Reconciliation

Since its introduction, the procedure to reconcile the numerous transactions recorded on CFMS each month has not been automated. This made it very difficult for Treasury to prepare reconciliations, mostly due to human resources constraints and time limitations.

The reconciliation with the Public Account in DAS was automated within the Bank Reconciliation System and performed on a monthly basis. However, this was not possible with CFMS. Thus, Treasury had to split the Public Account in different accounts, by transaction type, and perform separate daily or monthly reconciliations, depending on the volume and type of transactions. This was mainly performed for those departments with the highest revenue and expenditure and covered 10 categories: Pensions and Salaries, Daily Reports[23] at the Office of the Commissioner for Revenue[24], Bank Charges, Deposit Account, Police Department, Dividend Warrants issued by Cheques, Single Euro Payments Area, Travel, Departments' Single Euro Payments Area and European Union Payments. All reconciliations performed in 2022 were made available to NAO for the analysis.

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[23] For online payments (by bank transfer or electronic point of sale payments) made to the Office of the Commissioner for Revenue by individuals and companies.

[24] On 18 July 2023, the Commissioner for Revenue Act, (Cap. 517), was amended through Act No. XXVII of 2023. Through these amendments, the title of the principal Act was changed to the Commissioner for Tax and Customs Act, and all references to the Office of the Commissioner for Revenue were amended to read the Malta Tax and Customs Administration.

An analysis of the Abstract of the Receipts and Payments of the Public Account for 2022 revealed a discrepancy in the opening balance mentioned in the 2022 Financial Report, amounting to €331,989,967, and the closing balance as reported in 2021, which was €99,648,654. Following queries put forward to Treasury, it was confirmed that the figures for the financial year 2021 in the respective Financial Report were revised in 2022. These revisions were done since there were outstanding balances in the suspense and interdepartmental accounts which had not been settled by the time the 2021 report was issued.

Regarding the reconciliation for the period from June 1992 to December 2001, Treasury reiterated that no progress was made, maintaining its position as in prior years. The reason given was that, due to cost and human resources constraints, it was not practical to embark on any kind of reconciliation for the years in question. Furthermore, given that this issue relates to more than 30 years ago, no data is available and thus reconciliation is not possible. However, this concern still holds. Moreover, Treasury still requires a proper automated bank reconciliation software to reconcile the Public Account.

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 2022.

NAO received the 2021 Board of Survey Report in May 2023. The Board's terms of reference were to take account of monies, deposits, investments and other values existing at Treasury at each year-end. The relevant statements for the year ended 2021 were certified correct with no adverse remarks. However, at the date of publication, NAO had not yet received the Report pertaining to 2022.

The Report from the Board of Survey at the Ministry for Gozo for the year ended 31 December 2022 reached this Office in March 2023. The Board identified some issues therein, mainly related to different templates and methods used for data inputting and recording. To address this issue, it was recommended that a template should be disseminated to all the respective departments. This will enable a consistent approach in maintaining records and references, thereby enhancing security, ease of access and overall efficiency.

Ministerial and Departmental Bank Accounts

Treasury Circular No. 1/2023 – 'End of Year (2022) Statements of Account, Cash in Hand and Bank Balances, held at local Commercial Banks and Central Bank of Malta', dated 12 January 2023, requested heads of departments and other accounting officers to submit a return, indicating the cash and bank balances as at 31 December 2022. This was to be submitted to Treasury in both soft and hard copy, showing the position of each bank account held at local commercial banks, as well as CBM. A hard copy of these statements was also to be submitted to Treasury, clearly indicating those bank accounts against which a liability exists and identifying bank accounts in respect of Trust Funds.

The bank balances were published accordingly in the Financial Report 2022 (pages i to vii). The credit balance as per bank statement represents the liability, trust and resulting balances, whilst the debit balance should only comprise credit card accounts. Any exceptions were queried by Treasury with the respective department and corrective action was taken to revise the figures as necessary.

Public Debt

Debt Composition

The composition of Government Debt as at end 2022 and comparative figures of the preceding year are shown in Table 16.

Table 16: Government Debt

Type of Debt	**2022**		**2021**	
	Amount	**Percentage of Total Debt**	**Amount[25]**	**Percentage of Total Debt**
	€'000	**%**	**€'000**	**%**
Malta Government Stocks	6,861,027	76.21	6,508,852	76.30
Treasury Bills	801,895	8.90	599,420	7.03
Malta Government Retail Savings Bond	375,170	4.17	474,942	5.57
European System of National and Regional Accounts Rerouted Debt	295,329	3.28	282,209	3.31
Extra Budgetary Units and Local Councils	150,542	1.67	150,507	1.76
Euro Coins	98,815	1.10	93,502	1.10
Foreign Loans[26]	420,591	4.67	420,718	4.93
Total Debt	**9,003,369**	**100.00**	**8,530,150**	**100.00**
Gross Domestic Product (GDP)	**17,212,471**		**15,292,624**	
Ratio of Public Debt to GDP	**52.31%**		**55.78%**	

(Source: Debt Management Directorate (DMD) computations; National Statistics Office News Releases 054/2023, 158/2023)

[25] Public Debt and GDP balances as at 31 December 2021, as reported in the previous year's Annual Audit Report, were updated in line with the most recent publications to provide a more accurate analysis.

[26] The commitment of the European Union Member States and European Union 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 and 2021 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 up till 31 December 2022 totalled over €420 million.

Foreign loans account for less than 5% of total debt. As at end 2022, the percentage of Government Debt to the country's GDP amounted to 52.31%, resulting in a decrease of 3.47% over the previous year. This means that the Government Debt to GDP ratio has successfully continued to decline below the 60% Maastricht Treaty requirements, indicating that the economy was growing at a faster rate than that of debt.

Debt Management

Methodology used for the Analysis of Public Debt Management

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

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

Policy	Operations	Risk Control Procedures	Information Technology Systems	Financial

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

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

Characteristics of Public Debt Management Activities

Tables[27] 17 and 18 provide filled-in checklists, as listed in ISSAI 5440, containing issues derived from the Revised Guidelines for Public Debt Management. These checklists serve as a guide which auditors should consider when developing their understanding of Public Debt Management.

[27] 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 17: 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[28]
Domestic and foreign currency public debt programmes managed together	Not Applicable[29]
Separate public debt management agency	No[30]
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[31]
Regular external peer reviews of public debt management	No[32]
Annual audits of public debt management transactions	Yes
Code of Conduct and conflict of interest guidelines for public debt management staff	Yes[33]
Business recovery procedures in place	Yes

[28] In the case of Malta, the public debt ceilings arise from four different legislations or Parliamentary resolutions.

[29] DMD manages bilateral loans issued at concessional terms, overwhelmingly denominated in Euro, but some in foreign currencies, and disbursed to central Government by international or supranational financial institutions and foreign Governments. However, the Government's policy up to date of publication of this Annual Audit Report has been to issue debt securities in domestic currency (Euro) only.

[30] From an organisational perspective, DMD forms part of Treasury, within MFE. As such it forms part of the Public Service, and thus it is not a separate agency.

[31] Annual public debt management reports have been prepared; however, the latest Annual Report published by DMD on Treasury's website relates to year 2019. Given that the critical position of Director Debt Management has been vacant since early 2021, the 2020, 2021 and 2022 annual reports were on at draft stage, but still provided to NAO annually. When a new Director is appointed, these reports will be endorsed and presented to Parliament. They will also be uploaded on Treasury's website.

[32] DMD is not subject to external audits by private entities. However, debt management policies, strategies, operations and risk management are regularly analysed by NAO and scrutinised by the Fiscal Advisory Council, European Commission, credit rating agencies and the International Monetary Fund.

[33] In line with the First Schedule of the Public Administration Act (Cap. 595).

Table 18: 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[34]
Benchmark issues for domestic market	Yes
Pre-announced auction schedule	Yes
Central Bank participates in the primary market	No[35]
Primary Dealer[36] System	No[37]
Universal access to auctions	Yes
Limits of foreign participation	No[38]
Collective action clause, domestic issues	Yes
Collection 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

[34] Syndicates are normally used in large international bond issuances. So far, the policy of the Government has been limited to the issue of bonds in the domestic debt capital market.

[35] CBM is precluded from participating in the primary market for Government debt securities as that would constitute monetary financing of fiscal policy. However, CBM acts as sole market maker in the secondary market for Government debt securities.

[36] A Primary Dealer is a bank or financial institution that buys Government Securities directly from Government, with the intention of reselling them to others, thus acting as a market maker of Government Securities.

[37] Due to the relatively small size of the domestic Government debt securities, market size and domestic issuance policy, no primary dealer system for Government debt securities is in place.

[38] Although the policy of the Government has been to issue bonds only in the domestic market, foreign investors having a Malta Stock Exchange account can participate in both the primary and secondary markets for Government debt securities.

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.

Treasury published the Annual Borrowing Plan in January 2022, in terms of Article 18(4). It also announced the issuance of MGS and debt instruments for financial year 2022, with maturity of more than one year, that shall not exceed €1.2 billion.

Operations

As can be seen from the Bid-to-Cover ratios in Table 19, there was strong participation in MGS issues during 2022.

Table 19: 2022 Malta Government Stocks Issuance Performance

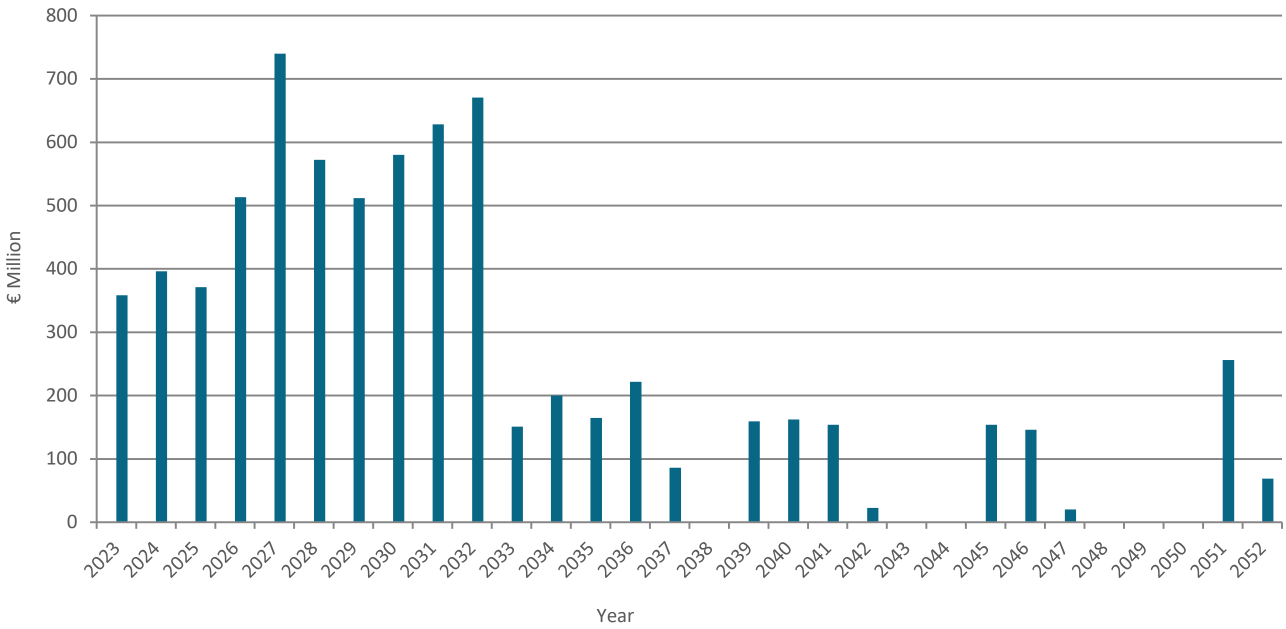
Issuance Month	Amount on offer (plus over-allotment) € Million	Participation € Million	Bid-to-Cover
February	140 + 100	251.9	1.80
May	130 + 100	151.1	1.16
July	150 + 100	200.6	1.34
October	200 + 100	293.1	1.47
November	200 + 150	217.5	1.09

(Source: DMD 2022 Annual Report page 16)

On the other hand, there were no new issues of Malta Government Retail Savings Bond during the year.

The gross outstanding nominal value of MGS as at 31 December 2022 stood at €7.3 billion. This represented a 10% increase over the preceding year-end balance. Chart 10 illustrates the distribution of outstanding MGS by year of maturity.

Chart 10: Maturity Profile of Malta Government Stocks as at 31 December 2022



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

At the beginning of 2022, the Weighted Average Maturity of MGS stood at 9.4 years. By the end of the year, it decreased to 9 years, and thus the refinancing risk did not change materially despite the difficult bond market conditions.

A publication by the Organisation for Economic Co-operation and Development[39], on the Sovereign Borrowing Outlook for the year 2023, estimated that the average term to maturity of outstanding marketable Central Government Debt in several countries reached almost 8.2 years in 2022; thus, comparing well with the situation in Malta.

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

Risk Control Procedures

A Medium-term Debt Management Strategy was published covering a four-year period, starting 2019, on which DMD based its risk management framework. To the extent possible, DMD has taken steps to mitigate the risks that may arise during its funding operations. Table 20 refers.

Table 20: Major Risks faced by the 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. • Adopting prudent risk management policies that feed in the formulation of funding strategies.
Refinancing	Rollover risk is traditionally and conceptually assessed by the debt metric, known as the Weighted Average Maturity.	• Over the past years, DMD has pursued a strategy of lengthening the Weighted Average Maturity of its debt portfolio. In fact, that of MGS has risen steadily from 6.6 to 9 years for year ending 2010 to 2022 respectively.

Information Technology Systems

The debt management activities are still not supported by a reliable, accurate and comprehensive information technology management system with proper safeguards, dealing with debt management.

Over the years, there has been a quantum leap in the development of domestic sovereign debt databases that has provided important resources for a complete frame of reference for policymakers to formulate strategies, as well as the formulation of comprehensive and analytical replies to domestic and supranational institutions, such as credit rating agencies. All records pertaining to debt are held on advanced spreadsheets on drives managed and backed regularly by the Malta Information Technology Agency, in accordance with Government policy. This means that there is a flexible and bespoke sovereign debt database backed up with a strong business recovery procedure in place. Moreover, the spreadsheets are further complemented by the recording of debt on CFMS, a function conducted by the back office of DMD.

Financial

Table 21 shows the servicing cost of Central Government Debt for 2022 when compared to the preceding year.

Table 21: Central Government Debt Interest Expense

Description	2022 €	2021 €	Variance €
Local Loans:			
Malta Government Stocks and 62+ Malta Government Retail Savings Bonds[40]	172,010,895	183,803,422	(11,792,527)
Treasury Bills[41]	647,463	238	647,225
Sub-totals (Local)	**172,658,358**	**183,803,660**	**(11,145,302)**
Foreign Loans	951,591	445,157	506,434
Totals	**173,609,949**	**184,248,817**	**(10,638,868)**

(Source: Financial Report 2022 pages 141-142)

During 2022, the overall servicing cost of Government Debt totalled €173.6 million, resulting in a decrease of 5.8%, equivalent to €10.6 million, over the previous year. This was due to the fact that interest rates, or coupons, on maturing MGS remained lower than those on newly issued MGS, despite the rising yield environment that dominated 2022. Consequently, MGS portfolio Weighted Average Coupon[42] as at 31 December 2022 continued to decline, dropping to 2.2% from the 2.4% registered in the previous year.

Contingent Liabilities

As reiterated in previous years, DMD is expected to perform a risk assessment before granting a guarantee to a specific entity. Up to the publication of this Annual Audit Report, Government guarantees fell under the responsibility of MFE and were not managed by DMD. Moreover, when contingent liabilities exist, information about their cost and associated risks should be disclosed in the Government Accounts. Thus, the Directorate is to be properly equipped with the necessary resources to carry out these risk assessments effectively. Enhanced communication between Treasury and MFE regarding Government guarantees is also solicited.

Moreover, it had been 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 and also conscious of the conditions that any contingent liabilities could trigger.

[40] Interest expense related to MGS and 62+ Malta Government Retail Savings Bonds for the year 2021, as reported in the previous year's Annual Audit Report, was updated in line with the most recent publications to provide a more accurate analysis.

[41] Cost in 2022 mainly represents interest expense on Treasury Bills as from mid-year when interest rates turned to be positive, as well as non-material bank charges. On the other hand, cost in 2021 only represents bank charges. Negative interest in favour of Government, received from Treasury Bills, amounting to €3.1 million in 2021 (during the first half of 2022 this amounted to €1.2 million) was reported as Revenue under line item Bank Interest.

[42] 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 2022.

However, Treasury was not aware of any monitoring being performed by MFE which, up to the publication of this Annual Audit Report, is still responsible for scrutinising the potential risks. DMD again claimed that, since Part 4 of the Government Borrowing and Management of Public Debt Act (Cap. 575) has not yet come into force, Treasury does not yet have the necessary resources to follow up on new guarantees. Thus, the concerns of previous years prevail. The foregoing provision should eventually come into force once a Director for DMD, as well as an officer with a strong accounting and risk management background, is officially assigned to the Directorate.

Letters of Comfort and Bank Guarantees

The contingent liabilities as at 31 December 2022, otherwise referred to as Government Potential Debt, as reported upon in Part I of the Financial Report 2022, and comparative figures for 2021, are reproduced in Table 22.

Table 22: Contingent Liabilities

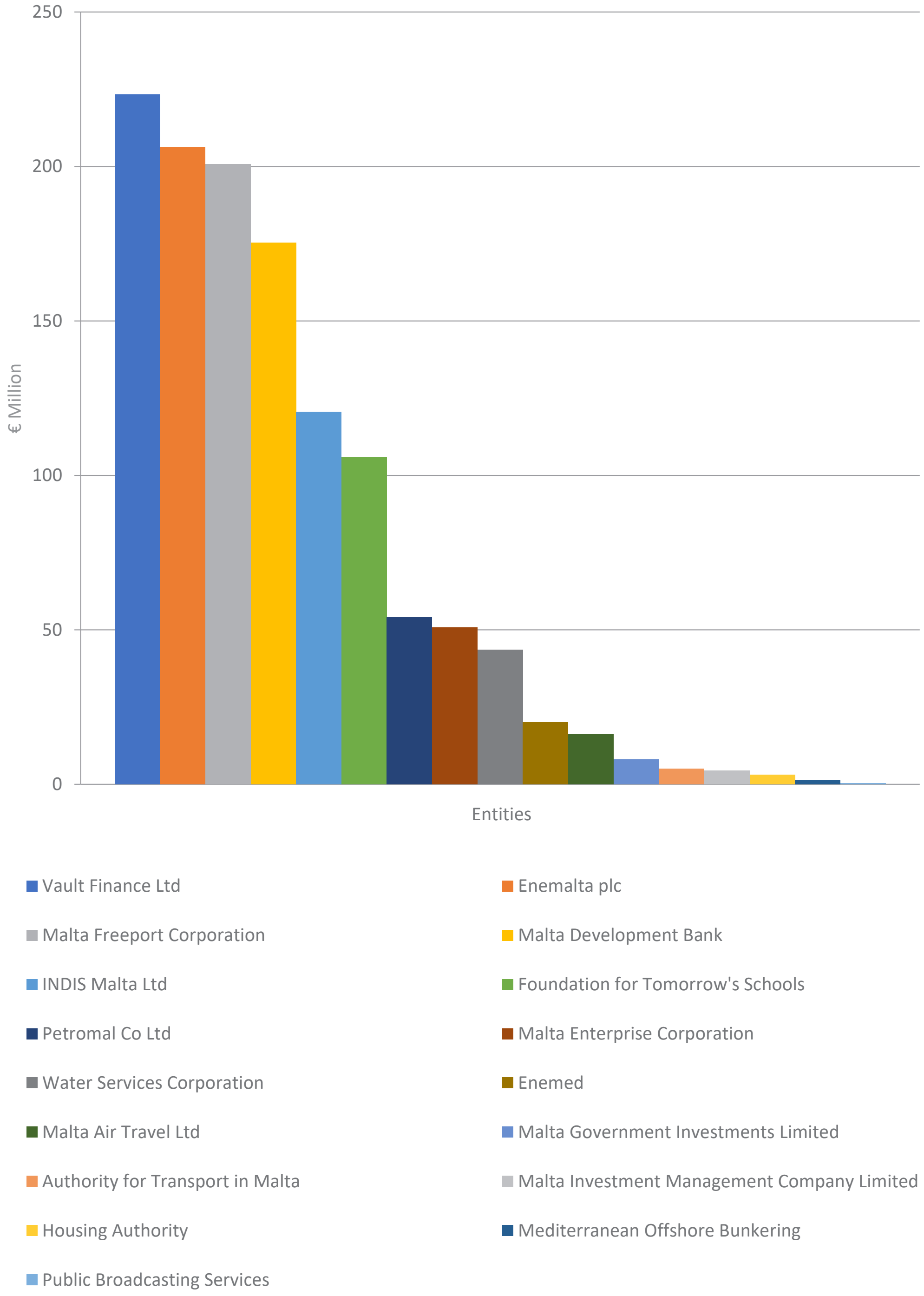
Description	**2022**	**2021**
	€	**€**
Government Guarantees:		
Local	833,673,461	862,656,299
Foreign	389,368,885	405,414,821
Sub-totals	**1,223,042,346**	**1,268,071,120**
Letters of Comfort	15,993,513	19,046,576
Totals	**1,239,035,859**	**1,287,117,696**

(Source: Financial Report 2022 page xxxv, Financial Report 2021 page xxxv)

Premiums received by Government during 2022, with respect to letters of comfort and bank guarantees, amounted to €3,542,234 (2021: €2,175,436), which revenue was appropriately accounted for under Guarantee Fees.

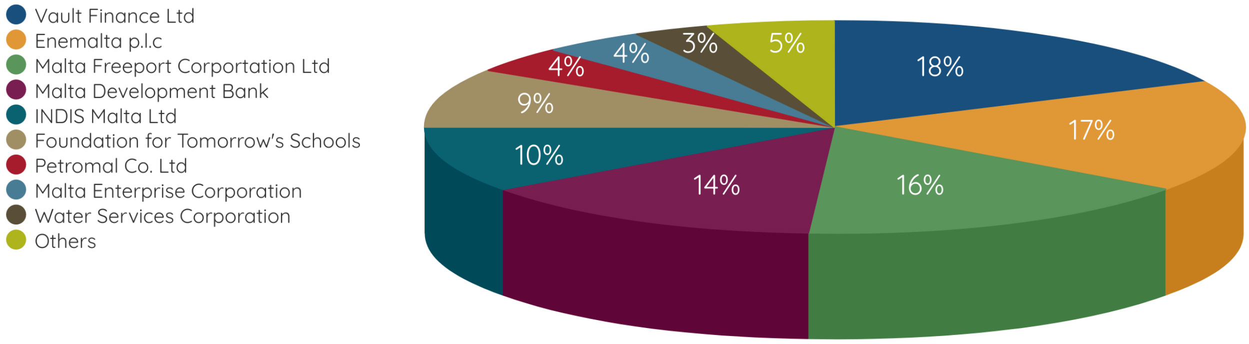
Chart 11 shows the 17 Government entities in favour of which a spread of 54 letters of comfort and bank guarantees were issued.

Chart 11: Letters of Comfort and Bank Guarantees for the year ended 31 December 2022



A total of 95% of the aggregate outstanding amount as at end 2022 was in favour of nine entities. Out of the total guarantees, 39% was absorbed by the energy sector, whilst other sizeable guarantees related to water services, the industrial sector and education. Chart 12 refers.

Chart 12: 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 €1.23 billion from public funds, should the entities concerned call upon Government to make good for their debts. The guarantees actually decreased by €48,081,837 (3.7%) when compared to the previous year, which movement also represented 0.28% of the GDP for 2022, bringing total guarantees at 7.2% 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 Government entities, but excludes guarantees provided by Government in favour of the entities. 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 €1,160,110,757 and €1,239,035,859 respectively, as at end 2022.

Creditors' Analysis

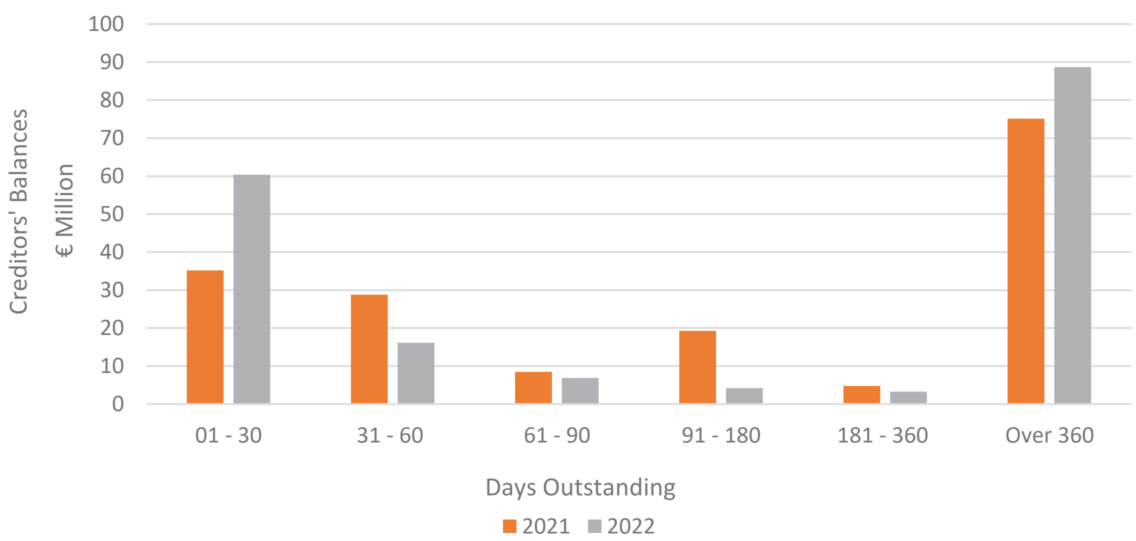
In order to facilitate regular monitoring and evaluation of the implementation of the approved budget, Article 39(5) of the Fiscal Responsibility Act, 2014 (Cap. 534), mandates that "*Heads of Ministries, Departments, Authorities and other entities shall ensure full observance and compliance with the 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 shall be submitted on the prescribed template to the Accountant General within seven days after the end of the specified monthly period.

A total of 52[43] departments submitted this analysis as at 31 December 2022 to Treasury. Aggregate reported creditors amounted to €180,637,320, out of which €803,238 related to contested amounts. The creditors opening balance as at 1 January 2022 amounted to €172,666,307, an increase of 4.6% over the previous year. Four out of the fifty-two departments reported a Nil creditors' balance in their return. Two[44] entities failed to submit the return. According to Treasury, no disciplinary action was being taken against the defaulters due to limited personnel.

Chart 13 depicts an ageing analysis of the creditors' balances as at 31 December 2022, categorised by the number of days overdue, compared to prior year. The most significant increase was in the amounts outstanding below 30 days, which registered an increase of over €25 million when compared to end 2021.

Chart 13: Ageing of Creditors' Balances in 2021 and 2022



Credit balances outstanding by over 360 days mainly related to the Ministry for the Economy, European Funds and Lands, Ministry for Transport, Infrastructure and Capital Projects, as well as Mater Dei Hospital, with aggregate amounts of €44.5 million, €38.7 million and €5.3 million respectively.

[43] The return by the Court Services Agency was submitted late, when this write-up was in its final stage before publication. Thus, the figures pertaining to this Agency could not be included in this analysis.
[44] Armed Forces of Malta, as well as Active Ageing and Community Care.

Transition to Accrual Accounting

Background

The Government of Malta is in the process of full implementation of accrual accounting in Central Government, based on the International Public Sector Accounting Standards (IPSAS), 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.

The project also included the change-over from DAS, which was a cash-based accounting system, to CFMS, which is accrual based. The core CFMS has been live in all departments since 1 April 2021.

Update and Upcoming Developments

An update, including upcoming developments as at September 2023, follows:

a. IPSAS Project Team and IPSAS Board Committee met to discuss the way forward on a set of Standards and Guidelines. As at date of reporting, there were 14 IPSAS uploaded on Treasury website together with the respective Guidelines. Ten other standards have been approved by the Board but were not yet uploaded on the website up till November 2023. The process will only be completed when the approved standards become applicable, from the date for the adoption of accrual accounting.

b. Treasury is updating its circulars relating to accrual accounting to be in line with CFMS operations, also covering debtors, creditors and inventory circulars.

c. Calls for application were issued by MFE for the posts of Senior Managers Financial and Control to strengthen its workforce.

d. Since the go-live date, users have been supported by Treasury's Accounting Standard Setting and Financial Reporting Directorate. CFMS Support Unit within this Directorate has addressed several queries and guidance in the past months.

e. However, as at end August 2023, there were still a number of technical issues which were impacting on the operation of CFMS. These involved the overall performance of the system, including those related to the processing and reporting of transactions. As at mid-November 2023, the Consortium was conducting a review of CFMS to identify and resolve the pending issues which are impacting on the smooth operation of the system. Once the report of this review is finalised, a decision on the best way forward would be taken.

f. Phase three of the project would only be considered for implementation once the issues impacting phase two are resolved and this stage is successfully concluded. Phase three will include budgetary groundwork and forecasting, cost management, as well as the management of financial assets and liabilities.

g. Treasury continued to provide online training and updated the training portal which is available for all CFMS users. Training courses in collaboration with the Institute of Public Services are being held. The training focuses on general principles of accrual accounting and procurement, fixed assets, stocks and revenue. Training is related to CFMS, however, it will indirectly incorporate accrual accounting theory and practical examples.

h. Individual departmental meetings are being held to discuss accounting issues vis-à-vis accrual accounting. Treasury is also holding one-on-one meetings with the finance officers of each department to gain an understanding of the data being reported, its operational processes, and to address any challenges or difficulties that it is encountering.

i. Some of the opening balances for the first year on an accrual basis have still not been identified and the financial statements have not yet been issued.

General Comments

Both Treasury and MFE staff were cooperative during the conduct of this analysis by NAO. A number of recommendations have been proposed by NAO throughout this analysis and corrective action is expected to be taken by Treasury and the Ministry, as applicable, within reasonable timeframes.

Opinion on the Compliance Audits

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 compliance with the pertinent rules and regulations, and compliance deviations were material and, in certain areas related to procurement, also pervasive.

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

Charles Deguara
Auditor General
December 2023

Arrears of Revenue

Arrears of Revenue 2022

Background

Statements of arrears of revenue were submitted by Government Departments[1] to Treasury, in line with Treasury Circular No. 3/2023 – 'End of Year (2022) Statements of Account – Arrears of Revenue – Amounts due to Government'.

An analysis of the figures in Table 1, which displays data relating to arrears of revenue for the years 2018 to 2022, showed that there was an increase of €190 million in the gross outstanding balances as at 31 December 2022 over the previous year's figure. This is substantially more than the increase experienced between 2020 and 2021, which amounted to around €87 million.

Table 1: Arrears of Revenue Analysis (2018 – 2022)

	2018	**2019**	**2020**	**2021**	**2022**
	€'000	**€'000**	**€'000**	**€'000**	**€'000**
Gross outstanding arrears	4,203,320	5,109,558	6,308,114	6,395,457[2]	6,585,025
Arrears estimated as not collectable	3,546,664	4,290,654	5,507,998	5,406,086	5,581,159
Net collectable arrears	656,656	818,904	800,117	989,371	1,003,866
Past arrears collected	232,475	329,818	268,186	372,849	458,212
Gross domestic product	**12,490,970**	**14,047,607**	**13,073,853**	**15,292,624[3]**	**17,212,471**

(Source: Reports by the Auditor General 2018 – 2021, National Statistics Office News Release 158/2023, returns submitted to this Office for year 2022)

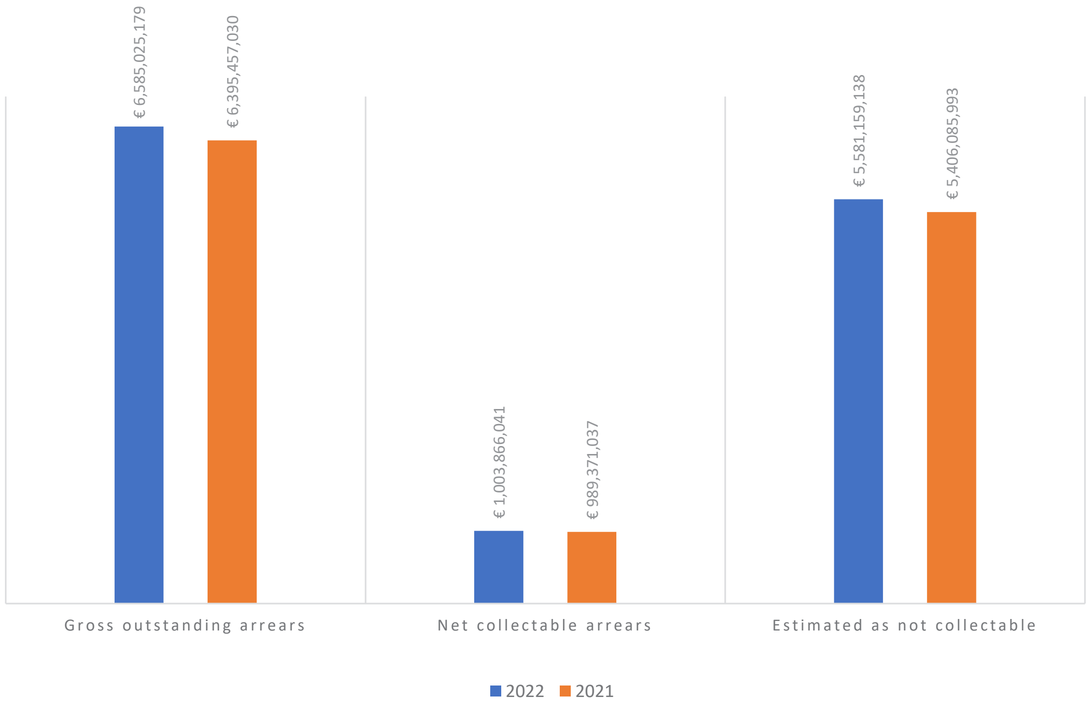
As was the case last year, the Department that made the most significant contribution to this increase over the one-year period was the Office of the Commissioner for Revenue[4] (CfR)[5]; in 2022, it reported gross collectable arrears of €6,370,253,026, representing a growth of €183.5 million over the figures pertaining to the preceding year.

Net collectable arrears increased by just €14 million from 2021 to 2022, which contrasts against the sharp increase of €189 million experienced at the end of the previous period. On the other hand, arrears estimated as not collectable increased by €175 million when compared to 2021.

Chart 1 further illustrates the comparison between the figures reported for 2021 and 2022.

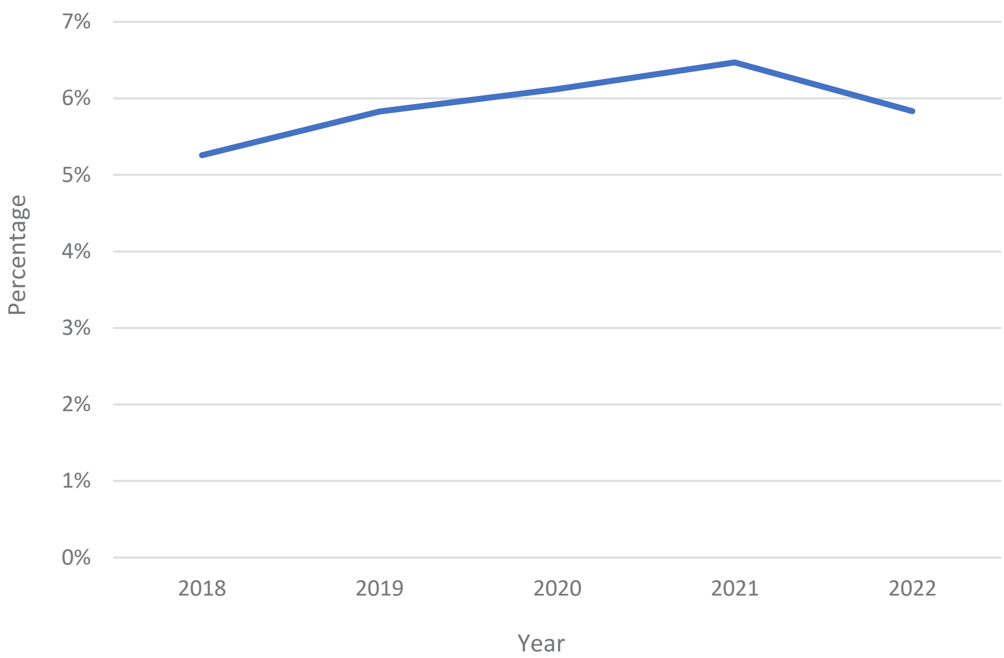
1 Throughout this write-up, mention of Department refers either to the Ministry, the Department itself, Authority, Entity or Agency, as applicable.
2 Due to various reconciling items, the corresponding opening balance for 2022 was restated at €6,405,335,916.
3 Revised 2021 figure of gross domestic product as reported in National Statistics Office News Release 158/2023.
4 The respective figures include totals for the Departments of Inland Revenue, Capital Transfer Duty and VAT.
5 On 18 July 2023, the Commissioner for Revenue Act, (Cap. 517), was amended through Act No. XXVII of 2023. Through these amendments, the title of the principal Act was changed to the Commissioner for Tax and Customs Act, and all references to CfR were amended to read the Malta Tax and Customs Administration.

Chart 1: Comparison of Closing Balances between end 2021 and 2022



When taken as a percentage of gross domestic product, which increased by almost €2 billion from 2021 to 2022, net collectable arrears amounted to 5.8% of this economic indicator, a decrease of 0.7% over last year. This percentage has been on an upward trajectory at least since 2018; however, a decrease was experienced in 2022, as shown in Chart 2.

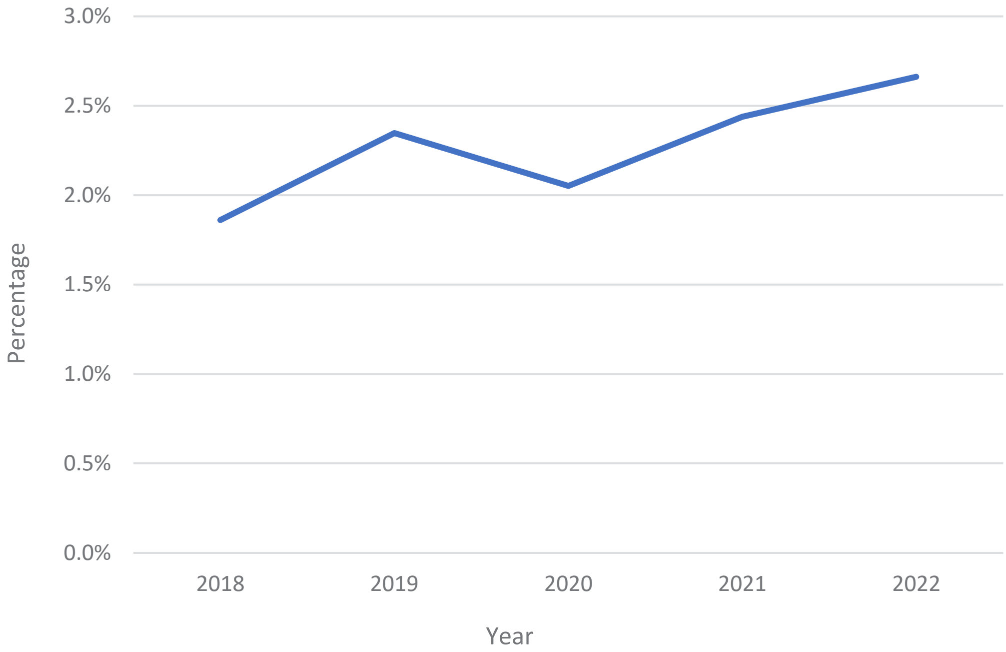
Chart 2: Net Collectable Arrears as Percentage of Gross Domestic Product



Revenue collected in arrears during 2022 increased by €85 million when compared to 2021; this was 19% less than the increase of €105 million reported last year.

Chart 3 illustrates the collected arrears as a percentage of gross domestic product over the last five years. It shows that whilst collection has experienced a decline in 2020, in 2022 it was once again on a steady increase.

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



From further analysis of the statement of arrears of revenue on the 2022 year-end balances (Table on page 80), it was estimated that, out of the total reported gross arrears of revenue:

- €179,502,798[6] was statute-barred;
- €358,774,536 was under contestation and pending court action;
- €1,913,373 was under contestation but not pending court action;
- €648,557,851 was deemed recoverable by departmental action; and
- €1,094,463,250 was considered recoverable[7].

Returns showing Outstanding Balances

Details of arrears of revenue included in the Table on page 76 have been compiled from the returns forwarded to the National Audit Office (NAO) by Treasury. Departments not featuring in this Table either submitted Nil returns or have defaulted from submitting the required return.

[6] The difference of €4,301,813,371 between this amount and that quoted in Table on page 80 relates to the figure reported by the VAT Department as statute-barred. In actual fact, this amount is estimated as not collectable and not prescribed by law, so it was erroneously listed under this heading.

[7] The total of the amounts deemed recoverable by departmental action and those considered as recoverable did not tally with the net collectable arrears as reported in Table 1.

Notes and Comments on Major Balances of Arrears of Revenue

Ministry for Health

The gross closing balance of €18,084,707, reported as arrears of revenue as at 31 December 2022, was made up of the following:

		€
a.	Mater Dei Hospital: Hospital Fees	11,033,608
b.	Mater Dei Hospital: Sundry Bills	1,021,722
c.	Mater Dei Hospital: Overpayments	587,480
d.	European Union Countries E125 Claims	3,530,810
e.	Addolorata Cemetery	1,487,274
f.	Refunds due	65,120
g.	Ship Sanitation	32,846
h.	Licences	31,262
i.	National Blood Transfusion Service	29,280
j.	Pharmacy of Your Choice	23,376
k.	Sir Anthony Mamo Oncology Centre	175,475
l.	Central Procurement and Supplies Unit	65,841
m.	Primary Health Care	613
	Gross Closing Balance	**18,084,707**

Amounts newly accrued during the year totalled €4,923,839, while only €2,152,261 was collected from the gross opening balance of €36,292,446 brought forward from the preceding period. With the exception of €6,244 cancelled E125 claims[8], the downward revision of €20,979,317 pertained to intra-Governmental transactions by Central Procurement and Supplies Unit which were not due and thus reversed.

From the gross receivables at year-end, an estimate of €132,954 was considered as not collectable. Of this amount, €81,824 and €601 were deemed statute-barred by the Sir Anthony Mamo Oncology Centre and Primary Health Care respectively as collection efforts proved futile. On the other hand, €50,529 Central Procurement and Supplies Unit debtors were under contestation.

When considering that nearly €5.5 million has been outstanding for over five years and another €5 million has been due between two and five years, NAO does not consider the amount estimated as not collectable to be realistic.

[8] Invoices were raised in duplicate or contained incorrect charges.

The net closing balance of €17,951,753 can be analysed as follows:

	€
Amount outstanding for less than one year (2022)	4,873,310
Amount outstanding for over one but less than two years (2021)	2,559,751
Amount outstanding for over two but less than five years (2018 – 2020)	5,047,397
Amount outstanding for over five but less than ten years (2013 – 2017)	3,804,981
Amount outstanding for over ten but less than fifteen years (2008 – 2012)	1,114,740
Amount outstanding for over fifteen years (prior to 2008)	551,574
Net Closing Balance	**17,951,753**

Mater Dei Hospital

The debtors of Mater Dei Hospital, comprising hospital fees, sundry bills and overpayments, stood at €11,141,904 at the beginning of the year. Of this amount, €671,433 was collected, while €2,172,339 was newly accrued, resulting in a closing balance of €12,642,810. There were no write-offs during the year and all amounts were still considered as collectable by the highlighted hospital, despite that these amounts have been accumulating for over 20 years.

Although the recoverability of these amounts is questionable, a proper evaluation exercise in this respect has still not been carried out. In May 2022, Management informed NAO that through consultation with the Ministry's legal team, different options were being considered for the establishment of a debt recovery programme. However, no developments had been registered in this respect a year later, as at the beginning of June 2023.

Central Procurement and Supplies Unit

The balance of €20,973,072 recorded as due to the Central Procurement and Supplies Unit at the beginning of year 2022 related mainly to the provision of medical supplies to St. Vincent de Paul Residence (€18,352,251) and Active Ageing and Community Care (€2,117,885). As this amount had been increasing steadily since January 2015 without any reimbursements, over the years NAO questioned its recovery and recommended remedial action in this respect. Discussions between the Unit and the Ministry for Finance and Employment (MFE) confirmed that this amount should not have been recognised as receivable and thus, its reversal was duly authorised following a separate exercise on receivables carried out by NAO in June 2022.

As a result, the gross closing debtors recorded in the return stood at €65,841, which represented the new debtors for the year. Of this amount, €50,529 was estimated as not collectable because there were disputes over supplies to a private hospital, and legal advice was being considered regarding these claims.

Ministry for Social Justice and Solidarity, the Family and Children’s Rights

Social Security Benefits

The Department of Social Security (DSS) reported a figure of €28,447,827 as gross arrears in the Arrears of Revenue Return (ARR) in relation to Social Security Benefits for the year ending 2022.

An analysis[9] of the amounts pertaining to each benefit or assistance, as provided by DSS, can be summarised as follows:

		€
a.	Social Assistance	11,488,486
b.	Age Pension	4,964,194
c.	Retirement Pension	3,234,152
d.	Children’s Allowance	2,487,767
e.	Medical Assistance	1,942,619
f.	Widows Pension	1,557,593
g.	Invalidity Pension	515,839
h.	Disability Pension	509,757
i.	Carer’s Allowance	465,212
j.	Short Term Benefits	394,335
k.	Non-contributory Bonus	342,788
l.	Supplementary Assistance	255,393
m.	Energy Benefit	184,697
n.	In-work Benefits	90,516
o.	Senior Citizen Grant	14,379
p.	Contributory Bonus	100
	Gross Closing Balance	**28,447,827**

Of the total gross arrears, an amount of €5,206,096 was estimated as uncollectable. As in previous years, DSS confirmed that this calculation was made up of amounts which have been due for more than 10 years (€759,338 was pending for more than 20 years).

Past Arrears Collected

DSS provided additional information with its submission of the ARR, explaining why the amount of collected overpayments increased in 2022 (€8,820,269) when compared to the previous year (€4,563,903 in 2021).

As explained, an in-house review of the collected overpayments undertaken by DSS uncovered a glitch in the data-gathering system. This glitch led to the inadvertent oversight and unrecording of significant amounts of overpayments

[9] Instances were noted where overpayments were incorrectly classified under the category of benefits from where they were being recouped rather than under the benefit from which they originated. It was confirmed that this is a common occurrence, hence the debtor’s classification presented here might not entirely reflect the real values per category.

that were recouped. With all the recovery sources properly integrated into the data system in year 2022, the total recouped arrears in the same year increased to €8.8 million. Previously, payments remitted by cheque or in cash, online payments and amounts recouped from current social benefits were being overlooked when gathering the respective data.

Ageing Analysis

A detailed analysis of the gross collectable arrears was provided by DSS as follows:

	€
Amount outstanding for less than one year (2022)	5,603,388
Amount outstanding for over one but less than two years (2021)	5,106,082
Amount outstanding for over two but less than five years (2018 – 2020)	5,937,248
Amount outstanding for over five but less than ten years (2013 – 2017)	6,595,013
Amount outstanding for over ten years (prior to 2013)	5,206,096
Gross Closing Balance	**28,447,827**

Collection Efforts

During 2022, the Overpayment Section continued with its efforts to recover outstanding amounts, by issuing a total of 9,470 intimation letters to defaulters. As in the previous year, this process was fully automated.

Defaulters who ignored these letters were informed that legal action would be taken if pending overpayments were not settled. Furthermore, defaulters with dues exceeding €1,500, who persisted in disregarding the legal notifications, were served with a judicial letter. Such cases were being closely monitored by the Legal Advisor and the Overpayment Section's Head, and progress is reviewed quarterly by Management.

Additionally, searches for wills and causa mortis were conducted through the Public Registry and CfR, to be able to identify heirs of deceased defaulters. The exercise resulted in the recovery of overpayments amounting to €1,160,217 during 2022.

In the meantime, the Overpayments Section was reviewing funds which had been outstanding for more than 10 years, and which cannot be legally recouped. Management was still considering whether to keep these cases in abeyance or write them off.

Pensions Section

The outstanding balance reported as at 31 December 2022 by the Pensions Section consisted of:

		€
a.	Cost sharing regarding Treasury Pension[10]	48,770,029
b.	Refunds of Deceased Pensioners	67,653
c.	Overpayments	11,340
	Gross Closing Balance	**48,849,022**

During the year under review the Section collected a total of €1,108,646 from past arrears, equivalent to 2.4% of the balance carried forward from the previous period. This represented an increase over the corresponding amount collected in the previous year, which amounted to 1.5% of the respective opening balance.

Ageing Analysis

The ageing of debtors was categorised as follows:

	€
Amount outstanding for less than one year (2022)	2,542,946
Amount outstanding for over one but less than two years (2021)	3,239,527
Amount outstanding for over two but less than five years (2018 – 2020)	3,769,596
Amount outstanding for over five but less than ten years (2013 – 2017)	10,626,684
Amount outstanding for over ten years (prior to 2013)	28,670,269
Gross Closing Balance	**48,849,022**

Collection Efforts

According to DSS, letters were sent on a regular basis to remind or inform debtors of the amounts due. No further action was being taken.

Ministry for Education

Ministry

The gross opening balance of €1,179,723 was revised downwards by €31,882. Whilst €139,346 was recorded as collected, new debtors amounted to €285,705. The estimated amount of €7,342 considered as not collectable remained the same as in previous year, leaving a net collectable amount of €1,286,858.

[10] Consisted of amounts due from public entities, to cover part of Treasury Pension of their retired employees.

Education Department

From the gross opening balance of €524,887, the amount of €63,922 was collected, whilst €114,735 was newly accrued. The provision for bad debts of €195,921 remained unchanged from the previous year, resulting in a net collectable figure of €379,779.

General Comments

In previous years, this Office consistently reported that the Ministry was not accounting for the arrears of revenue in an adequate manner. Although this remained unchanged in 2022, the newly appointed Director Finance showed a commitment to try to rectify the shortcomings which had been recurring for a number of years.

The following concerns were brought to Management’s attention by NAO following review of the return of arrears for 2022:

a. Every year, NAO requested revisions to the original return submissions due to inconsistent and/or incomplete information.

b. Figures reported were not adequately substantiated.

c. A consolidated ageing of debtors, analysed by year, was not available.

d. Questionable recoverability of debts as long outstanding amounts may have become statute-barred.

e. Concerns over the amounts estimated as not collectable since these remained unchanged for several years.

f. The opening balance of 2022 did not always match with the closing balance of the previous year. The resulting discrepancies, which were recorded as revisions, raised doubt about controls, if any, within the accounting process.

According to the Finance Directorate, it has embarked on an exercise to reconcile reports submitted for the year 2022. Meetings will be held with the respective sections and entities within the Ministry. Management also expressed its commitment to ensure that all concerns raised by NAO, which were brought to the Directorate’s attention, would be gradually fully addressed.

Ministry for the Economy and Industry

Lands Authority

The Lands Authority reported a gross and net closing balance of €67,104,319 in the ARR for the year ended 31 December 2022, an aggregate increase of 19% over the amount due at the beginning of the year.

Ageing Analysis

The outstanding arrears can be analysed as follows:

	€
Amount outstanding for less than one year (2022)	19,876,125
Amount outstanding for over one but less than five years (2018 – 2021)	33,605,298
Amount outstanding for over five years (prior to 2018)	13,622,896
Gross and Net Closing Balance	**67,104,319**

Collection Efforts

As undertaken in previous years, in order to recoup outstanding arrears, the Authority sent statements to defaulters followed by standard letters, which are issued electronically, requesting payment of outstanding amounts. The officers in charge also contacted defaulters personally to urge them to settle their unpaid balances. In the eventuality that tenants still failed to pay, legal action was initiated to avoid prescription. With regard to amounts due by Government departments, the Authority sends statements and contacts the departments concerned. If the latter are underfunded, discussions are entered into with MFE. However, despite these collection efforts, past arrears collected have been decreasing year over year. In fact, during 2022, only 16% was collected from revenue falling in arrears.

The Lands Authority claimed that it continues to chase all dues, even if these are time-barred or under contestation. However, notwithstanding that a balance of €2,360,885 was reported as statute-barred, it did not show any amounts estimated as not collectable in its ARR. The Authority just proceeds with immediate write-off when amounts are deemed as not collectable.

A further €7,655,384 was reported as under contestation pending court action, of which 66% have been pending more than five years and another 25% between one and five years.

Write-off Approvals

The Authority wrote off a total of €5,736 due from ex-church property since the 10-year prescription period had expired. However, evidence of the necessary approval from the Permanent Secretary, in terms of Article 78 of the General Financial Regulations (S.L. 601.01), was not made available to this Office, for one of the amounts of €3,478.

Ministry for Tourism and Consumer Protection

The Ministry reported a closing balance of €1,148,515 as arrears of revenue as at end 2022, comprising unpaid licences due to the Malta Tourism Authority. The opening balance of €825,857 was revised downwards by €175,528 following approval by both the Arrears Review Committee and the Internal Audit Committee. This reduction mainly pertained to credit notes raised for the reversal of licences that should not have been issued. The foregoing amount erroneously included invoices in aggregate amounting to approximately €20,000, which were deemed time-barred and recommended for the eventual write-off.

Although more than 50% of the amount due has been outstanding for over three years, no provision has been taken and, according to the Ministry, the entire amount of €1,148,515 was expected to be recovered without the requirement of departmental action. Moreover, the reporting system[11] in use during 2023 generated an aged debtors' list; however, all the debts prior to 2020 are shown as one aggregate figure since ageing of debtors from the system is only given for the last three years:

	€
Amount outstanding for less than one year (2022)	561,229
Amount outstanding for over one but less than two years (2021)	1,402
Amount outstanding for over two but less than three years (2020)	3,583
Amount outstanding for over three years (prior to 2020)	582,301
Net Closing Balance	**1,148,515**

Ministry for Finance and Employment

MFE reported a balance of €1,735,835 in its ARR for the year ended 31 December 2022. Nothing was reported as estimated as not collectable. The amount was split under the following categories:

		€
a.	Quality Assurance Unit	37,886
b.	Malta Chess Federation	967
c.	Institute for International Public Sector Accounting Standards	3,600
d.	Private Individuals	388
e.	Malta Air Travel – Guarantee	70,862
f.	Foundation for Tomorrow's Schools – Guarantee	1,560,000
g.	Water Services Corporation – Guarantee	49,238
h.	Public Broadcasting Services – Guarantee	12,894
	Gross and Net Closing Balance	**1,735,835**

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

	€
Amount outstanding for less than one year (2022)	883,684
Amount outstanding for over one but less than two years (2021)	838,177
Amount outstanding for over two but less than five years (2018 – 2020)	4,332
Amount outstanding for over five but less than ten years (2013 – 2017)	4,469
Amount outstanding for over ten years (prior to 2013)	5,173
Gross and Net Closing Balance	**1,735,835**

[11] The Information Technology and Licencing Departments were in discussions with a software company in order to upgrade the Licencing Management System.

Collection Efforts

Around 98% of the pending balances as at end 2022, amounting to €1,692,993, were amounts due by Government-owned entities. The remaining 2% (€42,842) of the revenue in arrears mostly related to fines payable by warrant holder accountants (€37,886), as well as annual registration fees payable to the Accountancy Board. A refund of advance payment of €3,600 for a training programme which was cancelled in 2012 was still outstanding.

Despite the efforts of the Quality Assurance Unit within MFE, a number of warrant holders still did not regularise their position. The relative shortcomings are reported to the Accountancy Board of the Ministry on a monthly basis, for the necessary action.

Office of the Commissioner for Revenue

Inland Revenue Department

The Inland Revenue Department within CfR reported a gross arrears balance of €1,645,351,794 in its ARR for the year ended 31 December 2022, classified as follows:

		€
a.	Pre '99 System (Up to Year of Assessment 1998)	152,847,365
b.	Self-assessment System (Post Year of Assessment 1998)	802,602,365
c.	Final Settlement System (FSS) (Employers)	214,991,654
d.	Social Security Contributions Class 1 (Employers)	317,011,105
e.	Social Security Contributions Class 2 (Self-employed or self-occupied)	157,899,305
	Gross Closing Balance	**1,645,351,794**

An audit was carried out by NAO to determine the level of existing controls over the collection of revenue due to Government from income tax, payable by companies and self-employed individuals. This focused on the balances due from the Self-assessment System and Pre '99 System as at 31 December 2021. This features in this publication on page 296.

Collectability of Arrears

Out of the gross balance, the amount of €1,234,145,037 was considered as not collectable, thus resulting in net balance of €411,206,757.

As reported in previous years, the highest instance of non-collectability related to the Self-assessment System (Post Year of Assessment 1998), with €664,672,630 estimated as uncollectable out of gross arrears of €802,602,365.

Balances from the Pre '99 System also had a high percentage of non-collectability, amounting to 90%, which resulted in an estimated amount of €137,562,629 deemed as uncollectable.

The non-collectability rate of FSS and Social Security Contributions Class 1 stood at 70% and 48% respectively, resulting in provisions for bad debts of €150,494,158 and €152,999,893. Furthermore, all balances owed in relation to Class 2 Contributions that are older than five 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 (2022)	75,014,159
Amount outstanding for over one but less than two years (2021)	58,556,652
Amount outstanding for over two but less than five years (2018 – 2020)	125,071,923
Amount outstanding for over five but less than ten years (2013 – 2017)	63,500,098
Amount outstanding for over ten but less than twenty years (2003 – 2012)	53,266,266
Amount outstanding for over twenty years (prior to 2003)	35,814,629
Net Closing Balance	**411,223,727**[12]

Collection Efforts

During the year under review, a number of employers were summoned on a monthly basis through the Criminal Court, both with regard to the non-submission of FSS returns and the failure to pay the tax that was already collected on behalf of their employees.

Further enforcement civil action was taken in a number of instances. This included the filing of garnishee orders and privileges on immovable property. Reminders were also sent to Social Security Contributions Class 2 defaulters, as well as demand notes and judicial letters relating to outstanding FSS returns and income tax.

Staff responsible for collections also held regular meetings with debtors where instalment plans to cover arrears were in place. This was followed by the issue of notices when payment agreements were not honoured.

Capital Transfer Duty

The gross closing balance as reported by the Capital Transfer Duty as at end December 2022 consisted of:

		€
a.	Duty on Documents	30,482,616
b.	Death and Donation Duty	4,611,928
	Gross Closing Balance	**35,094,544**

[12] The total of the ageing analysis differs from the net collectable arrears in the ARR by €16,970. As also reported in previous years, this amount related to payments collected by the Inland Revenue Department in connection with the Pre '99 system collection schemes which were included in the ageing of debtors but excluded from the return.

Out of this gross closing balance, an amount of €24,860,086 was considered as not collectable. This resulted in net collectable arrears pertaining to Duty on Documents and Death and Donation Duty of €9,358,164 and €876,294, respectively.

Ageing Analysis

The outstanding net balances were analysed as follows:

	€
Amount outstanding for less than one year (2022)	4,627,483
Amount outstanding for over one but less than two years (2021)	345,293
Amount outstanding for over two but less than five years (2018 – 2020)	670,607
Amount outstanding for over five but less than ten years (2013 – 2017)	170,252
Amount outstanding for over ten but less than fifteen years (2008 – 2012)	404,846
Amount outstanding for over fifteen but less than twenty years (2003 – 2007)	807,137
Amount outstanding for over twenty years (prior to 2003)	3,208,840
Net Closing Balance	**10,234,458**

Amounts under Contestation

Duty on Documents and Death and Donation Duty under contestation amounted to €10,581,857 and €1,769,148 respectively. The majority of the former amount, which pertains to 1,005 cases and amounting to over €9 million (85%), is statute-barred. Thus, the likelihood of not collecting this amount is very high. The remaining balance of almost €1.6 million (relating to 288 cases) was either undergoing collection procedures or was at objection stage, being dealt with by the Administrative Review Tribunal. The collectability of this amount is also more improbable.

Revisions

Downward revisions during 2022, totalling €1,622,551, were mainly due to revaluations made by architects following objections, which at times also led to the cancellation of claims.

Amounts considered as not Collectable

The dues estimated as not collectable during the year amounted to €24,860,086 (2021: €24,691,397), and, in the majority of cases, related to additional duty imposed on buyers and sellers of property. Same as in prior years, a provision of 10% was taken for newly accrued arrears and a gradual higher percentage, reaching 80%, for the remaining amounts due, depending on their ageing.

Collection Efforts

During 2022, the Capital Transfer Duty Department issued 1,474 reminders and submitted 655 letters from the Legal Unit to various debtors. Furthermore, it proceeded with 959 demand notices, 6 garnishee orders and 200 formal legal warnings. There were also four applications for the actual withdrawal of funds in favour of CfR. Collection procedures are automated, thus ensuring timely action.

VAT Department

The net closing balance as reported by CfR in respect of Value Added Tax (VAT) in its ARR for end 2022 comprised:

		€
a.	VAT (post-1998)	383,084,015
b.	VAT (pre-1997)	620,381
c.	VAT (post-1995)	631,588
d.	Customs and Excise Tax	640,714
e.	Eco-contribution (Accommodation)	1,829,639
f.	Eco-contribution (Environmental)	1,186,980
	Net Closing Balance	**387,993,317**

The gross closing balance amounted to €4,689,806,688. A total balance of €4,301,813,371 (92%) was reported as not collectable by CfR; an increase of €133,973,739 over the previous year. The figure of uncollectable amounts includes tax calculated on estimated tax and audit assessments, as well as penalties and relative interest automatically generated when a taxpayer fails to submit a VAT return by the due date.

As reported in previous years, this time again, an ageing analysis of net collectable arrears was not made available to NAO. In addition, for the fifth consecutive year, the VAT Department's figures of the arrears of revenue were excluded from CfR's debtors' return.

Collection Efforts

To recoup outstanding amounts, various approaches were taken, including issuing of regular demand notices, judicial letters and garnishee orders. The Collection Section also accepted and processed 244 applications for the remission of interest and administrative penalties upon the payment of the VAT due and part of the penalties and interest in one lump sum, while the remaining balances are waived. Furthermore, the Section entered into a total of 250 repayment plans with the respective VAT defaulters. Notifications via electronic mail and short message service to operators, to remind them to submit the respective return and/or pay their Eco-contribution were also sent. However, no action was taken to recover arrears relating to VAT post-1995, Customs and Excise Tax, as well as VAT pre-1997, in view of the ageing of these dues.

NAO conducted a separate audit on the outstanding revenue from VAT as at 31 December 2022. Detailed findings are reported upon in this publication, under the respective Ministry on page 308.

Customs

The net closing balance reported by the Department of Customs at end 2022 consisted of:

		€
a.	Import and Excise Duties	3,573,903
b.	Licences, Taxes and Fines	5,585,359
c.	Reimbursements	743,155
	Net Closing Balance	**9,902,417**

Amounts under Contestation

The Department reported an aggregate of €2,063,634 as contested. Of this amount, €1,809,806 related to pending court cases, while another €35,801 was considered as statute-barred. However, notwithstanding that over €5.4 million has been outstanding for more than 10 years, only €8,549 was considered as uncollectable by the Department. This low provision remained unchanged for a number of years.

Ageing Analysis

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

	€
Amount outstanding for less than one year (2022)	2,633,456
Amount outstanding for over one but less than two years (2021)	71,425
Amount outstanding for over two but less than five years (2018 – 2020)	106,803
Amount outstanding for over five but less than ten years (2013 – 2017)	1,661,331
Amount outstanding for over ten but less than fifteen years (2008 – 2012)	5,241,539
Amount outstanding for over fifteen but less than twenty years (2003 – 2007)	83,601
Amount outstanding for over twenty years (prior to 2003)	104,262
Net Closing Balance	**9,902,417**

General Remarks

In line with the established operating procedure, explicit guidelines were issued to specify the responsible parties for reporting revenue arrears related to legal sentences. This ensures that only the designated section, unit or legal department is responsible for this task.

Conclusion

NAO commends the substantial collection efforts made during the year by certain Ministries, in pursuit of the collection of outstanding debts to Government. This is clearly reflected in the increase of €85 million in amounts collected when compared to 2021.

However, this Office is still concerned about the substantial amount of arrears that is estimated as not collectable, which still stands at approximately 85% of gross amounts receivable, as clearly shown in Chart 1 above. NAO reiterates that it is important to show a true and fair picture of the amounts owed to Government, also applying the prudence concept.

Arrears of Revenue 2022[a]

Department		Gross Outstanding on 31/12/2021[b]	Collected during 2022	Written off 2022	Revisions 2022	Arrears 2022
Office of the Prime Minister	€	6,675	6,365	-	-	1,250
Department of Information	€	40,630	40,510	-	-	15,780
Government Printing Press	€	803,530	245,376	-	-	540,652
Electoral Office [c]	€	4,052	-	-	-	-
Industrial and Employment Relations	€	284,599	1,583	-	-	-
Ministry for Health	€	36,292,446	2,152,261	-	(20,979,317)	4,923,839
Ministry for Foreign and European Affairs	€	197,906	42,699	-	2,621	153,205
Ministry for Senior Citizens and Active Ageing						
Active Ageing and Community Care [c]	€	196,741	5,394	-	-	110,411
Ministry for the National Heritage, the Arts and Local Government	€	9,819	8,521	-	-	7,200
Ministry for Transport, Infrastructure and Capital Projects	€	399,459	177,412	515	-	340,365
Transport Malta [d, e]	€	e	d	d	d	d
Ministry for Social Justice and Solidarity, the Family and Children's Rights						
Social Security Benefits	€	28,801,070	8,820,269	31,454	(23,352)	8,521,832
Pensions Section	€	46,386,199	1,108,646	-	(394,383)	3,965,852
Ministry for Justice and Governance	€	138,655	69,605	-	197	-
Judicial [f]	€	12,231,602	1,039,911	16,973	(824,120)	3,582,991
Office of the State Advocate [e]	€	239	79	-	-	10,549
Ministry for Agriculture, Fisheries, Food and Animal Rights	€	1,389,887	106,563	-	(261,939)	254,009
Ministry for Education	€	1,704,610	203,268	-	(31,882)	400,440
Ministry for the Economy and Industry [e, g, h]	€	10,022,432	-	-	-	-
Malta Gaming Authority	€	3,436,003	864,531	-	-	1,238,738
Malta Communications Authority	€	1,348,195	1,337,076	-	-	1,427,834
Lands Authority	€	56,352,808	8,914,296	5,736	(24,302)	19,695,845
Commerce	€	2,188,474	22,650	-	(80)	-
Ministry for the Environment, Climate Change and Planning	€	19,004	7,635	-	-	6

Gross Outstanding on 31/12/2022	Gross Variation	Amounts Est. as not Collectable	Net Collectable Arrears as at 31/12/2022	Net Collectable Arrears as at 31/12/2021	Net Variation	Due from Govt. Depts. and Para. Bodies	Due from Individuals and Private Cos.	Amounts Coll. during January 2023	Balance as at 31/01/2023
1,560	(5,115)	-	1,560	6,676	(5,116)	-	1,560	-	1,560
15,900	(24,730)	-	15,900	40,630	(24,730)	15,900	-	4,795	11,105
1,098,806	295,276	-	1,098,806	803,530	295,276	1,084,065	14,741	172,584	926,222
4,052	-	-	4,052	-	4,052	-	4,052	4,052	-
283,016	(1,583)	206,238	76,778	78,361	(1,583)	-	76,778	120	76,658
18,084,707	(18,207,739)	132,954	17,951,753	36,210,021	(18,258,268)	3,599,838	14,351,915	-	17,951,753
311,033	113,127	-	311,033	197,906	113,127	256,613	54,420	38,096	272,937
301,758	105,017	-	301,758	339,190	(37,432)	-	301,758	55,929	245,829
8,498	(1,321)	-	8,498	9,819	(1,321)	-	8,498	1,272	7,226
561,897	162,438	43,990	517,907	355,084	162,823	462,878	55,029	265,471	252,436
d	d, e	d	d	e	d, e	d	d	d	d
28,447,827	(353,243)	5,206,096	23,241,731	24,140,340	(898,609)	-	23,241,731	880,433	22,361,298
48,849,022	2,462,823	-	48,849,022	46,386,197	2,462,825	48,770,029	78,993	-	48,849,022
69,247	(69,408)	-	69,247	138,655	(69,408)	53,407	15,840	-	69,247
13,933,589	1,701,987	4,362,041	9,571,548	7,795,049	1,776,499	-	9,571,548	87,231	9,484,317
10,709	10,470	-	10,709	e	e	10,219	490	-	10,709
1,275,394	(114,493)	491,625	783,769	1,288,063	(504,294)	10,070	773,699	17,139	766,630
1,869,900	165,290	203,263	1,666,637	1,501,346	165,291	-	1,666,637	-	1,666,637
10,022,432	-	4,008,973	6,013,459	e	e	-	6,013,459	-	6,013,459
3,810,210	374,207	3,244,157	566,053	401,905	164,148	37,790	528,263	1,033,805	(467,752)
1,438,953	90,758	-	1,438,953	1,132,400	306,553	207,244	1,231,709	1,217,586	221,367
67,104,319	10,751,511	-	67,104,319	56,352,808	10,751,511	14,434,125	52,670,194	585,358	66,518,961
2,165,744	(22,730)	2,150,135	15,609	19,589	(3,980)	-	15,609	390	15,219
11,375	(7,629)	-	11,375	19,004	(7,629)	-	11,375	400	10,975

Arrears of Revenue 2022[a] *cont./*

Department		Gross Outstanding on 31/12/2021[b]	Collected during 2022	Written off 2022	Revisions 2022	Arrears 2022
Ministry for Gozo	€	293,565	20,523	-	687	12,835
Ministry for Home Affairs, National Security and Law Enforcement [c]	€	4,264	140	-	-	713
Armed Forces of Malta [d]	€	d	d	d	d	d
Police	€	1,260,273	736,782	13,019	-	1,176,119
Civil Protection	€	30,157	25,240	-	-	53,441
Ministry for Tourism and Consumer Protection	€	825,857	60,349	-	(175,528)	558,535
Cleansing and Maintenance	€	147,913	79,971	33,971	-	65,484
Ministry for Energy, Enterprise and Sustainable Development	€	43,527	34,589	-	(8,232)	405
Ministry for Finance and Employment	€	1,080,071	235,649	-	7,729	883,684
Office of the Commissioner for Revenue:						
Income Tax	€	925,233,067	40,866,439	-	(249,451,169)	320,534,271
Social Security Contributions: Class 1 and Class 2	€	482,138,549	99,348,413	-	(894,349)	93,014,623
Final Settlement System	€	213,339,556	75,376,835	-	(566,525)	77,595,458
Duty on Documents	€	28,908,078	1,428,600	269	(1,622,551)	4,625,958
Death and Donation Duty	€	4,611,928	-	-	-	-
VAT	€	4,532,507,746	209,896,291	11	(585,987,366)	953,182,610
Customs	€	12,495,357	4,926,811	5,032	(1,727,113)	4,074,565
Contracts	€	160,973	1,000	-	-	-
Totals [i]	**€**	**6,405,335,916**	**458,212,282**	**106,980**	**(862,960,974)**	**1,500,969,499**

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. Opening balance 2022 did not tally with closing balance 2021.
d. The ARR for 2022 was not submitted.
e. The ARR for 2021 was not submitted.
f. Known as the Court Services Agency. The return was received by NAO late and therefore a detailed review was not carried out.
g. In 2022, replaced by the Ministry for the Economy, European Funds and Lands. All departments listed under this heading also started falling under this Ministry.
h. Figures shown here relate to Television Licences.
i. Totals are incomplete in view of d and e above.

Gross Outstanding on 31/12/2022	Gross Variation	Amounts Est. as not Collectable	Net Collectable Arrears as at 31/12/2022	Net Collectable Arrears as at 31/12/2021	Net Variation	Due from Govt. Depts. and Para. Bodies	Due from Individuals and Private Cos.	Amounts Coll. during January 2023	Balance as at 31/01/2023
286,564	(7,001)	232,602	53,962	60,963	(7,001)	50,407	3,555	4,216	49,746
4,837	573	200	4,637	-	4,637	-	4,637	-	4,637
d	d	d	d	111,618	d	d	d	d	d
1,686,591	426,318	18,081	1,668,510	1,240,572	427,938	655,515	1,012,995	307,549	1,360,961
58,358	28,201	-	58,358	30,157	28,201	5,746	52,612	-	58,358
1,148,515	322,658	-	1,148,515	825,857	322,658	-	1,148,515	78,683	1,069,832
99,455	(48,458)	31,740	67,715	72,086	(4,371)	59,539	8,176	14,191	53,524
1,111	(42,416)	-	1,111	43,527	(42,416)	-	1,111	-	1,111
1,735,835	655,764	-	1,735,835	1,080,070	655,765	1,692,993	42,842	52,163	1,683,672
955,449,730	30,216,663	802,235,259	153,214,471	165,956,463	(12,741,992)	-	153,214,471	2,275,958	150,938,513
474,910,410	(7,228,139)	281,415,620	193,494,790	192,586,779	908,011	-	193,494,790	40,360,437	153,134,353
214,991,654	1,652,098	150,494,158	64,497,496	64,001,867	495,629	-	64,497,496	3,611,041	60,886,455
30,482,616	1,574,538	21,124,452	9,358,164	7,952,343	1,405,821	-	9,358,164	298,581	9,059,583
4,611,928	-	3,735,634	876,294	876,266	28	-	876,294	-	876,294
4,689,806,688	157,298,942	4,301,813,371	387,993,317	364,668,114	23,325,203	-	387,993,317	-	387,993,317
9,910,966	(2,584,391)	8,549	9,902,417	12,486,809	(2,584,392)	63,345	9,839,072	1,359,646	8,542,771
159,973	(1,000)	-	159,973	160,973	(1,000)	-	159,973	-	159,973
6,585,025,179	**179,689,263**	**5,581,159,138**	**1,003,866,041**	**989,371,037**	**8,582,454**	**71,469,723**	**932,396,318**	**52,727,126**	**951,138,915**

Arrears of Revenue Analysis of the Outstanding Balance as at 31 December 2022[a]

Department		Net Collectable Arrears as at 31/12/2022	Amounts Est. as not Collectable	Gross Outstanding on 31/12/2022	Analysed as follows: Statute-barred	Under Contestation: Pending Court Action	Under Contestation: Not pending Court Action	Recoverable by Dept. Action	Considered Recoverable
Office of the Prime Minister	€	1,560	-	1,560	-	-	-	-	1,560
Department of Information	€	15,900	-	15,900	-	-	-	15,900	-
Government Printing Press	€	1,098,806	-	1,098,806	-	-	-	1,098,806	-
Electoral Office	€	4,052	-	4,052	-	-	-	4,052	-
Industrial and Employment Relations	€	76,778	206,238	283,016	-	4,135	-	269,040	9,841
Ministry for Health	€	17,951,753	132,954	18,084,707	82,425	-	50,529	17,842,779	108,974
Ministry for Foreign and European Affairs	€	311,033	-	311,033	-	-	-	311,033	-
Ministry for the Senior Citizens and Active Ageing									
Active Ageing and Community Care	€	301,758	-	301,758	-	-	301,758	-	-
Ministry for the National Heritage, the Arts and Local Government	€	8,498	-	8,498	-	-	-	-	8,498
Ministry for Transport, Infrastructure and Capital Projects	€	517,907	43,990	561,897	16,675	16,949	10,366	517,907	-
Transport Malta [b]	€	b	b	b	b	b	b	b	b
Ministry for Social Justice and Solidarity, the Family and Children's Rights									
Social Security Benefits	€	23,241,731	5,206,096	28,447,827	5,206,096	423,044	-	5,530,822	17,287,865
Pensions Section	€	48,849,022	-	48,849,022	-	-	-	48,849,022	-
Ministry for Justice and Governance	€	69,247	-	69,247	-	-	-	69,247	-
Judicial [c]	€	9,571,548	4,362,041	13,933,589	4,362,041	-	-	5,125,506	4,446,042
Office of the State Advocate	€	10,709	-	10,709	-	-	-	-	10,709
Ministry for Agriculture, Fisheries, Food and Animal Rights	€	783,769	491,625	1,275,394	8,191	189,690	683,205	49,880	344,428
Ministry for Education	€	1,666,637	203,263	1,869,900	-	-	203,263	-	1,666,637

Arrears of Revenue Analysis of the Outstanding Balance as at 31 December 2022[a] *cont./*

Department		Net Collectable Arrears as at 31/12/2022	Amounts Est. as not Collectable	Gross Outstanding on 31/12/2022	Analysed as follows:				
					Statute-barred	Under Contestation		Recoverable by Dept. Action	Considered Recoverable
						Pending Court Action	Not pending Court Action		
Ministry for the Economy and Industry [d, e]	€	6,013,459	4,008,973	10,022,432	-	-	-	-	10,022,432
Malta Gaming Authority	€	566,053	3,244,157	3,810,210	-	3,162,284	-	647,926	-
Malta Communications Authority	€	1,438,953	-	1,438,953	-	10,159	-	-	1,428,794
Lands Authority	€	67,104,319	-	67,104,319	2,360,885	7,655,384	152,119	55,779,409	1,156,522
Commerce	€	15,609	2,150,135	2,165,744	2,142,586	-	23,158	-	-
Ministry for the Environment, Climate Change and Planning	€	11,375	-	11,375	-	-	-	11,375	-
Ministry for Gozo	€	53,962	232,602	286,564	-	-	232,603	-	53,961
Ministry for Home Affairs, National Security and Law Enforcement	€	4,637	200	4,837	-	-	-	-	4,837
Armed Forces of Malta [b]	€	b	b	b	b	b	b	b	b
Police	€	1,668,510	18,081	1,686,591	181,397	31,662	-	1,462,118	11,414
Civil Protection	€	58,358	-	58,358	-	-	-	58,358	-
Ministry for Tourism and Consumer Protection	€	1,148,515	-	1,148,515	-	-	-	-	1,148,515
Cleansing and Maintenance	€	67,715	31,740	99,455	29,196	-	2,544	67,715	-
Ministry for Energy, Enterprise and Sustainable Development	€	1,111	-	1,111	-	-	-	1,111	-
Ministry for Finance and Employment [e]	€	1,735,835	-	1,735,835	-	-	-	1,683,672	52,163
Office of the Commissioner for Revenue:									
Inland Revenue and Capital Transfer Duty	€	421,441,215	1,259,005,123	1,680,446,338	165,077,505	209,727,865	-	248,940,910	1,056,700,058
VAT [f]	€	387,993,317	4,301,813,371	4,689,806,688	4,301,813,371	135,743,558	-	252,249,759	-
Customs	€	9,902,417	8,549	9,910,966	35,801	1,809,806	253,828	7,811,531	-
Contracts	€	159,973	-	159,973	-	-	-	159,973	-
Totals [g]	**€**	**1,003,866,041**	**5,581,159,138**	**6,585,025,179**	**4,481,316,169**	**358,774,536**	**1,913,373**	**648,557,851**	**1,094,463,250**

a. Figures may not add up due to rounding.
b. Did not submit part or all the submissions required by Treasury Circular No. 3/2023.
c. Known as the Court Services Agency. The return was received by NAO late and therefore a detailed review was not carried out.
d. In 2022, replaced by the Ministry for the Economy, European Funds and Lands. All departments listed under this heading also started falling under this Ministry.
e. Figures shown here relate to Television Licences.
f. Although the VAT Department reported a figure of €4,301,813,371 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.
g. Totals are incomplete in view of b above.

Office of the Prime Minister

National Development and Social Fund

Investments and Funding of Social Projects

*An audit on the financing of social projects made by the **National Development and Social Fund** found that there were no established policies and procedures for the selection of projects to receive funds. It was also noted that the financial statements of the Agency were not prepared within the established timeframes. On the other hand, adequate internal controls were in place to manage the financial investments.*

Background

The National Development and Social Fund (NDSF) was established as a Government Agency on 6 January 2015, by means of the National Development and Social Fund (Establishment as an Agency) Order (S.L. 595.12). The Agency reports directly to the Office of the Prime Minister. According to the performance agreement entered into between NDSF and the Office of the Prime Minister for the years 2020 to 2023, its mission is to promote and support major projects and initiatives of national importance and public interest, which are intended to develop and improve the economy, public services, and the general well-being of present and future generations.

Financial Information

As per Financial Estimates for 2022, the contribution allocated to the Agency amounted to €800,000, whilst the management accounts as at 31 December 2022 indicated that the actual operating expenditure, covered by the Government subvention, totalled €609,139. According to the same accounts, in 2022, the Agency received a total capital contribution of €29,987,925 from three sources, namely, the Malta Individual Investor Programme[1], Community Malta Agency[2] and Residency Scheme[3]. In the same year, NDSF invested a total of €55,321,462, mainly shares in two local banks, as well as the purchase of Malta Government Stocks. The total outflow in respect of projects amounted to €14,041,547, covering fifteen projects and two donations[4].

Investments

NDSF's investment policy establishes three main portfolios, namely discretionary, directed (strategic) and unallocated.

Two discretionary portfolios held by the Agency comprise foreign securities, global equity and local income portfolios. These amounted to around 30% of all funds received from Community Malta Agency. One of the portfolios include

[1] In 2023, this programme was being managed by Community Malta.

[2] An Agency responsible for administering all Maltese citizenship-related matters. This includes accepting and processing applications for the acquisition of Maltese citizenship by birth, by registration, by naturalisation through long-term residence, for exceptional services by merit, and for exceptional services by direct investment in Malta.

[3] In 2022, NDSF also received an ad hoc amount of €6,422,400 from Residency Malta Agency.

[4] The two donations totalling €15,000.

solely investments in high quality foreign financial instruments and the overall objective is the preservation of capital and the re-investment of its returns over the long-term. NDSF has given custody and administration mandate to the Central Bank of Malta to manage this portfolio on a discretionary basis, by means of an agreement to this effect. The second discretionary portfolio was entered into with Bank of Valletta Assets Management Limited, with the objective of growth and revenue generation. This portfolio can only hold Collective Investment Schemes, Exchange Traded Funds, quoted equities and bank deposits.

The directed portfolio, which amounts to around 70% of all funds received from Community Malta Agency, is used to fund social and economic initiatives which may or may not have a direct financial return since amounts are reinvested in strategic investments[5] to provide further income for the Fund, as part of its liquidity management. It also covers the brokerage services related to the Bank of Valletta Fund Services. The remaining income is invested as may be decided by the Board of Governors in economic and non-financial social investments. In those instances when social and economic initiatives undertaken by the Fund do not have a direct financial return to the Agency, the amounts in question will be considered as a grant with a social or economic return.

The unallocated portfolio is the unallocated cash balance held at the bank. Cash balances totalled almost €152 million as at end 2022. Out of these, €140 million were held in segregated accounts at the Central Bank of Malta. In order to manage liquidity of the Fund more efficiently, as from year 2023, the majority of surplus cash balances started being invested in local Treasury bills and short-dated Malta Government Stocks to create a maturity ladder.

Audit Scope and Methodology

The scope of the audit was to ensure that funds were invested in line with the regulations set by the Board and any other applicable policies, as well as best practices. However, since policies were not documented and given the subjectivity in approving the projects for funding, the substantive testing mainly focused on payments made in 2022 on economic and non-financial social investments.

The National Audit Office (NAO) held an introductory meeting with senior officials within NDSF, as well as the Office of the Prime Minister, to obtain an overview of the Agency's operations. Other meetings were also held with Management as deemed necessary.

The management accounts as at end December 2022 were obtained from NDSF. NAO then carried out a systems overview of the Agency's procedures and controls in place with respect to the investments and payments related to social projects. To this effect, walkthrough testing of the in-house investments forming part of the directed portfolio was performed and adequate internal controls were noted. Thus, no further testing was performed.

Furthermore, six projects and the two donations made by NDSF during year 2022 were verified in detail. The aggregate payments tested amounted to €9,718,543.

5 Investments are made in local shares which are managed in-house by NDSF, Malta Government Stocks and Treasury bills.

The testing aimed to ascertain that payments and the related invoices were in line with the Fund's procedures outlined during the systems overview and complied with the conditions specified in the related Board of Governors' resolutions and agreements entered into with beneficiaries. Relevant questions were sent to NDSF and their replies were corroborated against the documentation provided.

Details of the six sampled social projects are as follows:

Primary Health Care

On 20 May 2019, a memorandum of agreement was signed between NDSF and the Primary Health Care within the Ministry for Health for a grant of €10 million. The aim of this grant was for a holistic overhaul of the primary healthcare, including the renovation of Health Centres and Community Clinics.

National Football Centre

NDSF is partly financing an investment being made by the Malta Football Association in a National Football Centre, for the technical development of players and the higher generation of economic value added from sports tourism. A total of €9.95 million was to be paid in 2022 and 2023, €4.95 million of which as a social grant, whilst the remaining €5 million in the form of a loan facility granted by the Malta Development Bank. NDSF entered into an initial agreement with the Malta Football Association on 2 March 2022 so that the project could start before the actual agreement is officially endorsed. The final agreement pertaining to the grant was then signed by both parties two months later.

Urban Greening Project

In 2021, NDSF entered into four agreements with WasteServ Malta Ltd to fund a total of €4.5 million, to cover the costs of a pilot project referred to as the Urban Greening project, with the aim of more green spaces. This targeted four localities, namely Ħamrun, Mosta, Qormi and Żabbar.

Puttinu Cares Foundation

NDSF funded the sum of €5 million as part of an estimated €30 million project to support the development of 30 apartments and a commercial space intended to house Maltese patients travelling to the United Kingdom for medical treatment. This was done through an agreement with Puttinu Cares Foundation on 2 April 2020.

Mdina Illumination Project

On 15 July 2021, NDSF signed an agreement with Infrastructure Malta to finance the Mdina Illumination project and awarded a social grant of €1 million for the financing of exterior lighting of fortifications and the skyline of targeted buildings and structures.

Saint Paul's Anglican Pro-Cathedral Restoration

Following a request received from the Chair of the Save the Valletta Skyline Appeal, the Board of Governors approved a one-off grant, not exceeding the amount of €53,368, to specifically cover the Geo-radar Scans, the Geotechnical Investigations and the Roof Investigations, as part of the restoration of the Saint Paul's Anglican Pro-Cathedral. In this regard, on 21 December 2021, NDSF entered into an agreement with the Anglican Church of Malta and Gozo.

Key Issues

Lack of Policies and Procedures for the Selection of Projects

NDSF lacks a formal documented policy and standard operating procedure for the selection of projects to be granted funding. There is also no formal register for declined projects. However, according to NDSF, should a request for grant be rejected, this would be officially documented in the minutes of the pertinent Board of Governors' meeting.

Recommendations

NDSF is to ensure that good governance is safeguarded when effecting disbursements from public funds, particularly through the adoption of a fair and equitable distribution. This necessitates a formal documented policy and procedure. A formal register for declined projects is also recommended to ensure transparency and audit trail.

Management Comments

Recommendations have been noted. Withdrawals from the Fund have, to date[6]*, been governed by the investment policy, but the evolution of the Fund now requires a separate policy on withdrawals, planned to be introduced by year-end and which will include the obligation to maintain a formal register for declined projects.*

Financial Statements not prepared within the Established Timeframes

Notwithstanding that the Agency is required to publish its audited accounts on an annual basis and shall report to the Minister responsible for Finance on its activities not less than once a year, the annual audited financial statements for the years 2021 and 2022 were not yet prepared by end September 2023.

According to NDSF officials, the audit process for financial year 2021 was in its final stages; however, there were some technical accounting issues[7] raised by the external auditors, which still had to be addressed. The audit process for financial year 2022 was to commence once that for the previous year is finalised.

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[6] Management comments submitted on 25 October 2023.

[7] These mainly related to the social housing project which necessitated amendments to the trial balance and eventually also affecting the financial statements.

Recommendation

Audited financial statements are crucial for providing an unbiased and objective assessment of whether the accounts show a true and fair view of the state of affairs of an agency. Thus, for the sake of good governance, Management is expected to comply with the reporting mechanism in a timely manner.

Management Comments

NDSF Board is fully aware of the importance of timely reporting and agrees with the recommendation. The Board reiterates the reasons for the delay which were strictly related to technical matters involving the accounting treatment under International Financial Reporting Standard of new investment instruments, i.e., Transferable Loan Note instruments and unique social projects, such as the social housing project. This period also coincided with the rotation of NDSF's auditors, and while this change may have regrettably also contributed to the delay in producing the audited financial statements on time, such measure is viewed by the Board as demonstrating prudence, transparency and good governance. Other measures have been taken to expedite the auditing of the financial statements for 2022 and to ensure the timely production of reports henceforth, by increasing internal human resources.

Control Issues

No Detailed Costings obtained prior to Project Approval

As part of the Strategic and Tactical Allocation of the Local Income Portfolio, one of the criteria in connection with the approval of projects is that beneficiaries are required to provide detailed cost-benefit analysis, cash flow statements, and any other supporting documentation prior to the authorisation of the project. These requirements were also included in the minutes of the respective meeting of the Board of Governors in which these projects were approved.

However, communication threads indicated that detailed costings of the Urban Greening project in Ħamrun, Mosta, Qormi and Żabbar, as well as that of the Mdina Illumination project, were lacking and these were only requested from the beneficiary during the audit.

Cash flow statements were also not requested by the Agency. The foregoing claimed that once the projects were aimed to be finalised within less than a year, this was not necessary. However, it still transpired that the Urban Greening project for three localities (Ħamrun, Qormi and Żabbar) were extended beyond a year. In particular, the agreement for Qormi project, signed on the 28 September 2021, was extended till 31 December 2023; i.e., over two years.

Recommendation

The detailed costings and cash flow budgets are essential tools for effective financial management and decision-making when it comes to social grant programmes. They help ensure that resources are allocated and managed efficiently, transparently, and with accountability, ultimately benefitting those in need of social assistance. Thus, all the required documentation is to be obtained before a project is considered as eligible for funding.

Management Comments

The Board agrees with this recommendation. Regarding the provision of detailed costings by beneficiaries, the proposals for NDSF funding would normally be backed by high-level cost estimates used in the compilation of the cost-benefit analysis. The actual cost estimates would only be determined once the respective tender documents are drawn up by the beneficiary, though this step would normally require a priori certainty of NDSF funding. That is why such a provision of detailed costings and any other documentation requested by auditors or technical representatives is included as a condition post signing of the social grant agreement.

Lack of Certification of Works prior to Payment

Given the materiality of capital expenditure and the technical complexity of the projects, NDSF deemed it necessary to engage a specialised technical company[8] to monitor, certify and validate invoices, amongst other duties. Even though certain projects commenced in 2019, as in the case of the Primary Health Care project, this company was only engaged on 19 June 2023, following a call for tenders published by the Department of Contracts in 2022.

During this absence, the Agency advanced up to 90% of the invoiced amounts, subject to review by the specialised technical company upon its engagement. Following the successful completion of this exercise, the remaining 10% was to be paid out. As a result of this practice, it became apparent that all payments on the two projects detailed below were allocated solely on the basis of invoices provided by the beneficiaries. Towards the end of the third quarter of 2023, the certification process had just started. NAO is concerned about the practicality of the procedure adopted by NDSF, on how projects that commenced more than three years earlier could be certified retrospectively.

The following details pertaining to two particular sampled projects relate:

National Football Centre

On the basis of the agreement dated 2 March 2022 with the Malta Football Association, NDSF's Board of Governors had resolved that funds will be disbursed upon the presentation of invoices by the Association. The total advanced payments made by NDSF to the Malta Football Association during 2022 amounted to €1,142,255.

Primary Health Care

The agreement with the Ministry for Health stated that NDSF will transfer payments after certified works have been validated by the latter's technical representative. However, since the engagement of a specialised technical company to act as a Project Technical Monitor was prolonged, NDSF decided to amend the standing payment mechanism. Subsequently, the Agency approved an advance of 90% of the value of the invoices, up to a maximum of €3.5 million[9]. Since the inception of the project till end September 2023, NDSF transferred a total amount of €2,049,669 to the beneficiary without proper validation of the works performed.

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8 The project monitoring exercise actually involved a large number of key experts, including a team leader and executive architect, a structural engineer, a project liaison officer, a fire engineering consultant, a land surveyor, a commercial manager, one project planner, an internal design architect, an archaeologist, one occupational health and safety officer, a mechanical engineer and an electrical engineer.

9 This was done by means of two addenda, the first one on 14 September 2021 up to €2.2 million. This amount was revised up to €3.5 million on 27 April 2023.

Recommendations

Since the works are being certified after so long, the Agency is to ensure that the certification is transparent, objective, and comprehensive, covering all aspects of the project's performance and compliance with grant requirements.

It is also very important to certify past projects at the earliest. The remaining projects are to be certified prior to payments being made.

Management Comments

The Board has taken note of these recommendations. Indeed, the appointment by NDSF of the Project Technical Monitor is precisely intended to achieve the objectives mentioned in the above recommendations. By way of explanation and to provide some context as to the delay in the appointment of the Project Technical Monitor, it is important to mention that the process to engage the Fund's Project Technical Monitor was a very complex undertaking. To the best of the Agency's knowledge, NDSF is the only Government Agency which has undergone this process. Since there were no available examples of public procurement in this highly specialised area, the Fund had to engage external consultants in 2019 to assist in the drawing up of technical specifications and best price quality ratio requirements of the tender. Discussions with the Department of Contracts commenced in July 2020 but the first call for tenders for the procurement of such services was published by the Department of Contracts on 16 March 2022. However, in June, the tender had to be cancelled as bidders were deemed not to be administratively compliant. A second tender was eventually published by the Department of Contracts on 25 November 2022, with the contract eventually being awarded on 19 June 2023.

Furthermore, NDSF published a call for applications, through an expression of interest, for the recruitment of a Manager (Social Investments) to strengthen the evaluation of proposals at initiation, monitoring of projects in the development stage, as well as the post implementation review of the grants.

Over reliance on Beneficiaries for Payment

Urban Greening Project

Administered by WasteServ Malta Ltd, the social grant agreement stipulated that payments should be made upon the presentation of certified invoices. However, it transpired that invoices paid in 2022, totalling €1,260,207, were not supported by the necessary documentation. Despite this lack of conformity with the agreement, NDSF still effected payments, placing total reliance on the beneficiary.

Puttinu Cares Foundation

The payment mechanism determined in the agreement with Puttinu Cares Foundation, to support the €5 million grant by NDSF, required the submission of a signed copy of the promise of sale of the property acquired, and evidence of related payment by Puttinu Cares Foundation. However, initially, NDSF was only in possession of an incomplete version of the agreement, since it did not have all the required signatures. A signed copy was only obtained during the audit. Moreover, the Agency did not obtain evidence of the payment made on the promise of sale, neither was it in possession of a copy of the actual contract of sale.

This can hinder audit verification and limit the assessment of compliance with grant requirements.

Recommendation

NDSF is to periodically review the beneficiary's compliance with grant requirements and should refrain from issuing payments if the requested documentation is not submitted. This ensures transparency and accountability in the use of public funds.

Management Comments

The Board has taken note of the recommendation and confirms that mitigation measures, in this regard and where necessary, have been taken.

The invoices presented for payment with respect to Urban Greening project were deemed to be certified by the beneficiary by virtue of the covering letter signed by its Chief Financial Officer, accompanying the said invoices. For all intents and purposes, NDSF would need to rely on such confirmation in good faith. It is however important to highlight that, notwithstanding, NDSF still retains the right at all times, to request additional documentation in support of external audits by its auditors and technical representatives.

It is important to note that NDSF funding of €5 million was specifically targeted to ensure Puttinu Cares Foundation had sufficient funds required at the promise of sale stage. Indeed, the highly publicised acquisition of the United Kingdom apartments by Puttinu Cares Foundation would not have been possible without this funding. It is pertinent to highlight that, at the time of signing of the promise of sale, the period coincided with the lockdown period during the COVID-19 pandemic which hampered the signing process.

No Policy concerning Donations by the Agency

During 2022, NDSF contributed €15,000 in donations to two beneficiaries. However, this was not regulated with a documented policy. The request to NDSF Board for a donation of €10,000 to a charity organisation telethon on 15 April 2022 was made directly by the Chairman of the Agency.

On the other hand, a request for the other donation of €5,000 was received from the Maltese Ambassador to the Vatican, to finance part of the costs to bring over from the Holy City and exhibit the vestment of St. Pope Pius V in Valletta, for a whole month from 10 October 2022.

Both donations were approved by the Board of Governors, but who also reiterated its belief that the Fund should introduce a capping on such social contributions.

Recommendations

NDSF is to ensure that good governance is safeguarded at all times when effecting disbursements from public funds and a policy related to donations is to be established. However, the Agency is also reminded that the Social Causes Fund was specifically created for the purpose of donations.

Management Comments

The Board has taken note of the recommendation and, while it believes that the donations were within the aims of the Fund, confirms that, following the audit, the Board of Governors actively discussed with Management, the establishment of a grant and donations policy.

Public Broadcasting Services Limited

Revenue

*An audit on revenue generated by the **Public Broadcasting Services Limited** from commercial advertising revealed a weak control environment, including lack of standard operating procedures to regulate rates charged for marketing on the public stations. Shortcomings in relation to the recording and proper management of receivables were also noted.*

Background

Public Broadcasting Services Limited (PBS) is a limited liability company wholly owned by Government and is the Maltese public service media organisation. Incorporated on 27 September 1991, PBS took over Xandir Malta (the broadcasting division within Telemalta corporation), thereby becoming the national broadcaster of the Maltese islands.

In fulfilling its responsibilities, PBS delivers Public Service Obligation (PSO) programmes, as emanating from the Broadcasting Act (Cap. 350), through traditional television and radio media channels, including TVM, TVMnews+, TVMsport+, Radju Malta, Radju Malta 2, Magic Malta, as well as through the web portal tvm.mt. Besides the core programmes, PBS also airs extended PSO content. The following relate:

a. Core PSO content includes daily news bulletins, both in Maltese and English, with at least one news bulletin providing facilities for hearing impaired individuals, daily sports news, programmes emanating from Constitutional or legal requirements imposed on PBS, the transmission of parliamentary debates and programmes covering local sport.

b. Extended PSO content, entails programmes targeting the cultural, social, educational and economic development of the society, such as children's, religious, cultural and general information programmes.

In order to be able to deliver PSO content, the Government recognised the need for PBS to be compensated by means of a Public Service Compensation (PSC). As stipulated in the PSO agreement, entered into on 1 September 2020 between the Government of Malta and PBS[1], the amount of the PSC is "… *determined by the Government in a manner that ensures that PBS can fulfil its PSO on the basis of an economical, cost-effective and expedient administration. The amount of the PSC shall thus be limited to the amount required for PBS to be able to cover the anticipated net costs of the PSO services* …".

[1] Effective retrospectively as from 1 October 2019.

However, whilst being a Government entity, belonging to the public that it serves, PBS also operates through commercial funding. In fact, PBS airs a variety of commercial content, including, but not limited to marketing, involving the sale of advertising minutes and the transmission of programmes, teleshopping, hire of facilities etc. Such commercial activities constitute non-PSO services.

Financial Information

As per PSO agreement requirements and as also illustrated in the entity's management accounts for financial year 1 October 2021 to 30 September 2022, being the financial year covered by this audit review, PBS was granted a PSC of €5,948,800. A further one-off sum of €100,000 was also granted for the setting up of the TVMnews+ channel.

In addition to the funds received from Central Government, during the period under review, PBS also generated supplementary commercial revenue of approximately €7.5 million, 85% (€6.4 million) of which constituted revenue from advertising[2].

Table 1 provides a summary of each of PBS media channels financial performance for the year ending 30 September 2022, as per the entity's management accounts.

Table 1: Financial Performance as at end September 2022

Details	**Revenue[3]**	**Direct Costs**	**Gross Profit or (Loss)**
	€	**€**	**€**
Television	8,571,107	8,699,414	(128,307)
News+	1,690,370	2,103,607	(413,237)
News	1,723,467	2,057,761	(334,294)
Website	458,300	658,882	(200,582)
Radio	1,074,566	848,126	226,440
Administration	-	2,029,007	(2,029,007)
Totals	**13,517,810**	**16,396,797**	**(2,878,987)**

Audit Scope and Methodology

Besides the income allocated from Central Government, the entity's operational structure is highly dependent on its own generated income. Thus, this audit focused on the operational activity that yielded the highest return, i.e., advertising campaigns.

The main scope of the audit was to ascertain whether revenue generated from the abovementioned stream was covered by relevant supporting documentation, including formal agreements with customers and related costings clearly reflecting amounts billed. The audit also sought to determine whether:

[2] The remaining balance mainly comprised hire of facilities and sundry revenue.

[3] Including PSC.

a. Standard Operating Procedures (SOPs), establishing rates that vary according to peak times and specific programmes, were in place;

b. adverts aired were charged in accordance with PBS's pricelist (rate card);

c. discounts granted to customers were covered by pre-established policies, valid justifications and approved by higher authority; and

d. SOPs concerning revenue collection and debt chasing were in place and any defaulting customers were being followed up accordingly.

The audit was conducted in accordance with generally accepted auditing standards. Audit procedures were designed to obtain reasonable assurance on the effectiveness of the internal control system adopted by PBS in relation to revenue derived from advertising. To this effect, qualitative sampling techniques were applied to examine PBS current practices concerning advertising income and to identify ways through which such practices could be improved.

In obtaining the required audit evidence, checks were carried out on a sample of 33 customers contributing to advertising income of €1,772,085. These were selected from the pertinent list of 391 customers as provided by PBS for audit purposes. To select the sample, customers were stratified, based on the materiality of the amounts involved. A random sample was then chosen from each stratum. Selection was performed through the use of available techniques in the spreadsheet application. Any conclusions reached in this audit report only relate to those areas that have been examined.

Limitation on Scope of Audit

Notwithstanding that, on various occasions, the National Audit Office (NAO) requested relevant source documentation and/or explanations for audit purposes, these were not forthcoming from the auditee; it transpired that such information was not formally documented. This hampered the scope of the audit as necessary verifications could not be executed. Specific details of such instances are provided further down in this audit report.

Key Issue

Lack of Audit Trail and Standard Operating Procedures

Audit verifications on revenue generated from commercial advertising revealed a weak control environment, including lack of SOPs to regulate prices charged to customers advertising on the public stations. Very often, these were negotiated between PBS sales team and the respective client, hence determined on ad hoc basis. However, such negotiations were either not backed up by the appropriate Management approval or not substantiated by any form of documentation. Besides exhibiting poor corporate governance, this also resulted in lack of audit trail.

Recommendations

The entity is to establish SOPs aimed at regularising advert prices, depending on the applicable variables, such as programme airing time. Procedures are also to be set in relation to the granting of discounts and free advertisements, thereby also ensuring standardisation in this respect. Moreover, a proper audit trail, supporting pertinent decisions taken, is to be invariably maintained. This will enhance accountability and comparability while enabling both internal and external verifications.

Management Comments

The entity is compiling a formal set of governing SOPs which will address the above recommendations.

Control Issues

Rates charged not in line with Rate Cards

Advertising prices vary according to the time during which advertisements are aired. Rate cards for television and radio programmes were provided as substantiating documentation to this effect. However, the following shortcomings were noted:

a. The pertinent documents were merely in spreadsheet format, lacking endorsements to illustrate that the rates as included therein were approved by Management. Similarly, packages offered for adverts aired during specific programmes or events were in leaflet format, with no evidence of formal approval and endorsement even though, at times, prices offered were drastically reduced when compared to advert fees as indicated on the rate card.

b. While chargeable rates were coded, no definite explanation of the respective airing hours was provided following audit queries. Instead, these were tackled on a case-by-case basis, depending on the client being tested, resulting in inconsistent approaches.

c. NAO was informed that the rate cards only serve as a guideline and specific packages or discounted rates are offered based on the respective client's level of commitment, the programme viewership and the months during which the adverts are aired. While this defeats the purpose of having a set of pre-established rates, it also hampered audit verifications as rates charged to clients could not be confirmed.

d. Various instances were encountered whereby applicable prices as per rate cards were discounted, at times drastically reduced. Free adverts aired between 19:45 and 20:45, which covered the transmission during the peak time of the main news bulletin, were also noted. PBS confirmed that during this hour there is a simulcast transmission; thus, all adverts booked are aired on both TVM and TVMnews+ at no additional cost. Similar instances were also noted in respect of adverts aired during repeat programmes, notwithstanding that these were expected to reach a different audience.

e. PBS also confirmed that decisions with respect to packages and discounted rates were taken after internal discussion between Head of Sales, Chief Finance Officer and Executive Chairman, depending on the client's budget, discounts, time range and season. However, by the time this audit was concluded such decisions were not minuted or documented. In fact, no formal approvals were provided in the majority of cases reviewed.

Recommendations

Rate cards are expected to be formally endorsed by the appropriate level of Management. PBS is also recommended to establish policies and procedures outlining instances whereby deviations from pre-established rates are allowed. Any departures from pre-established rates are to be invariably supported by formal explanations, reasonable justifications and necessary approvals.

In addition, all decisions are to be clearly documented and respective transactions supported by complete and accurate records, enabling traceability from their inception to completion, and readily available for examination. It is also important that Management continually monitors its commercial operations and promptly addresses any irregular, uneconomical or inefficient findings.

The entity is to formally establish specific packages, covering adverts aired during simulcast transmissions and repeat programmes, thereby maximising revenue potential.

Management Comments

During the past years, PBS explored the possibility of adopting an Enterprise Resource Planning solution to move away from the use of spreadsheets but, due to budget constraints, such a move was shelved for the time being.

Within the competitive commercial environment of linear television media advertising, PBS must customise discounts to the clients' requirements, especially for those with large budgets. However, PBS takes note of the recommendation and will do its utmost to define such situations and formalise them through SOPs.

The recommendations will be defined in SOPs. However, it has been a practice that PBS does not charge for adverts within repeated programs. Simulcast of the evening news (those aired at 20:00) started in October 2021.

Commission charges on Government Publicity

Advertising and promotion undertaken by the national station on behalf of Ministries, Government departments and public entities, to explain policies and inform the public of services available, were subject to a 15% commission charge when booked through a presenter or advertising agency rather than booked directly through PBS sales team.

Recommendation

Government publicity is financed by State funds and should be used responsibly; thus, such service is not expected to be subject to any unnecessary add-on charges. PBS is encouraged to directly consult with the respective entities and establish an advantageous advertising package to be applied across Government.

Management Comments

Government Ministries and public entities often issue tenders for holistic media advertising, which are normally awarded to advertising agencies. Consequently, it is not always possible to attract such advertising by going directly to the respective Ministries and/or Government entities.

Official Booking Forms not traced

Upon the placement of a booking, a contract application is drawn up outlining the standard terms and conditions agreed upon. This document, which mainly forms the basis for the issue of the respective sales invoice, includes the number of spots to be aired, their duration, the date and time when these are expected to be transmitted, together with the amount payable. Yet, instances were encountered whereby such contract was not traced, thus the underlying verifications could not be carried out.

Recommendation

The absence of basic internal controls, such as the upkeep of appropriate records, as well as independent verifications, increases the risk of both intentional as well as involuntary irregularities which may result in loss of revenue since the respective invoices will not be raised. Thus, PBS is to ensure that all bookings are invariably supported by a contract application.

Management Comments

These missing official bookings mainly related to zero value bookings, such as producer minutes and producer sponsors. As from 1 January 2023, PBS started ensuring that all system generated contracts were sent to the relevant booking entity.

Lack of Control over Receivables

A review of the aged receivables list provided for audit purposes revealed the following concerns.

a. Standard formal procedures outlining mechanisms expected to be adopted for the chasing and collection of outstanding debts were not in place, raising serious cause for concern. As at end of September 2022, the entity had over €7.5 million worth of collectible dues, €6.1 million of which was older than the three-month allowable credit period. On average, this equated to the total revenue generated from adverts during the year under review. Table 2 depicts receivable balances as at year-end, split according to their respective ageing.

Table 2: Aged Receivables Summary

Ageing	Balance €
Between 0 and 3 months	1,370,917
Between 3 and 6 months	880,625
Between 6 months and 1 year	1,485,950
2 years due	724,121
3 years due	569,302
4 years due	397,995
5 years due	268,307
Older	1,818,227
Total	**7,515,444**

During the year under review, €910,868 was accounted for as bad debts, while a provision of €1,659,859 was also recognised as an estimation for doubtful debts.

b. Out of a total of 622 debtors, 80 had a negative balance, amounting to (€195,744). According to PBS, credit balances arise either because payment is not allocated against pending invoices or because revenue has not yet been recognised. Moreover, in four instances, a provision for doubtful debts, aggregating to a negative amount of €2,070 was also recognised against these credit balances. No explanation to this effect was provided.

c. Three instances were encountered whereby the underlying provision, totalling €63,530, was even higher than the actual balance due of (€38,408).

Management claimed that debt chasing was done verbally through phone calls. It was further stated that, as from financial year ending 30 September 2021, the expected credit losses are worked out statistically in line with International Financial Reporting Standard 9.

Recommendations

Adequate formal procedures are to be in place for the chasing of outstanding balances. In addition, regular reconciliations of receivable balances are to be performed, promptly investigating any differences that are identified. Long outstanding balances are also to be scrutinised to assess the likelihood of their settlement and account for the necessary provision.

Management Comments

The summary of the trade debtors included around €1 million which was earmarked to be offset against creditors. Action is being taken to address such balances.

Negative balances amounting to €117,865 were addressed post NAO's audit.
The over provision for doubtful debts resulted due to a payment received from the client at the last moment. However, such issue was also rectified post NAO's audit.

Compliance Issue

Departures from the provisions of the Public Service Obligation Agreement

As per section 12.5 of the PSO agreement, PBS is required to present to the Government a report, certified by a suitably qualified financial expert, confirming that all amounts payable by the Government as compensation have been properly calculated and providing details as to the methods used in arriving at the respective calculations. This has to be submitted within six months of the end of each financial year. However, according to PBS, in April 2023 when this audit was being carried out, the PSO report for September 2020 was still being reviewed by the private auditors since the previous auditors' remit was terminated following the September 2020 financial audit. This implies a delay of at least two financial years.

The termination of the previous auditors also affected the timely submission of the audited financial statements thereafter. In fact, the latest set of audited financial statements made available by PBS for the purpose of this audit covered financial year ended 30 September 2020.

Recommendations

The submission of timely audited financial statements is a statutory obligation of the entity. Moreover, prolonged delays will wipe out the added value that the required reports are expected to yield, as corrective action cannot be duly undertaken. Hence complying with the reporting mechanisms in a timely manner is of utmost importance.

Management Comments

Following the change in auditors, the Board of Directors gave priority to the audit of the financial statements for the year ended 30 September 2021, which procedure was concluded on 1 March 2023. During the Annual General Meeting held on 12 July 2023, the financial statements for the year ended 30 September 2022 were approved. PBS has an agreement in place with the private auditors to commence with the PSO audit immediately following the conclusion of the audit covering financial year 2022.

Ministry for Health

Mental Health Services

Personal Emoluments

*Allowances of staff within the **Mental Health Services** were being calculated incorrectly, at times leading to substantial overpayments. Testing also revealed that officers were being paid extra for services rendered to third parties during normal working hours.*

Background

Mental Health Services (MHS) aims to promote mental health within the Maltese society. The entity is principally engaged in the operation of the state-owned Mount Carmel Hospital (MCH) and the provision of community services specialising in mental health and geriatric services.

Through in-patient services, MHS offers care and management for individuals undergoing the acute stage of mental health illness. The entity also provides a range of multidisciplinary services, to deliver care, treatment and therapeutic interventions within the home environment, enabling individuals to cope with and manage their mental health problems so that they can lead a productive and socially fulfilling life. Other services offered include the assessment and management of mental ill health amongst young people, as well as care and assistance to individuals suffering from different mental health conditions and disorders.

The overall budget for 2022 for this entity's operations, under Vote 12, Line Item 6029, of the Ministry for Health, was €61,275,000, an increase of more than 10% over the previous year's estimate (2021: €55,275,000[1]).

In its audited financial statements for 2020[2], MHS reported a deficit of €782,124, a considerable improvement when compared to the deficit of €3,764,960 registered in the previous year. The accumulated losses, also representing aggregate negative reserves, as at end 2020 were €15,998,946[3].

Unaudited management accounts as at 30 September 2022 indicated that the entity registered a surplus of €139,341 for the first nine months of the year. The largest expense was staff costs, for an aggregate of €27,235,774, equivalent to 58% of total expenses[4] for the nine months in question.

[1] In 2021, a further €2,178,809, originally allocated for Line Item 7603 (Capital Vote – Property, Plant and Equipment), was utilised for recurrent expenses.

[2] These were the latest audited financial statements available at time of audit.

[3] Management was not in a position to identify the period over which such losses were accumulated.

[4] €46,867,513.

Budgeted overtime and allowances costs for 2022, as provided by MHS, were €4,447,475 and €11,195,651 respectively. As at 7 November 2022, payroll comprised of 744 officers; 718 were employed with MCH, while the remaining 26 were engaged with the Foundation for Medical Services (FMS).

Payroll data for 2022 showed that overtime and allowances for MCH and FMS employees were as follows:

Table 1: Payroll Data for Year 2022

	Gross Salaries	Overtime	Allowances
	€	€	€
MCH	31,637,916	2,857,336	10,800,239
FMS	915,230	91,756	155,903
Totals	**32,553,146**	**2,949,092**	**10,956,142**

Audit Scope and Methodology

The National Audit Office (NAO) sought to ensure that overtime and allowances paid to both MCH and FMS employees from the line item under review were accurate and in line with the applicable collective and sectoral agreements. The extent and adequacy of internal controls on overtime and allowances were also assessed.

An introductory meeting was held with the Chief Executive Officer MHS, the Financial Controller MCH, a Director General within the Ministry for Health, and other officials, to discuss the main audit objectives and to obtain general information on the entity's payroll function.

From payroll data for 2022, NAO collated the overtime and allowances paid to each officer and determined the percentage proportion of overtime and allowances paid in relation to their basic pay.

Three MCH officers[5], who received over 100% of their basic pay were selected, from amongst the largest overtime payments during the year, taking into consideration their grade. For each of these officers, the two highest overtime payments during the year were checked.

The sample chosen for the testing of allowances consisted of five officers[6] who received amongst the largest total allowances payments during the year (even over 200% of their basic pay), also taking into consideration their grade.

Limitation on Scope of Audit

The officer who was responsible for payroll for most of 2022[7] was on a period of long leave at time of audit. Another officer assumed the responsibilities; however, adequate handover was not given, even though Management had sufficient time to find a replacement, as it was aware of the situation well in advance. Questions relating to allowances

5 A senior nursing manager, a senior health carer and a charge hand kitchen.

6 Two consultants, a principal psychologist, a resident specialist and a basic specialist trainee 2.

7 Till around October.

paid during the year under review, which were addressed to the replacing officer, very often were either left unanswered or the reply received was not sufficient for audit purposes, thus limiting the scope of the audit.

Key Issue

Lack of Control over Allowances

The shortcomings identified during the audit indicated that Management and personnel who were in any way responsible for payroll were not fully knowledgeable on the allowances being paid to MHS employees, how payments were to be calculated, and how these were to be effected[8].

As detailed under Control Issues, three out of the four allowances tested by NAO, and for which the payable amount was not fixed but had to be calculated, were computed incorrectly. In one particular case, this led to substantial overpayments. Since the respective calculations could possibly be used as basis for other workings, these errors could also have impacted allowances paid to other officers not falling within the audit sample, as well as different financial years.

Moreover, on a number of occasions, NAO's queries on allowances computations were left unanswered. MHS was also not in a position to provide sufficient information on allowances, which related to services rendered by its employees to third parties, and whether all the respective officers were granted approval to carry out such services. Furthermore, documentation reviewed showed that officers were providing these services during their normal working hours.

Recommendations

MHS is expected to be in full control of allowances being paid. Computations are to be thoroughly checked to ensure that amounts invariably reflect the officers' entitlements. Management is to consider utilising the Ministry's internal audit services to undertake a full exercise to verify the correctness of allowances paid in the year under review.

Furthermore, documentation in support of allowances is to be retained for future reference and any verification required to be made by third parties.

Management Comments

MHS has, for a considerable amount of time, been submitting continuous requests to strengthen its Payroll Section. Unfortunately, timely recruitment never materialised, either because of the lack of take-up at application stage and/or the refusal of appointment once the selection process was concluded.

The responsible payroll officer had to go out on long leave, owing to health concerns. However, an adequate handover could not be secured due to inadequate staffing levels and the need to distribute the heavy workload onto existing staff; and also because the respective officer went out on leave earlier than expected. The duties were delegated to a junior,

[8] This was partly due to the reasons cited under the Limitation on Scope of Audit.

who undertook these additional duties and responsibilities. Although the Section eventually received additional staff, the benefits could not be reaped immediately because the new recruits needed a period of training and assistance. Therefore, what might have seemingly appeared as a sufficient period for the delivery of an adequate handover was marred by setbacks, which MHS, with the cooperation, commitment and dedication of the replacing payroll officer, managed to handle satisfactorily, given the prevailing circumstances.

MHS provided all documentation and information which NAO requested. As from payroll 9 of 2023, a check and balance process was to be introduced, whereby information from attendance sheets, inputted into the payroll system, was to be reviewed for correctness.

On the other hand, MHS has no reservations with engaging internal audit services for the purpose; however, a Ministerial priority list for such audits exists.

Control Issues

Incorrect Calculation of Allowances at times leading to Substantial Overpayments

The lack of control commented upon in the Key Issue led to the following shortcomings that were noted from the transactions reviewed:

a. The sampled consultant's job plan included an additional four sessions per week and three Sundays in a year, apart from the normal duties[9]. Payment for these additional sessions was disbursed as an allowance, according to the rates stipulated in the sectoral agreement for all officers belonging to the Medical Class. However, NAO noted that in 2022, the officer was remunerated for three Sundays in every payroll instead of a total of three Sundays annually. This translated in an overpayment for 36 Sunday sessions, the equivalent of at least €6,480.

   Given that this officer had been on this job plan since 2021, NAO could not exclude that such error was made prior to the year under review, and most probably has been recurring even in 2023[10]. This incorrect method for calculating allowances for Sunday sessions could also have been applied in the case of other officers on the same job plan.

b. The job plan allowances paid to a resident specialist were not based on the schedule indicated in the same plan[11], resulting in some of the hours worked paid at a higher rate. This has been ongoing since the officer's engagement with MHS in February 2021[12].

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9 In addition to the basic salary, consultants were paid on a sessional basis; therefore, these sessions were considered as part of the officer's normal working hours.

10 The incorrect calculation was brought to the attention of MHS during the audit. The foregoing was asked to confirm this shortcoming, but no reply was received by the time of writing of this audit report.

11 According to the job plan, the officer was to perform two extra sessions of two hours each per week. However, the respective allowances were based on one four-hour session per week throughout the year.

12 During 2022, the officer was paid arrears of €37,441 with respect to resident specialist allowance due between February 2021 and March 2022.

Furthermore, since MHS confirmed that the sessions were meant to be four hours long, it is unclear whether the resident specialist allowance calculated on a pro-rata basis was in line with the payable rates per session as set out in the sectoral agreement.

c. Detailed testing on the extra duty allowances[13] paid to the sampled basic specialist trainee revealed that breaktime very often was not being deducted when calculating the extra hours worked. This was particularly the case when the shift hours were extended to the following day, for even up to a total of 31 hours. In such instances, the 15 minutes standard breaktime was also considered as overtime.

On the other hand, throughout 2022, the first hour in excess of the standard 40 working hours was paid to the sampled basic specialist trainee and resident specialist[14] at their respective standard hourly rate rather than at the applicable higher rate[15]. An explanation to this effect was not provided. It is very likely that the calculation of the extra duty allowance received by all officers during the year under review was erroneously worked in this way.

Recommendations

MHS is to ensure that computations are independently checked to avoid inaccuracies. A comprehensive exercise is also to be conducted whereby the abovementioned allowances paid in recent years are recomputed to recoup any overpayments.

Management Comments

The overpayment of Sunday sessions was the result of a human error. This was the only consultant with a job plan which included Sundays, and commenced in August 2021. The total amount to be refunded has been calculated at €13,450 and the refund policy implemented. The employee has been informed and has signed the refund consent form.

The resident specialist was asked to divide the four-hour session in two half sessions of two hours each, given that other supporting staff would not be available for a whole four-hour session. As stipulated in the sectoral agreement, the employee was entitled to one and a half hours per week at a higher rate. It transpired that this officer had an overpayment of €228, which dates to January 2022, and has been informed accordingly. An agreement to recoup this overpayment over one payment has been settled.

13 Basic specialist trainees and resident specialists who worked more than 40 hours per week were paid for the excess hours at higher hourly rates (time and a half for Mondays to Saturdays; double time and double time and a half the hourly rate for Sundays and public holidays respectively), with the overtime being remunerated by means of an extra duty allowance.

14 During 2022, the sampled basic specialist trainee was paid €32,307 as extra duty allowance, which included arrears amounting to €1,727, while the resident specialist received €391 in this respect.

15 The spreadsheets used by MHS to calculate this allowance contained inaccurate information that could mislead the users of such data.

MHS checked with other entities within the Ministry for Health and confirmed that payment for extra duty allowances should commence as from the forty-first hour. In this case, officers were underpaid, and the Salaries Section will be reviewing the calculations and settling payments due to the respective officers.

Breaktime is no longer being compensated against overtime.

Minimal Information supporting Allowances paid

Some of the sampled employees, rendered additional services to other Government entities, such as the Court Services Agency (CSA), the Office of the Commissioner for Mental Health (CMH) and the Malta Foundation School (MFS). The remuneration comprised criminal courts allowances, CMH remuneration and educational supervision, respectively. These were classified as allowances and included with the respective officers' salaries.

Payments effected by MHS were solely based on the remittance advices received from the respective entities and no further information could be provided by the former. MHS also could not explain how the allowances were arrived at since no supporting documentation was available at its end[16]. With the exception of the services at CSA[17], MHS was unable to confirm whether approval was given for these officers to provide services to third parties, and whether these services qualified as fee-paying work[18], and therefore regulated by the respective sectoral agreement in the case of specialists and consultants. Thus, NAO could not ascertain that the provision of services to third parties was duly authorised and that the resulting allowances were justified[19].

Recommendations

MHS is to ensure that any officer who provides remunerated services to third parties is duly authorised to do so, and that the work provided is compliant with the applicable sectoral agreements. Furthermore, although MHS is not the ultimate bearer of the cost of the abovementioned allowances, being the entity which effects payments to the employees, it is still expected to at least be aware of what these relate to.

Management Comments

The calculations are the responsibility of the respective third party and not MHS who is paying the individual on its behalf. MHS then issues an invoice to the respective entity for the recovery of the amounts paid.

16 MHS stated that it only received payment from the abovementioned entities, and this payment was then passed on to the employees.

17 According to MHS, in the case of consultants, work requested by the Court was considered as fee-paying work in line with the definition given in the sectoral agreement.

18 The sectoral agreement defines this as work which is not part of contractual work and is not reasonably incidental to it.

19 For CMH remuneration, NAO obtained supporting documentation directly from the Office of the CMH, to substantiate a payment effected to one of the sampled officers. Testing revealed that the officer was in fact overpaid for one of the sessions performed.

Services to Third Parties with Extra Remuneration rendered during Normal Working Hours

Audit testing on allowances related to services rendered to third parties revealed the following shortcomings:

a. During the year under review, a sampled consultant was paid for services rendered to CMH. Supporting documentation obtained during the audit indicated that, at least on four occasions, the service was provided at a time during which the officer should have been performing duties at MCH. In addition, the consultant also provided services to MFS and CSA.

b. Besides the foregoing consultant, in 2022, another sampled officer, namely a principal psychologist, also received an allowance totalling €44,199 for services rendered to CSA. Documentation in support of the respective payments was again limited to remittance advices that did not indicate the exact dates when the services were given. Towards the end of the audit, NAO was presented with the request made by this officer in October 2022, to carry out private work[20] as a court expert at the Law Courts, with the approval granted the following month. Thus, NAO can conclude that the services rendered and paid for during the majority of 2022 were not duly authorised. Furthermore, the approval does not provide that this private work could be carried out during the officer's working hours.

Recommendations

MHS is to ensure that the remunerated services rendered to third parties are in line with the respective sectoral agreements and that all the necessary authorisations are in place prior to the commencement of such services. In the case of consultants carrying out fee-paying work, this is expected to be undertaken outside the respective officer's programmed activities or during periods of leave. Any documentation in this respect is to be duly filed for future reference.

MHS is also to ensure that additional services do not impinge on the performance of duties as detailed in the respective job plan.

Management Comments

Approval to perform fee-paying work requested by the Law Courts is included in the applicable sectoral agreement. MHS will be issuing a circular related to fee-paying work, in line with the principle that any such work must be performed outside the contracted working hours. In circumstances where the work needs to be performed during the contract hours, vacation leave needs to be availed of during that period.

MHS agrees with NAO's recommendations. It is the responsibility of the officer to carry out all the duties in the job plan, irrespective of time, even if this then extends to out of office hours.

[20] Limited to eight hours per week.

Excessive Hours worked by Basic Specialist Trainee

A review of 4 weeks' attendance sheets, pertaining to a sampled officer in the grade of basic specialist trainee 2, revealed that in 1 particular week, this officer worked for 2 uninterrupted periods of 31 hours each, as well as a shift of 24 hours. The aggregate working hours of this individual during this week totalled 93. Only a total of 40 hours was normal duty, with the rest payable as extra duty allowance at overtime rates. NAO has reservations on whether it was possible for an officer to work for such long hours, with no periods of rest, except for the official breaktime deduction of 15 minutes in two of these instances.

Excessive extra duty hours worked by MCH medical staff was already reported upon by this Office following an audit for financial year 2014 carried out at the entity.

Recommendation

Excessively long working hours will surely impinge on the quality of work delivered. MHS is to ensure that extra duty allowance claimed is reasonable and duly performed.

Management Comments

The roster frequency is dependent on the number of trainees available and the number of hospitals and sites that require coverage by mental health specialists and trainees.

In order to prevent excessive change of duties, with the risk of particular officers working excessive duty hours, changes between assigned medical staff are being approved by the clinical chairperson of psychiatry to ensure that extra duty does not impinge on the quality of the service being provided, and that it is reasonable and duly performed.

Payment in Advance

The educational supervision allowance remitted to one of the sampled officers in 2022 included a prepayment for sessions held during the first six months of 2023[21]. This implies that the officer was paid irrespective of whether the related tasks were eventually performed or not. According to MHS, this is in line with the procedure established by MFS.

Recommendation

MHS is to raise this issue with MFS and try to find a solution whereby payment is effected only for supervision actually performed.

[21] Out of the allowance of €1,449, payments in advance totalled €729.

Management Comments

During a meeting held in August 2023 with the relevant stakeholders, MFS agreed that instead of the annual lump sum, two payments are made in January and July to cover the preceding six-month period.

Utilisation of Time Off In Lieu to benefit from Overtime Rates

Attendance sheets pertaining to one of the sampled officers, a senior health carer, showed that time off in lieu was repeatedly availed of when on day shift[22]. This allowed the officer to report to work for 12 hours following such absence and get paid at overtime rates. The officer also worked regular overtime during the rest and off shifts. This trend persisted throughout the two pay periods reviewed. The total overtime for 2022 for this individual amounted to €38,092.

From the documentation obtained during the audit, NAO could not ascertain whether this situation also prevailed for other officers within the same unit or in other sections of MCH.

This trend, whereby MCH employees used their accumulated time off in lieu balance to avoid working their shift duty by roster and then opting to work overtime in a different shift period, was already reported upon in the 2014 Annual Audit Report issued by this Office.

Recommendation

MHS is to ensure that work rosters are implemented in the most efficient and cost-effective manner possible.

Management Comments

This issue has been satisfactorily addressed through the publication of a circular, issued by the Permanent Secretary, which prohibits listed employees from accumulating time off in lieu in excess of 50 hours.

Compliance Issue

No Verification on the Performance of Private Practice

The sectoral agreement in force during the period under review states that consultants on Contract A are precluded from carrying out private practice.

However, MHS confirmed that there were no procedures in place to verify that this condition was being adhered to by all consultants, claiming that Management would be alerted if private work was being carried out on a regular basis.

[22] Officer worked on a day, night, rest, off roster.

Recommendations

Whilst NAO acknowledges that monitoring the performance of private work might be an arduous and time-consuming task, MHS is at least expected to request such consultants to sign a declaration on a yearly basis, confirming that no private practice is carried out. Any breach of this condition is to be investigated and appropriate action taken as deemed necessary.

Management Comments

Any variations to the sectoral agreement would need to be agreed with the signatory union. Given that this may give rise to counter requests being raised by the union, the pursuit of this recommendation is not recommended.

Primary Health Care

Personal Emoluments

*An audit on overtime and allowances of **Primary Health Care** revealed that the calculation methodology for extra duty allowances paid to general practitioners on Job Plan B is leading to double payments on hours worked on Sundays and public holidays.*

Background

Primary Health Care (PHC) is responsible for the delivery of an array of public primary care services in the community nationwide, mainly through the strategically located Health Centres, the Community Clinics, the National Screening Centre, the Occupational Health Unit, the Telemedicine 24/7 Client Support Centres and the Centres of Excellence in Primary Eye Screening, Speech and Language Pathology and Podiatry.

All services are delivered by PHC's multi-disciplinary health care professional team, which include medical doctors, nurses, midwives, physiotherapists, radiographers, podiatrists, speech and language pathologists, pharmacists, pharmacy technicians, health care assistants, social workers, phlebotomists, dieticians and nutritionists. The average number of employees employed by PHC during 2022 was 960.

Financial Information

The Financial Estimates 2022 for PHC Personal Emoluments under Recurrent Vote 12 included amounts of €16,225,500 and €763,800, budgeted for allowances and overtime under the pertinent cost centre respectively. The total actual expenditure incurred amounted to €16,365,682 for allowances and €1,405,491 for overtime.

During the pandemic, COVID-19 testing hubs were operated by PHC staff and all costs were sustained from the cost centre in question. Substantial overtime hours, that were outside their normal working conditions, were worked during this period. Table 1 shows how expenditure significantly increased during the pandemic. Even though overtime expenditure decreased during the year under review, this was still nearly twice as much as that pertaining to the pre-COVID-19 year (2019).

Table 1: Overtime Expenditure (2019 – 2022)

	2019	2020	2021	2022
	€	€	€	€
Overtime expenditure	758,481	1,089,742	2,284,240	1,405,491

Audit Scope and Methodology

In view of the materiality of the amounts involved, the audit on personal emoluments focused on allowances and overtime paid to PHC employees during 2022. The objectives of the audit were to determine whether adequate controls were in place in relation to the payments in question, as well as to verify whether the applicable regulations and agreements were followed.

Numerous meetings were held with representatives of the Ministry for Health whereby detailed explanations and procedures were provided regarding PHC operations.

Payroll information for the year under review was requested for all categories of employees, together with further details, such as grades and location. The data provided was consolidated and sorted to establish the highest allowances and overtime paid.

A sample of four doctors, two drivers and six security officers, was selected for testing. Allowances for the doctors' and security officers' categories were tested. Such allowances totalled €360,097 and €31,762, respectively. Even though the security officers, in aggregate, were not the highest earners of allowances, testing on this category was performed since the volume of payments made to such employees were deemed to be quite substantial when considering their grades. The same security officers were also tested for overtime, together with a minimal sample of drivers amounting to €45,946 and €40,127 correspondingly.

This Office ensured eligibility of allowances and overtime paid by verifying compliance with the relevant public sector agreements and other regulations, policies and procedures. Other documents, such as standard operating procedures and attendance sheets, were obtained in order to perform detailed testing of overtime.

Overtime forms were also provided and checked to ensure that these were approved and signed prior to the overtime hours being worked. From the vacation leave records it was also ascertained that the officers did not work any overtime while on leave.

Workings of the extra duty allowances paid to general practitioners as well as their attendance sheets, were checked to ensure conformity with the sectoral agreement and job plan hours planned. The Clinical Chairperson's hours worked could not be corroborated since no attendance records are kept.

Key Issue

Overpayments to Doctors on Job Plan B

General practitioners working with PHC can opt to work on the basis of Job Plan A or Job Plan B. Under Job Plan A, doctors receive higher remuneration, but they are required to forfeit their private practice. In contrast, under Job Plan B, practitioners retain the right to complement their full-time job with private practice.

According to the contracts of two practitioners on Job Plan B, forming part of the audit sample, the respective basic salaries covered the first thirty-six hours of work per week. Additional hours actually performed were remunerated per session[1] as stipulated in the Medical Association of Malta (MAM) collective agreement as extra duty allowances. In 2022, these amounted to a total of €122,391.

These doctors were also entitled to other allowances, including a car allowance, qualification allowance, special duty allowance and other fixed allowances, in aggregate amounting to €22,880.

An assessment of the extra duty allowances paid to the two sampled doctors revealed that the calculation methodology is leading to double payments at different rates for the same hours worked on Sundays and public holidays, resulting in relatively substantial overpayments.

According to PHC, such calculations are based on a spreadsheet which has been used since 2013. Although the foregoing is aware of irregularities in this spreadsheet, it was claimed that changing the payment is not a simple task, as it requires discussions to be conducted with MAM first.

Recommendations

PHC is expected to initiate immediate discussions with MAM, to establish the way forward to this effect. Any overpayments which have accrued over the years in this regard are also to be recouped.

Management Comments

Initial comments stated that an internal Ministry exercise was initiated to determine:

a. *the background behind the calculation method used by PHC;*

b. *whether this calculation method is the result of a potential misinterpretation of the related MAM sectoral agreement provisions; and*

c. *whether this method is being applied elsewhere across the Ministry, besides PHC.*

Legal advice was also sought with a view to determine the correct interpretation of the related provisions in the MAM sectoral agreement. Once action on the above has been taken, the Ministry will be in a better position to determine the extent, if any, of any overpayments, which would have accrued over the years, and initiate discussions with MAM accordingly.

[1] Payable for every four-hour session worked.

Additional feedback given by way of an update then also stated the following:

a. *The method of calculation was revised, corrected and put into effect as from Pay 10 of 2023.*

b. *Notable progress in calculating and drawing up personalised and detailed statements of the amounts overpaid to each of the overpaid doctors on Job Plan B was registered. This exercise was still ongoing.*

c. *A meeting was held with MAM to discuss NAO's related observation and recommendation. The parties agreed to meet again to discuss the mechanics of the recoupment process and to clarify any issues to ensure as smooth a transition as possible.*

Ministry for Senior Citizens and Active Ageing

Active Ageing and Community Care Department

Expenditure

*Audit testing conducted on the expenditure incurred on contractual services at the **Active Ageing and Community Care Department** revealed various irregularities related to the procurement process. These included frequent use of negotiated procedures and the continuous renewal of contracts, hindering fair competition. Retrospective approvals were also noted.*

Background

The Active Ageing and Community Care Department (AACC), falling under the responsibility of the Ministry for Active Ageing, is headed by a Chief Executive Officer and offers services relating to residential and community care to the elderly within the fully or partially state-owned residential homes and also within their own private residence. Residential care and related services are offered by AACC according to the applicable agreements in place. Community care encompasses a network of services tailored to support the elderly to continue living within the community and in their own home, based on their specific needs. Typical support includes Telecare service, Silver-T service (inter-community transport), Dementia Centres, Meals on Wheels, and Carer at Home.

This audit focused on costs incurred on contractual services by AACC during 2022. To this effect, this Department was allocated €14 million[1], while the actual expenditure for the year exceeded €16.8 million. Such discrepancy in allocated funds was the result of an underfunding situation. Following a request by AACC, the Ministry for Finance and Employment provided an additional €3 million.

Audit Scope and Methodology

The scope of the audit was to assess the adequacy and effectiveness of internal controls over expenditure incurred on contractual services, as well as to establish whether Government resources were used prudently and in a cautious manner. The National Audit Office (NAO) also ascertained whether procurement was made in accordance with standing regulations, policies and procedures, and that the basic principles of transparency, fairness and equal treatment were upheld.

[1] As per Recurrent Vote 14 for the year 2022.

Expenditure on Contractual Services

NAO obtained a list of all contractual services provided by AACC, as well as the respective contracts applicable during the year under review.

The transactions, covering the actual expenditure incurred between January and mid-November 2022[2], as recorded on the Corporate Financial Management Solution, were scrutinised. From the nine different sub-accounts in relation to contractual services, NAO focused on the five most material contracts, namely Contractual Others (E2460)- €11,299,892, Care Workers (E2700)- €3,199,927, Cleaning Services (E2440)- €1,199,792, Patient Meals (E2600)- €899,994 and Security Services (E2560)- €159,997. The related contracts were reviewed, to determine whether the procurement of the respective services was in accordance with the pertinent regulations and the applicable circulars.

A sample of seven transactions were selected based on materiality, in total exceeding €1.16 million (approximately 7% of total contractual expenditure). Invoices, receipts and supporting documentation were reviewed to ascertain whether AACC was charged according to the rates agreed upon with the service providers. NAO further verified that all the necessary approvals were in place prior to procuring such services, as well as prior to effecting payments.

Limitation on Scope of Audit

During the conduct of this audit, there were significant delays in the receipt of replies to audit queries, which prolonged the audit exercise unnecessarily. Unfortunately, notwithstanding several reminders sent to the auditee, certain documentation requested for the purpose of this audit, such as documentation supporting the hourly rates charged with respect to security and caring services, was not made available. Observations under the Control Issues in this audit report refer.

Key Issues

Irregularities relating to the Procurement Process

Testing revealed frequent use of negotiated procedures, at times without adequate service period coverage, as well as retrospective approvals, even endorsed by the Department of Contracts. Due to inadequate planning, this was the only option remaining, so as not to disrupt the provision of such services. Moreover, contracts of present service providers continued to be extended when the term expired. This approach also departs from the spirit of the public procurement regulations and hinders competition. Furthermore, in most of the cases, the continued renewal of contracts was not supported by feasibility studies or assessments to determine whether call for tenders would result in more advantageous rates and better-quality service.

Moreover, these circumstances do not reflect good governance and it exposes Government to potential litigation and related repercussions. The following relate:

[2] This being the latest available data during the planning stage.

Cleaning Services

Table 1 shows the frequent use of negotiated procedures for the provision of cleaning services, totalling more than €3.3 million excluding Value Added Tax (VAT) over a period of less than three years. These were approved by the Department of Contracts. It also transpired that the services obtained for a one-year period ending June 2022, were not covered by a valid contract since it was not endorsed by the service provider. This was due to disputes in relation to cleaning services at Cospicua Home.

Table 1: Cleaning Services

Type	Period	Value (VAT excl.) €	Date of Approval from the Department of Contracts	Date of Last Signature on Contract
Negotiated Procedure	1 Nov 2019 – 30 Apr 2020	595,535	29 Oct 2019	28 Nov 2019
Negotiated Procedure	1 May 2020 – 31 Oct 2020[3]	600,972	14 Apr 2020	2 Jun 2020
Negotiated Procedure	1 Nov 2020 – 30 Apr 2021	605,729	10 Nov 2020	14 Apr 2021
-	01 May 2021 – 28 May 2021	-	-	-
Negotiated Procedure	29 May 2021 – 28 Jun 2021	139,000	31 May 2021	8 Jun 2021
Negotiated Procedure	1 Jul 2021 – 30 Jun 2022	1,356,784	1 July 2021	not signed

A call for tender was issued in May 2020, but due to technical disputes with the Department of Contracts and the Public Contracts Review Board, followed by court objections and proceedings, three years later, in August 2023[4], the tender process was not yet finalised. As a result, AACC had no option but to continue with the provision of service from the same provider.

Nursing Services

Following a public call for tenders, a contract was entered into for the provision of nursing services for two years, from May 2018 for a total of €106,780 (VAT excl.). However, following the expiration of the contract in May 2020, the contractor continued to provide nursing services, notwithstanding that this possibility was not provided for in the respective tender. Moreover, the extended service was neither approved by the Department of Contracts nor duly formalised through a contract.

Two tender documents were subsequently drafted, one in March 2021 and the other in April of the following year. These were cancelled by the Department of Contracts due to the method of publication. Upon further enquiry, AACC confirmed that finally, a tender was published in April 2023 and was in the process for adjudication when the audit was being concluded.

[3] Information for this period was provided by AACC following submission of Management comments, when the audit was concluded.

[4] This is the period when NAO's Management Letter was being drafted.

Despite NAO's request, the Department did not provide figures pertaining to the expenditure incurred on these services after the contract expired from May 2020 up till December 2021. NAO only managed to obtain the total actual expenditure incurred during 2022 which amounted to over €224,000 (VAT excl.).

Meals for Homes

Following a public call for tenders, a contract was entered into for the provision of meals for the homes for the elderly, covering a three-year period up to December 2015 for a total cost of €3,526,790 (VAT excl.). Several other approvals for negotiated procedures granted by the Department of Contracts followed, extending the contract period until January 2020, in total amounting to €3,053,900 (VAT excl.). This was due to the cancellation of a tender prepared by AACC in the interim period, which occurred in December 2021 because of a pre-contractual clarification before the Courts of Malta.

Subsequently, the Department obtained approvals for further negotiated procedures, effectively prolonging the services with the same company until February 2023, resulting in an additional expenditure of €2,430,000. It was anticipated that by that time, a new tender would be issued and awarded. A new tender was eventually issued by AACC and being the cheapest bidder, it was awarded to the same service provider in April 2023, for the value of €2,765,495 (VAT excl.) for a three-year period. Table 2 refers.

Table 2: Meals for Homes

Type	Period	Value (VAT excl.) €	Date of Approval from the Department of Contracts	Date of Last Signature on Contract
Contract	Dec 2012 – Dec 2015	3,526,790	-	18 Dec 2012
Negotiated Procedure	Jun 2016 – Jan 2017	587,798	-	3 Jul 2018
Negotiated Procedure	Feb 2017 – Jan 2018	822,034	22 Feb 2017	23 Feb 2017
Negotiated Procedure	Feb 2018 – Jan 2019	822,034	21 Feb 2018[5]	3 Jul 2018
Negotiated Procedure	Feb 2019 – Jan 2020	822,034	31 Jan 2019[5]	13 Feb 2019
Negotiated Procedure	Feb 2020 – Jan 2021	810,000	18 Feb 2020	22 Jun 2020
Negotiated Procedure	Feb 2021 – Jul 2021	405,000	-	not signed
Negotiated Procedure	Aug 2021 – Jul 2022	810,000	3 Jun 2021	3 Jun 2021
Negotiated Procedure	Aug 2022 – Feb 2023	405,000	-	not available
-	Mar 2023	-	-	-
Tender	Apr 2023 – Apr 2026	2,765,495	-	20 Mar 2023

Clerical Services

The original contract for the provision of clerical services expired in March 2017, following which, the service was extended through a number of addenda, which amounted to €283,919 (VAT excl.).

[5] Information for this period was provided by AACC following submission of Management comments, when the audit was concluded.

Upon enquiry, AACC was unable to provide supporting documentation and respective approvals in relation to the period spanning mid-2019 till December 2022. This was attributed to changes in its Procurement Section. Correspondence dated June 2021 disclosed that the Department of Contracts did not approve a request for a negotiated procedure covering the period May 2021 to December 2021. Moreover, AACC continued with this service, without a legally and formally binding contract, extending till December 2022.

The new tender, with a value of €748,627 (VAT excl.), was awarded to three different successful bidders, since all of them submitted identical bids, covering a period of three years until December 2025. Table 3 refers.

Table 3: Clerical Services

Type	Period	Value (VAT excl.) €	Date of Approval from the Department of Contracts	Date of Last Signature on Contract
Contract	1 Apr 2016 – 31 Mar 2017	119,683	-	1 Apr 2016
Addendum 1	1 Apr 2017 – 30 Sep 2017	59,841	-	1 Apr 2017
Addendum 2	1 Oct 2017 – 31 Mar 2018	61,953	-	28 Sep 2017
Addendum 3	1 Apr 2018 – 31 Dec 2018	96,314	-	21 May 2018
Addendum 4	1 Jan 2019 – 30 Jun 2019	65,811	12 Dec 2018[6]	20 Dec 2018
-	1 Jul 2019 – 21 Dec 2022	-	-	-
Contract (various suppliers)	22 Dec 2022 – 21 Dec 2025	748,627	-	22 Dec 2022

Domiciliary Services

Information made available during the audit disclosed that a number of negotiated procedures were entered into by the Ministry, for the provision of domiciliary services between October 2016 and February 2024. It was noted that in most cases, the respective approvals and signing of contract were being effected retrospectively. Additionally, documentation regarding the negotiating process, provided during testing, did not cover all the periods in question.

In the interim, a tender was drafted in July 2022, but had to be stopped due to pending disputes with the Department of Contracts with regard to tender specifications. Consequently, the existing service provider continued to provide domiciliary services to AACC through negotiated procedures. The most recent approval from the Department of Contracts covered until February 2024 for the estimated value of €8,921,452 (VAT excl.). Eventually, in May 2023, AACC drafted another tender document and sent it to the Department of Contracts for its endorsement, but it was not yet finalised by the time this audit report was finalised. Table 4 refers.

6 Information for this period was provided by AACC following submission of Management comments, when the audit was concluded.

Table 4: Domiciliary Services

Type	Period	Value (VAT excl.) €	Date of Approval from the Department of Contracts	Date of Last Signature on Contract
Negotiated Procedure	5 Oct 2016 – 4 Oct 2017	5,100,000	13 Oct 2016	7 Dec 2016
Negotiated Procedure	4 Oct 2017 – 3 Oct 2018	5,163,000	16 Nov 2017	1 Mar 2018
-	4 Oct 2018 – 21 Jan 2019	-	-	-
Negotiated Procedure	22 Jan 2019 – 21 Jan 2020	5,810,881	21 Jan 2019[7]	9 Apr 2019
-	22 Jan 2020 – 7 Mar 2021	-	-	-
Negotiated Procedure	8 Mar 2021 – 7 Mar 2022	7,698,000	6 Apr 2021	13 Sep 2021
-	8 Mar 2022 – 2 Aug 2022	-	-	-
Negotiated Procedure	3 Aug 2022 – 2 Feb 2023	4,234,537	20 Sep 2022	31 Oct 2022
Negotiated Procedure	3 Feb 2023 – 2 Feb 2024	8,921,452	28 Feb 2023	16 Mar 2023

Recommendations

Whilst acknowledging the particular and challenging circumstances in which this entity operates, as far as possible, AACC is to aim for a transparent and competitive procurement process. Thus, it is expected to issue public calls for tenders through the e-procurement system in a timely manner, to allow various potential suppliers to participate and compete in a fair manner in line with the pertinent regulations. The use of negotiated procedures is to be kept to the barest minimum. Besides fostering a level playing field for all suppliers, this approach is likely to yield cost-saving benefits and enhance trust in the procurement process.

Furthermore, a strong focus is to be placed on the contract management system throughout the entire procurement lifecycle.

Training and capacity building for procurement officials is also important. Such efforts aim to enhance their understanding of best practices and legal requirements in the area of procurement. Equipping staff with the necessary skills will contribute to better decision-making and improved efficiency in the procurement process.

Management Comments

When using negotiated procedures, the service hourly rate was normally kept the same, whilst only justified adjustments were considered, such as cost of living adjustment, retail price index and updates to contract circulars related to salary pegging.

Domiciliary services have been on repetitive negotiated procedures for a very long time. In fact, in 1973, the Government had awarded contractual domiciliary services to the then Malta Memorial District Nursing Association. The Association continued rendering its services for decades. The current[8] administration at AACC has dealt with this issue that was ignored for years, and in July 2022, a new tender was sent to the Department of Contracts.

7 Information for this period was provided by AACC following submission of Management comments, when the audit was concluded.

8 Management comments submitted on 7 September 2023.

With regard to training, three officers working at the Procurement Section attended various training sessions organised by the Department of Contracts, while all AACC officials chosen to sit on evaluation boards were given training for these specific duties. To increase its capacity, AACC also issued a new call for compliance manager II and, in October 2023, the selection process was in the final stages.

Absence of Standard Operating Procedures

Discussions during the introductory meeting revealed that the procurement procedures adopted by AACC up to the date of writing this audit report were not regulated by internal standard operating procedures. This had a negative impact on the way as to how procurement processes and procedures were interpreted and followed by the Department during the year under review.

Recommendations

Standard operating procedures are to be urgently compiled, agreed upon and disseminated to all officers within the Department. Amongst others, these shall include, the roles and responsibilities, the monitoring and administration of contracts, planning of required outsourced services, compliance with pertinent regulations and circulars, as well as internal control procedures up to the certification of invoices prior to payment.

Management Comments

Although AACC had no official standard operating procedures related to the procurement process, all procurement was regulated and according to the circulars issued by the Department of Contracts.

Control Issues

Lack of Centralised Control and Validation of Payments

Supporting documentation in relation to domiciliary and cleaning services, such as attendance sheets and working schedules, was not held at the Ministry but at the respective homes for the elderly. Consequently, NAO found no evidence that invoices received were being verified and approved by AACC prior to effecting payment. Moreover, following testing carried out, it became evident that supporting documentation with respect to security services were not always verified and approved by the designated officer.

The absence of proper verification and validation of financial transaction at a centralised level indicates inadequate internal control over the payment for the provision of these services.

Recommendations

AACC is expected to obtain sufficient assurance regarding the accuracy of invoices before processing for payments for the services rendered. These invoices should be substantiated by verified documentation and approved accordingly, before payment is effected. AACC is also to retain evidence of these processes for accountability and audit trail purposes.

Management Comments

Monthly invoices in respect of domiciliary services are verified by the service provider. Also, the signed attendance sheets of the cleaning services are held at the respective homes, whilst invoices are normally sent for certification by the Head of home.

With respect to security services, as from last May 2023, AACC has engaged an officer who oversees all the security guards. Invoices are then forwarded to this officer for verification.

Hourly Rates not verified

Out of the seven sampled transactions, NAO was unable to verify the hourly rates charged by the respective service providers in four cases, totalling €203,313. These instances related to caring services (€154,681), security (€36,228) and nursing (€12,404). Moreover, with respect to the security and caring services, AACC did not provide evidence of formally agreed-upon hourly rates.

In addition, the hourly rates for the provision of nursing services for the year under review were only agreed upon by correspondence sent by the service provider to the Ministry. As indicated earlier, a contract to regularise this service was not in place.

Recommendations

Hourly rates are to be clearly agreed upon at tendering stage and entrenched into a contract for service, which is legally binding for both parties. This will enable the Ministry to take control over the contract expenditure, before the actual payment is effected. It will also ensure audit trail and transparency in the use of public funds.

Management Comments

As previously mentioned, the rates during negotiated procedures remained the same, apart from any increases due to the cost of living adjustment or the retail price index.

Compliance Issue

Unavailable Fiscal Documentation

NAO was not provided with fiscal receipts pertaining to two sampled payments with an aggregate value of €118,669. These related to the provision of cleaning services amounting to €52,660 for the month of June and clerical services rendered during September 2022 for the amount of €66,009. Moreover, the list of defaulters was not being submitted to the authorities, as requested by the pertinent circulars.

Recommendations

AACC is to ensure that all payments are supported by fiscal documentation in line with standing VAT regulations. Defaulters are to be reported to the pertinent authorities.

Management Comments

No comments were submitted by Management.

Ministry for Equality, Research and Innovation

Malta Council for Science and Technology

Expenditure

*Staff at the **Malta Council for Science and Technology** was very cooperative and helpful during the audit of research and innovation funds. The required documentation was readily available upon request and replies to queries made by this Office were always supported by detailed workings, explanations and/or documentation, as applicable. NAO noted accountability, transparency and overall good governance within the management and administration of disbursements reviewed.*

Background

Malta Council for Science and Technology (MCST), acting for and on behalf of the Foundation for Science and Technology, is a public body established in 1988 with the mandate of advising Government on science and technology policy. In 2022, MCST initially was under the responsibility of the Ministry for Equality, Research and Innovation but, following Cabinet reshuffle, as from March it fell under the remit of the Ministry for Education, Sport, Youth, Research and Innovation.

The Council manages national funds for research and innovation through the development and operation of programmes which, in turn, create vehicles for research across the public, academic and private sectors. A portfolio of funding programmes provides researchers with the opportunity to translate their ideas into tangible projects and eventual products or services.

A total of €6.6 million was allocated for MCST research and innovation in 2022 as per Table 1:

Table 1: Allocation

Line Item	Fund Details	Allocation €
5036	Space Research Fund	435,000
5037	Prima	350,000
5038	Internationalisation Initiatives	886,000
5049	Horizon Europe Support Measures	200,000
5075	Research and Development on Infectious Diseases	500,000
5424	Research and Innovation Fusion	4,100,000
5617	International Partnership Awards Scheme	150,000
Total		**6,621,000**

(Source: Financial Estimates for the year 2022)

From the above, the National Audit Office (NAO) selected Line Item 5424 – Research and Innovation Fusion, due to materiality considerations. As per transaction listing presented, the amount of €2,738,023 was actually disbursed in this respect during the year under review.

Audit Scope and Methodology

The scope of this audit was to assess whether the funds assigned to a sample of projects were according to applicable requirements and specific pre-established criteria. Additionally, NAO sought to determine whether adequate internal control procedures were embedded in the administration of funds for research.

MCST provided the required transaction listings which were analysed accordingly. In view that programmes funded during the year from the reviewed line item related to Research Excellence Programme, Technology Development Programme and Technology Development Programme: LITE, one project from each of these programmes, in aggregate totalling €381,639, was selected for review. Given that the procedure adopted differed between beneficiaries, the sampled projects included both private and Government entities. NAO also ensured that the respective projects were either closed-off or reaching finalisation stage in order to enable the review of the whole administrative process.

Additionally, as this line item also contained disbursements of sundry expenditure, testing involved six invoices with respect to remuneration to evaluators, initial patent application, and commercialisation and feasibility reports, totalling €49,835. Such selection took into consideration, where applicable, the materiality of the amount involved, local and international service providers, as well as private and public entities.

General Comments

NAO satisfactorily observed that internal controls were in place and that MCST adequately monitored the projects' progress and ensured that all documentation and evidence required for each assignment was in line with the signed grant agreement. Supporting documentation was systematically filed on server for the respective individual projects. A final technical report and an independent audited financial report were also submitted for each project before the final disbursement (retention) was effected.

The responsible officers were very cooperative and helpful, and explanations requested were clarified immediately, where necessary. NAO noted accountability, transparency and overall good governance within the management and administration of disbursements tested. Only a minor issue was encountered. This related to the evaluators' invoices which were not being endorsed as certified correct, prior to processing for payment.

Management Comments

MCST immediately adopted NAO's recommendation to appropriately certify the claimed expenses by the evaluators when transmitting the invoices for payment purposes. Moreover, MCST is very pleased with the collaborative and open approach adopted by the audit team.

Ministry for Transport, Infrastructure and Capital Projects

Transport Malta

Expenditure

*The lack of segregation of duties and the weak internal controls noted in all phases of the procurement of the rigid hull inflatable boats by **Transport Malta** resulted in insufficient oversight and inadequate risk management which contributed significantly to the suboptimal project outcome.*

Background

This audit report covers the procurement of a total of five Rigid Hull Inflatable Boats (RHIBs) by Transport Malta (TM). As per the terms of Article 33 of the Authority for Transport in Malta Act (Cap. 499), the acquisition of all goods and services by the Authority is to be carried out in line with regulations in force regulating the procurement of all goods and services in the public sector. The Authority had three different Chief Executive Officers between the time of issue of tenders for the RHIBs, that is January 2020, and August 2023, when the Management Letter was concluded.

On 17 December 2019, TM drew up two tender originator forms, covering the procurement of the five RHIBs for use by the Maritime Enforcement Department. Two separate calls for tenders were eventually issued on 31 January 2020[1] and 3 April 2020[2] respectively, namely CT2445/2019 - Tender for the Supply and Delivery of Two Rigid Hull Inflatable Boats (RHIBs) with Cabin and CT2011/2020 - Tender for the Supply and Delivery of Three Rigid Hull Inflatable Boats (RHIBs) with Cuddy Cabin. Both tenders were won by the same bidder and awarded to the foregoing on 27 March and 26 May 2020, respectively. The two contracts were entered into on 16 July 2020 by the Director General Contracts on behalf of the Director Maritime Enforcement Department.

As per contract notice dated 31 January 2020, the tender CT2445/2019 was issued as an open and accelerated procedure, claiming that several other tenders for the procurement of RHIBs were issued before, but were never awarded. Documentation provided to the National Audit Office (NAO) indicated that four tenders, dating back to 2015, were issued and cancelled, while another one was drafted but not published, and the RHIBs were required urgently for the summer operations. Information provided with respect to one of the cancelled tenders also showed that all bids submitted were in excess of the budget available. Reasons of non-compliance were also verbally cited to NAO as a cause of cancellations.

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[1] Issued under an accelerated procedure with the closing date for submissions being 18 February 2020.

[2] Submission deadline was 5 May 2020.

CT2445/2019 - Tender for the Supply and Delivery of Two Rigid Hull Inflatable Boats (RHIBs) with Cabin

Eight offers were received from seven different bidders, with the bids ranging between the highest at €780,000 excluding Value Added Tax (VAT) and the lowest submitted by the winning bidder at €322,034 (VAT excl.). All eight bids were deemed administratively compliant while only seven were considered technically compliant by the Evaluation Committee. The contract was awarded on the basis of the price, which was the sole award criteria for compliant bids. The execution period stipulated in the contract was 20 weeks for the first RHIB and 30 weeks for the second RHIB. However, the construction process was delayed[3] and the project completion deadline was extended three times, the last one up to end June 2021. Documentation reviewed showed that the two RHIBs were eventually delivered in January 2022.

CT2011/2020 - Tender for the Supply and Delivery of Three Rigid Hull Inflatable Boats (RHIBs) with Cuddy Cabin

For this tender, 13 bids from 11 different suppliers were submitted, with the highest bid at €784,125 (VAT excl.) and the winning bidder submitting the lowest bid at €399,033 (VAT excl.). The execution period was also 20 weeks for the first RHIB and 30 weeks for the second and third RHIB. In view of delays similar to the first tender, extensions up to 31 March 2021 were granted, and the RHIBs were actually delivered in April 2021 with sea trials carried out in the same month.

Verifications and Dispute

TM, as the contracting authority, reserved the right to engage an independent surveyor and carry out inspections during the assembly period, that is prior to delivery, to check whether the materials, components and workmanship were of the requisite quality. Moreover, as per the same provisions, TM was also entitled to engage an independent consultant to verify that the tender requirements were fully met prior to the provisional acceptance, following which, payments for the RHIBs were to be effected. In this respect, in February 2021, TM asked an independent surveyor, to provide a quote for sea trials and the provision of the final acceptance certificate for the five RHIBs.

The first report drawn up by the independent surveyor, dated 18 May 2021, as well as subsequent checks, revealed that all five RHIBs, referred to as Echo Romeo (ER) 1 to 5, had several defects of major significance.

Consequently, in consultation with the legal advisor, TM lodged an official dispute notice on 1 November 2022. This was followed by an agreement entered into on 20 November 2022 by the then Chief Executive Officer and the supplier, whereby the Authority granted the contractor the right to attempt repairs, in line with an agreed method statement, without any prejudice to the rights TM enjoyed in terms of the tenders and contracts. This agreement also granted TM the right to terminate the original agreement should any one of the RHIBs not be delivered by 14 April 2023.

[3] COVID-19 restrictions were cited as a cause of delay.

Surveyor Attestation Letters

TM requested the independent surveyor to provide a letter attesting the conditions of the five RHIBs ER1 to ER5. Two separate attestation letters dated 12 June 2023 were issued by the surveyor, one covering ER1 and ER2 and another covering ER3 to ER5. While the latter three were found to be fit for the intended use, operational restrictions were imposed on ER1 and ER2.

The primary hull structure of the ER1 was found to have been compromised and no longer deemed seaworthy for the operations routinely executed by TM's Maritime Enforcement Directorate[4]. In this respect, the surveyor strongly recommended that ER1 be placed out of service. Similar instances of damage were noted on ER2, but to a lesser extent. In this case, the surveyor found no objection to continued limited use of this RHIB, subject to a number of operational restrictions, comprising daily monitoring of cracks, limiting its use to low speed cruising (below 10 knots) within coastal waters, and also limited use to certain weather conditions.

Correspondence traced indicated that, as at 20 June 2023, none of the RHIBs had been certified as fully compliant. ER1 and ER2 were not in service and pending certain retrofitting. The other three RHIBs were in service but, despite having been in service for eighteen months, were still under trials and pending surveyor's certification.

Payments

The contracts entered into in July 2020 only stipulated that payments shall be authorised and paid by the contracting authority against a tax invoice, following a provisional acceptance certificate. On the other hand, the agreement signed in November 2022, stipulated that payment, equivalent to the value of the bid placed by the contractor in the tender, shall be effected in the following manner:

a. 20% of the value of each RHIB delivered by contractor on the lapse of three months from delivery;
b. 20% of the value of each RHIB delivered by contractor on the lapse of six months from delivery;
c. 20% of the value of each RHIB delivered by contractor on the lapse of nine months from delivery; and
d. 40% of the value of each RHIB delivered by contractor on the lapse of one year from delivery.

TM maintained that up to the conclusion of the audit, that is, August 2023, no payments were effected to the contractor.

Financial Information

Estimated budgets indicated in the respective tenders were €440,000 (VAT excl.) for the two RHIBs with cabin and €475,000 (VAT excl.) for the three RHIBs with cuddy cabins; hence, the winning bids, at €322,034 (VAT excl.) and €399,033 (VAT excl.) were significantly lower than the estimated budgets. Two purchase orders were raised by TM on 8 May and 11 December 2020, respectively.

[4] Documentation provided to NAO shows that as at 12 September 2022, ER1 was already not deemed seaworthy.

Audit Scope and Methodology

The main objective of this audit was to evaluate the adequacy and effectiveness of internal controls with respect to the procurement process of the RHIBs, assessing in particular whether the definition of needs, the award procedure, and the management of contracts were duly monitored, safeguarding the interests of Government.

An introductory meeting was held in order to obtain an initial understanding related to these acquisitions. A documentary review of records[5] was then undertaken, whereby compliance with the requirements of the public procurement regulations and tender documents was assessed. This was followed by an analysis of the general ledgers[6] and the Corporate Financial Management Solution using specific keywords associated with the winning bidder.

Key Issues

Lack of Segregation of Duties

This project, worth at least €721,067[7] (VAT excl.), was managed by a single individual[8]. Correspondence reviewed and discussions held indicated that this officer was responsible for the following:

a. drafting of the tender's technical specifications;
b. drafting of the instructions for the tender document;
c. preparing the budget estimate, tender drawings and plans;
d. drafting of the special conditions of the contract;
e. being Chair of the Evaluation Committees for both tenders;
f. engaging the independent surveyor and endorsing related invoices; and
g. liaising with the supplier.

The lack of involvement of other team members led to insufficient oversight and inadequate risk management, resulting in sub-optimal project outcome and significant reputational damage triggered by negative media coverage which extended well beyond the Authority.

Recommendations

The Authority is encouraged to implement a robust governance structure with clearly defined roles, responsibilities and reporting lines, and avoid over-reliance on a single individual. This will enhance project outcomes and mitigate potential risks.

Moreover, risk management practices are to be strengthened and incorporated as an integral part of the capital projects management process. In addition, regular risk assessments are to be conducted, to facilitate the timely identification of potential threats, as well as prompt implementation of mitigation strategies to safeguard project objectives.

[5] Comprising the related Contracts departmental files and other relevant documentation provided by TM.
[6] Covering January 2020 to June 2023.
[7] Representing cost of the five RHIBs.
[8] While it was the project owner who was running the project, the superior was often copied in correspondence.

Management Comments

Recommendations accepted. The Authority will endeavour to implement. Meanwhile, a number of initiatives intended to improve and strengthen procurement procedures have already been implemented. These comprise a review of the Tendering Committee composition, enhancement of the internal audit and risk management structures and internal restructuring to ensure better synergy and more efficiency.

Weak Internal Controls

Robust internal controls were lacking in all the three phases related to the procurement of the RHIBs, namely planning, the evaluation of the contract and monitoring stages. These led to several risks and inefficiencies. Despite that no payments were made up to the conclusion of the audit, the risk of potential financial losses in the future, that could also undermine the organisation`s overall performance, cannot be discarded. The following shortcomings, explained in more detail in this audit report under the respective Control Issues, relate:

- Poor project planning
- Cost estimates not substantiated
- Weaknesses in the evaluation process
- Deficiencies in the upkeep of documentation
- Lack of independent project monitoring
- Communication and reporting deficiencies

Recommendation

The lack of robust internal controls can significantly increase the risk of project setbacks and unsuccessful outcomes. The implementation of strong internal controls and the regular monitoring of their effectiveness can help mitigate these risks and improve the chances of project success.

Management Comments

Recommendation accepted. The Authority takes note of the importance of having segregation between the ownership of processes, namely the planning (including market research and detailed technical specifications and operational parameters), evaluation (possibly with professional technical assistance), delivery and acceptance testing, operational performance and warranties.

Control Issues

Poor Project Planning

Other than the tender document and the respective special conditions, both drawn up by the project owner who was also the project manager, no other documentation setting out the scope and objectives, delivery schedule and resource allocation was noted. There were also no contingency plans to address unexpected events and an action plan in case such incidents materialised.

Recommendation

A solid planning process significantly reduces the risk of project failure. Project plans, outlining clear and specific project objectives, scope, timelines, required resources and deliverables, are to be drawn up. This clarity helps align team members, service providers and other stakeholders towards a common goal, reducing the likelihood of misunderstandings and scope creep.

Management Comments

Recommendation accepted. The Authority fully recognises that for every project there needs to be a dedicated, focused project manager that is experienced with all aspects of project management and that this role should be distinct from the project owner and beneficiary.

Tender Specifications and Cost Estimates not adequately substantiated

Although it was claimed by the project owner that professional input was sought when drafting the tender specifications, no official engagement to this effect was provided. The following refer:

a. The only documentation noted consisted of an informal request to the independent surveyor to provide feedback on the drafted specifications, which limited response was provided in an equally informal manner. There was also no indication whether such feedback was being requested against payment or not. No other input related to the specifications was noted.

b. The cost estimates of €440,000 (VAT excl.) and €475,000 (VAT excl.) stipulated in the tender documents were not supported by documentation evidencing that any market research was carried out.

Recommendations

Detailed specifications are vital for the success of a project. Thus, both should be drawn up professionally and duly documented. Moreover, any advice is to be formally obtained within the established parameters and obligations.

Management Comments

Recommendation accepted. Within the Authority there are already procedures and good practice where, in the case of other tenders and projects, pre-tender professional services were procured to assist in the preparation of technical specifications and performance standards. The Authority will endeavour to implement.

Limitations in the Evaluation

The following issues related to the evaluation of the tenders were noted:

a. As per evaluation report of tender CT2011/2020, no committee meetings were held other than the tender opening session. On the other hand, four meetings[9] were held in connection with the evaluation of the other tender, namely CT2445/2019. However, the respective minutes were not available.

b. Both evaluation reports indicated that each evaluator assessed whether the tenders were administratively compliant with the respective technical requirements. However, the only record related to this process was a comment in the evaluation report of tender CT2445/2019, indicating that the offer by one of the bidders was non-compliant. No other documentation related to the technical assessments carried out was available despite that, as per standing instructions, the Chairperson is expected to provide a resume of the collated comments of all the evaluators per bidder. The absence of key details, discussions and justifications behind the selection, makes it difficult to demonstrate the rationale behind the chosen service provider, except that the foregoing submitted the cheapest bids.

c. The opening session for tender CT2011/2020 was held on 7 May 2020 while the evaluation report was dated the day after, implying that the 13 offers submitted were administratively, technically and financially analysed in one day. This raises serious concerns about the quality of assessments carried out, if any. The evaluation report for the other tender, CT2445/2019, was dated 24 February 2020, four working days after the tender opening session on 18 February 2020. According to the same report, two committee meetings were held after the evaluation report was issued, i.e., on 27 February 2020 and 9 March 2020.

d. Both winning offers were significantly less than the budgeted amounts and not in line with the other bids submitted. Although this fact was brought to the attention of the Chairman by the Evaluation Committee's secretary, the former failed to duly examine this red flag and still considered the bids to be reasonable and acceptable, claiming that the market for RHIBs was very volatile and affected by seasonal demands.

The fact that the project owner was responsible for the drafting of the specifications, as well the Chair of the two Evaluation Committees, resulted in a lack of independent oversight over the whole procurement process.

Recommendations

TM is to ensure that officers nominated to sit on Evaluation Committees are, as far as possible, independent from those involved in the drafting of the tender, hence ensuring that adequate oversight is in place. Moreover, all members are to be conversant with standing procedures and regulations. The Authority is also to ensure that sufficient documentation is retained to justify decisions and actions taken in all stages of the evaluation process.

[9] In addition to the tender opening session.

Management Comments

Recommendation accepted. TM is taking the necessary measures and will be ensuring Evaluation Committees, as far as reasonably possible and practicable, are composed of members that were not involved in the drafting of the tender and technical specifications. Same should be well conversant and have relevant knowledge and experience in the subject matter. The Evaluation Committee members will be given the necessary training. The Chairman and the secretary need to have the right background to provide the necessary administrative support and ensure that proper records and minutes are maintained.

Lack of Input from the Board of Directors

Notwithstanding all the issues encountered in relation to this project, which were evident in the initial inspections carried out by the surveyor in May 2021, no strategic input from the Board of Directors was noted.

Project owner only informed the Authority's Board on the process that was being adopted to address the rectification of defects developed during the Board meeting held on 23 November 2022, after the Authority had already endorsed the rectification agreement entered into with the service provider. Moreover, this was only triggered by correspondence from the Ministry's secretariat dated 5 November 2022, stating that it would be opportune for the Board of Directors to seek clarifications on the matter from TM Management. No feedback from the Board to this effect was noted.

Recommendations

In order for the Board to exercise its role in an effective manner, adequate channels are to be established whereby information reaches the Board in a timely manner, enabling it to provide the necessary strategic direction. On the other hand, the Board is expected to be proactive and ask for information enabling it to track and follow on the progress of projects undertaken by the Authority.

Management Comments

Recommendation is noted and will be communicated to the Board members. Board members are now[10] part of the Tendering Committee. Moreover, standing items will be included in the agenda for Board meetings to keep the latter updated on the status and any particular issues relating to projects and purchases undertaken by the Authority. The Chief Executive Officer also maintains a regular and open dialogue with the Chairman to keep abreast of important issues and developments.

Inspections during Assembly Period not carried out

Both tender documents, through the respective special conditions, granted TM the right to carry out inspections during the assembly period, to examine, measure and test components, materials, workmanship, as well as to

[10] Management comments submitted on 19 September 2023.

check the progress. Despite this right, no evidence was obtained indicating that inspections were conducted during the assembly period. Documentation provided covered only a single visit, carried out prior to delivery, which was performed on the two full cabin RHIBs on 24 April 2021, where the project manager was surprised to find that, in spite of the several extensions afforded to the boat builder, the supposedly complete RHIB was a bare boat with no apparent fixtures at all.

Recommendation

Monitoring of the works in progress will contribute to the success of the project. This will enable the Authority to identify issues and deviances early on and take timely corrective action.

Management Comments

Recommendation accepted. A standard operating procedure is being developed to ensure that the project management team carry out regular monitoring and oversight in general and particularly in projects that involve installation, assembly and outfitting components.

Additional Items requested prior to Delivery

Documentation reviewed shows that prior to the delivery of the RHIBs, the project manager requested additional items related to the RHIBs which were not included in the specifications, amounting in excess of €20,000.

Recommendation

All the necessary accessories are expected to form part of the original specifications and included in the tender at the outset.

Management Comments

Recommendation accepted. Proper project planning and careful drafting of detailed technical specifications, including performance standards, should ensure that essential and ancillary equipment and items are catered for and included in the original tender.

Ta' Qali National Park

Capital Expenditure

*The audit process for the **Ta' Qali National Park** encountered challenges in terms of timely responses and collaboration from relevant parties. Testing also revealed a number of weak internal controls over expenditure incurred on the project.*

Background

In May 2019, Government announced the Malta National Park project, a 450,000 square metre of open space in Ta' Qali, with an investment of €20 million[1]. The masterplan for this project was launched in October of the same year, following the presentation of the respective plans to the Planning Authority. The foregoing project was to comprise several elements, including recreational spaces, playing areas, a lagoon, a camping site, a bicycle motocross park, an open-air concert area, a four-kilometre walking and cycling track, a regenerated farmers' market, housing of the National Archives, as well as parking spaces.

The first phase of the project included works on the Concert Area, the Formal Garden, the Adventure Park and the car park. Initially, the whole project was targeted to be completed in 2022[2]; however, in July 2023, it was still ongoing.

Up to end 2022, the total budget for this project under the Ministry for Transport, Infrastructure and Capital Projects (MTIP), Capital Vote IX – Line Item 7492, amounted to €15,000,000[3], which was further increased to €40,110,877 later on during the year. According to the Corporate Financial Management Solution (CFMS), the total amount expensed out of this line item was €38,763,871. Table 1 refers.

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1 Information provided during the audit indicated that, by end 2021, the amount originally budgeted was revised to over €75 million. According to Management, the initial figure of €20 million had to be substantially revised once the designs were established and proper estimates could be prepared, and therefore, the budget was augmented to cater for all the required work suitable for a National Park of the desired calibre.

2 The first tender relating to the project was issued in March 2020 and work on the Concert Area commenced in September. The project was given the green light by the Planning Authority in March 2021.

3 In 2019, the Ta' Qali National Park project did not have its own allocation, and any related expenses were charged to other line items. Thus, aggregate figure reported under Line Item 7492 does not reflect the full cost of the project.

Table 1: Annual Allocations, Virements, Warrants and Expenditure[4]

Year	Budget €	Virements €	Warrants €	Revised Budget €	Actual Expenditure €
2020	2,000,000	248,293	-	2,248,293	2,248,272
2021	3,000,000	-	13,862,584	16,862,584	16,436,596
2022	10,000,000	-	11,000,000	21,000,000	20,079,003
Totals	**15,000,000**	**248,293**	**24,862,584**	**40,110,877**	**38,763,871**

Audit Scope and Methodology

The National Audit Office (NAO) sought to verify whether expenditure incurred on the project was in line with the applicable rules and regulations. The audit also focused on assessing the extent and adequacy of internal controls over payments made by MTIP, and subsequently by the Ministry for Public Works and Planning (MPWP)[5], in respect of this project. It was ascertained that the related works were duly certified and covered by supporting documentation, and that necessary verifications were carried out before the respective payments were effected.

An introductory meeting was held with the then Permanent Secretary within MTIP, as well as the Ministry's Director General Strategy and Support Services, Director General Public Works Department, and other officials, to discuss the audit objectives and to obtain information on the project. NAO officers also performed a site visit in September 2021, during which the architect in charge within the Public Works Department explained in detail the various phases of the project and the works being carried out. Several other meetings with MTIP and MPWP officials took place from time to time throughout the audit process, in order to obtain updates on the progress of the project and to discuss pertinent audit issues.

According to information provided by the Ministry during the audit, the only section of the project that was expected to be concluded by end 2021 was the Adventure Park. Since originally the audit was planned to relate to financial year 2021, NAO decided to focus the assignment on payments pertaining to this part of the project. However, the final Bills of Quantities (BoQs) relating to the Adventure Park only started being issued towards the end of 2022; thus, the audit had to span over more than one financial year. As a result, this audit report includes observations relating to both 2021 and 2022.

NAO identified the major contracts relating to the Adventure Park, namely those for upgrading works, the provision of play equipment and landscaping. By end 2022, the respective service providers were in aggregate paid €2,085,299.

Testing was also carried out on procurement by direct order which was not directly attributable to a particular section of the project but covered the Ta' Qali project as a whole. In this regard, the sample covered aggregate payments of €126,960.

4 Extracted from CFMS on 4 July 2023.

5 After the general elections held in March 2022, the Ta' Qali National Park project fell under the remit of this newly-formed Ministry. Throughout this audit report, reference was made to both Ministries.

Key Issues

Lack of Cooperation and Delays in replying to NAO's Queries

Both Ministries responsible for the project did not cooperate fully during the course of the audit. Sometimes queries were left unanswered for long periods and NAO had to send numerous reminders and set deadlines to obtain a reply. These deadlines were at times not respected, even when set by the Ministry itself. Besides negatively affecting this Office's audit plan, the delay hindered the audit process[6].

This situation dragged on up to the concluding stages of the audit, whereby MPWP twice asked for the deadline to submit the required documentation to be extended. However, due to time constraints, only one extension was granted and the Ministry was informed that the audit was going to be concluded with the information in hand. This notification was completely ignored by MPWP and replies were nonetheless submitted at the Ministry's convenience, when the audit was already concluded and the audit report was being drafted[7].

Recommendation

Full cooperation is expected from auditees. Not only does this foster a positive working relationship between parties, but also plays a pivotal role in enhancing the overall success and efficiency of the auditing process.

Management Comments

All complete information was provided as requested, in a timely manner as much as possible. However, there were certain factors beyond the Ministry's control, namely that, due to health reasons, one of the responsible officers was not in a position to provide technical replies by the set deadline. The Ministry was always committed to maintain a healthy professional relationship with NAO.

Weak Internal Controls over Expenditure

The audit revealed a generally weak internal control environment over expenditure incurred for the Ta' Qali Adventure Park. The following, detailed further under Control Issues, relate:

a. **Unclear date of completion of works** – Information made available during the audit did not indicate the exact date of completion of works for two out of the three contracts reviewed. Therefore, it is unclear how the Ministry could establish whether the services were delivered within the stipulated deadlines and how it was decided that no penalties were to be incurred by the contractors.

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[6] The Ministry had indicated that the Adventure Park was to be completed by November 2021. However, few payments were effected by this date and in March 2022, the audit was put on hold. Research on CFMS and sporadic meetings were still conducted in the subsequent months to monitor the situation, until the audit resumed in the final quarter of 2022.

[7] Subsequently, the Auditor General officially complained with the Permanent Secretary on the lack of respect shown to NAO.

b. **Works not covered by performance guarantees** – Documentation of two of the sampled contracts showed that works were still ongoing after the performance guarantees expired without these being renewed. Thus, the Ministry was not adequately covered in case of default by the respective contractors.

Recommendations

The Ministry is expected to be in possession of the final certificates of works carried out, clearly indicating the exact completion date of the projects. Performance guarantees are also to be in place throughout the execution of the entire contract.

Management Comments

The Ministry always strives to adopt strict internal controls and be in possession of a final certificate report which clearly indicates the date of completion, but sometimes, due to various reasons, this is not easily achievable. Nontheless, the Ministry welcomes NAO's recommendation to further strengthen its internal processes and shall do its utmost to improve its internal controls and comply with the said recommendations.

Furthermore, the Ministry always gives paramount importance that performance guarantees are in place, but these have to be renewed by the contractor in liasion with its bank, which may result in delays to the extension of such guarantees.

Control Issues

Adventure Park – Upgrading Works

Following the issue of a tender for upgrading works at the Ta' Qali Adventure Park, in February 2021 the Department of Contracts, on behalf of MTIP, entered into an agreement with the successful bidder. The contract had a value of €1,453,792 excluding Value Added Tax (VAT) and an execution timeframe of 27 weeks.

Retroactive Approval of Contract Period Extension

The request to extend the contract period for upgrading works for a further 51 days was approved by the Permanent Secretary months after the original contract period had expired, since work was still ongoing. Moreover, as also confirmed by the Ministry, no reference to this extension was made in the second addendum to the contract; thus, there was no evidence that the extension was duly approved by the Department of Contracts.

Recommendation

Any changes to the agreement, including extensions to the contract period and modification requests, are to be timely and duly approved, both internally and externally.

Management Comments

The contractor was instructed on several occasions to submit any claims for an extension of the contract period. Nonetheless, the claim, together with justifications, was received after the scheduled completion date of the project.

Works not covered by Performance Guarantee

The single bond of €100,000, submitted by the contractor in line with the agreement, was only extended 10 days after it had already expired. Moreover, modifications to the contract for upgrading works were not covered by a bank guarantee.

Recommendation

The entire contract period is expected to be covered by a valid bank guarantee, thus ensuring adequate cover in case of default by the contractor.

Management Comments

The contracting authority sends numerous reminders to various contractors when the performance guarantee period would be due to expire. It depends on how proactive the contractors are. However, it is to be noted that no payments are effected when the performance guarantee is not valid.

Discrepancies between Modifications requested and approved

Discrepancies were noted between requests for modifications and the addenda formalising these variations. Three request for modification forms were issued for a total value of €237,932[8] (VAT excl.). However, the two addenda signed only covered total additional upgrading works of €82,175 (VAT excl.). It transpired that the second request for the modification of contract was not reflected in any addendum and the value of repetition of works was also completely omitted[9].

As per provisional final BoQ, the contractor actually charged additional works of €66,119 (VAT excl.) and repetition of works totalling €86,431 (VAT excl.). These were subsequently paid; however, NAO could not establish whether these amounts were duly approved.

Recommendation

The full value of additional and repetitive works, as indicated in the requests for modifications, is to be covered by an addendum which is to be duly endorsed by both parties, covering the amounts eventually charged out by the contractor.

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[8] Additional works of €100,511 and €137,421 for repetition of works, both excluding VAT.

[9] At one point, MPWP realised that the second request for modifications was never sent to the Department of Contracts for approval. Thus, the Ministry intended to incorporate the amount in question with the subsequent request. However, NAO could not confirm these assertions.

Management Comments

Three requests for modification forms were submitted but no approval for the second request was received from the Department of Contracts. Hence, this was deemed as cancelled and a third request was drawn up. The latter included items that were contained in the cancelled request.

The amount of €66,119 (VAT excl.) for additional works was split between the first and second requests, with the contents of the latter being transferred to the third request. This amount was duly approved in the two addenda signed.

The same occurred for the repetition of works totalling €86,431 (VAT excl.), with the difference that in this case, the amount was not included in the second addendum since there was no requirement for the Department of Contracts to approve the repetitions as these were within the contract parameters.

Adventure Park – Procurement of Play Equipment and Protection Safety Surface

In April 2021, the Department of Contracts, on behalf of MTIP, signed a contract for the supply and installation of play equipment and protection safety surface at the Ta' Qali Adventure Park. The contract was valued at €399,855 (VAT excl.), with an execution timeframe of 20 weeks.

Unclear Date of Completion

The provisional acceptance certificate, whereby MPWP confirmed that the works on play equipment and protection safety surface had been effectively completed and accepted, was issued in March 2022[10]. However, contract modifications were requested in July and formalised through an addendum signed in October 2022, while the provisional final BoQ was only issued a week later. This sheds doubts on whether works were actually completed by the date of the provisional acceptance certificate, as claimed by the Ministry.

Recommendation

The exact date of completion is to be clearly documented, as this is crucial in determining whether the works were actually carried out within the stipulated deadlines.

Management Comments

It is hereby being confirmed that the date of completion was that as provided in the provisional acceptance certificate.

Works not covered by a Performance Guarantee

According to the Ministry, all works on play equipment and protection safety surface were completed in March 2022, before the expiry of the performance guarantee. However, since the completion date was not clear (as explained in the previous observation), NAO was not in a position to confirm as to whether the Ministry was adequately covered by a valid performance guarantee throughout the whole contract period.

[10] The performance guarantee had already expired by this date.

Recommendation

The Ministry is to ensure that it is covered by a valid performance guarantee until all works have been completed, in order to safeguard Government's interest in case of default by the contractor.

Management Comments

When the provisional acceptance certificate was issued, the performance guarantee was no longer required and the contracting authority was satisfied with the level of work handed over.

Approved Repetition of Works differing from Payment Certificate

The value of repetition of works quoted in the payment certificate issued in October 2022 for the provisional final BoQ for play equipment and protection safety surface was higher than that approved in the first addendum. According to MPWP, the difference of €4,976 (VAT excl.) was covered by the second addendum which was approved by the Department of Contracts in March 2023, i.e., during the final stages of the audit[11].

Further testing revealed that the contractor had in fact issued another two invoices in March and April 2023, for an aggregate value of €17,856 (VAT excl.). However, since no details were available in support of these two invoices, NAO could not establish what was actually charged and whether the abovementioned difference was included.

Recommendations

Payment certificates are to accurately reflect work carried out, at the charge agreed upon with the contractor and approved by the respective levels of authority. Adequate documentation is also to be maintained to support amounts invoiced throughout the different stages of the contract.

Management Comments

The provisional final bill showed that a total of €15,065 (VAT excl.) was paid in respect of repetitions as approved in the first addendum. The amount of €4,976 (VAT excl.), was approved in the second addendum in March 2023.

The invoice issued in March and April 2023 included a portion of the release of retention and the first year of maintenance. Thus, once the remaining €4,976 (VAT excl.) is paid, there will be no discrepancies between the approved works and payment certificates.

Uncertainty on whether Penalty Clauses were enforceable

Given the uncertainty surrounding the actual completion date of the installation of the play equipment and protection safety surface, as well as the lack of supporting documentation, NAO was not in a position to determine whether any penalties for late completion should have been enforced against the contractor.

[11] This raises further doubts on the actual date of completion of the works and the adequate cover by a valid performance guarantee.

Recommendations

Penalties, as stipulated in the agreement, are to be levied in the case of any default by the contractor. Sufficient evidence is to be maintained to substantiate the case.

Management Comments

No penalties were contemplated since the contractor delivered the works on time and in a level which was in line with the contract technical requirements.

Adventure Park – Upgrading of the Irrigation and Landscaping Works

Following the issue of a public call for tenders, in October 2021, the Public Works Department within MTIP entered into an agreement with the successful bidder for the upgrading of the irrigation and landscaping works at the Ta' Qali Adventure Park. The contract, for €209,525 (VAT excl.), had an execution period of 18 weeks[12] and a maintenance period of 5 years. In September 2022, the Department terminated the contract with the service provider with immediate effect, since maintenance levels were not up to the desired standards.

Additional and Repetition of Works not formally authorised prior to Execution

The contractor was paid €51,043 (VAT excl.) for additional and repetitive irrigation and landscaping works not included in the original contract. Formal requests for these modifications were not made and the respective works were not covered by administrative orders prior to their execution[13]. Moreover, the addendum to the contract, formalising the carrying out of these repetitive and additional works was only endorsed by the Ministry after the respective final BoQ and final payment certificate were issued. Thus, NAO obtained no evidence that these works were duly authorised from the right level of authority before they were carried out.

Recommendations

The Ministry is to ensure that the necessary approvals for modifications to the original contracts are duly obtained before the actual work is carried out. Furthermore, all relevant documentation is to be filed for future reference.

Management Comments

The additional and repetitive works were urgently required in view of deadlines, as well as to ensure that the work already carried out be kept to optimum standard and thus avoiding further expenses. After the Permanent Secretary's approval and the issue of the final BoQ, together with the modifications and their certification, in December 2022, the addendum was endorsed by the parties so that the works carried out were in line with contractual obligations.

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[12] From the order to start works.

[13] Formal requests were required to be in place as per special conditions to the contract. During the audit, the Ministry justified the non-adherence to these contract conditions, claiming that the contractor was asked to speed up works so that all landscaping was in place by the inauguration. However, inclement weather slowed down these works considerably, thus making it impossible for the contractor to forward all modification requests prior to execution.

Exact Completion Date of Works not known

No official documentation (such as the provisional acceptance certificate), showing the exact completion date of the upgrading of irrigation and landscaping works, was available[14]. Thus, NAO could not establish if the project was completed within the stipulated deadline of February 2022 and that no penalties were to be imposed. This also hindered verification on whether the performance guarantee up to June was sufficient to cover the Ministry's interests.

Recommendation

Management is expected to keep track and document the progress of its projects as per the respective contract clauses. This will also facilitate the assessment of whether the respective deadlines are met, ensuring that no penalties are to be imposed.

Management Comments

Although a partial provisional acceptance certificate was issued, a provisional one was never issued, given that some snags remained not fully rectified till the termination of the contract. However, the work contemplated in the tender document was completed, subject to snag rectification, by the date of the partial provisional acceptance certificate being 30 November 2021.

Lack of commitment, knowledge and experience in conducting and maintaining the required maintenance standards on the part of the contractor resulted in the Adventure Park having numerous issues which were never addressed, and the Park was left to deteriorate. This led the officials involved to request approval for the termination of the contract which was subsequently granted.

Direct Order awarded as Capping for Modifications to Contract exceeded

In December 2022, MPWP and the contractor signed an addendum listing additional and repetition of irrigation and landscaping works for the aggregate value of €51,043[15] (VAT excl.). This was over and above a direct order for similar works, amounting to €2,577 (VAT excl.), awarded to the same contractor three months before. MPWP confirmed that works awarded by direct order were excluded from the addendum on purpose, since these would have exceeded the allowable percentages for additional works.

Recommendations

The Ministry is encouraged to improve planning at tendering stage, to reduce the incidence of variations to contracts, as much as possible. Approval is to be granted only for variations which are justifiable.

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14 Only the partial provisional acceptance certificate, issued in December 2021 and listing a number of tasks which still needed to be completed, was made available for audit purposes.

15 Adding up to 24.36% of the original contract value.

Management Comments

The direct order consisted in additional tasks required for the successful completion of the works since these were unforeseeable at tender stage. These were urgent works and could only be carried out by the same contractor, as they were a continuation of the installations already completed. This saved further expenses of public funds since work continued to be carried out in a streamlined fashion. Furthermore, in view of the maintenance obligations of the contractor, the additional works covered by this direct order could not have been conducted by another contractor as it would have resulted in the voiding of any defect liability.

Unclear Responsibility in case of Defective Work

The contractor was responsible for rectifying any defects or damage which arose following the upgrading of the landscaping and irrigation system in the five-year defects liability period (following the issue of the provisional acceptance certificate). However, according to MPWP, the defects liability period was no longer valid since the contract with the original service provider was terminated in September 2022, and the equipment and installation were subsequently being managed by another contractor[16]. No documentation to this effect was provided. Thus, it was unclear who was responsible for any potential defects arising from works carried out by the original contractor.

Furthermore, NAO had reservations on whether it was appropriate to release all the retention money upon termination of contract and payment of the last invoice[17].

Recommendation

Management is to clearly establish who was to bear responsibility for any defects arising from the irrigation and landscaping works and to substantiate replies to NAO with relevant documentation.

Management Comments

Items installed by the contractor shall remain as per contract guarantees; however, defects arising out of bad or lack of maintenance shall not be attributable to the original contractor since the contract was terminated. A vast portion of the tender included living turf and vegetation, and since life cannot be simply guaranteed, no redress can be sought unless there is a clear case of a defective product. The retention money was held to ensure smooth operation during the maintenance period, but since the contract was terminated, the retention monies had to be released. Future defects due to maintenance will be covered by the maintenance contract in vigore at that time. The original contractor cannot be held responsible for other defects as there is no legal relationship between the foregoing and the contacting authority.

[16] MPWP's reply referred to the warranty section of the contract entered into with the original service provider, thus implying that the five-year warranty was being covered by the new contractor.

[17] According to the contract, retention monies were to be released within 45 days from the final acceptance of works. The last invoice was settled within four days from the issuing of the final payment certificate.

Commencement of Maintenance Period not in accordance with Contract

MTIP notified the contractor that the maintenance period for irrigation and landscaping was to commence in December 2021. According to the contract, maintenance was to start from the date of the issuance of the provisional acceptance certificate in respect of all the works. Given that only the partial provisional acceptance certificate was issued, and works were still ongoing during 2022, maintenance expenses started being incurred before the contractor had actually completed the works.

Recommendation

All clauses in the contract are to be adhered to by both parties to ensure the smooth running of the project.

Management Comments

In a delicate tender involving turf and vegetation, maintenance has to be carried out in line with the specific needs of the living items to avoid premature death and ensure their longevity. Although only the partial provisional acceptance certificate was issued, maintenance had to start immediately to safeguard the mentioned purpose and thus avoiding the incurrence of further expenses.

General Expenditure

Shortcomings in the Procurement of a Lighting Conceptual Design

The provision of a lighting conceptual design for the Ta' Qali project was entrusted to a foreign-based service provider following a direct order approval obtained from the then Ministry for Finance (MFIN) in September 2019, at a total cost of €73,000 (VAT excl.). Testing carried out on this expense revealed the following:

a. No contract for service was entered into with the service provider or letter of acceptance issued by the Ministry. Thus, the applicable terms and conditions of the agreement for the lighting conceptual design were not officially defined and endorsed by both parties. The contractor was notified of the award of contract by email in October 2019.

b. The direct order approval granted by the then MFIN covered a period of 12 months. However, the service provider was still invoicing the Ministry during the subsequent years, up to at least December 2022.

c. In November 2019, the service provider invoiced MTIP €23,000 (VAT excl.) for the conceptual design of the project and the invoice was paid in full five days later. However, the official lighting design document[18] for phase 1 of the project, compiled by the service provider, was dated December 2019, suggesting that payment was effected before the service was actually completely delivered.

[18] This was the deliverable relating to the conceptual design of the project.

d. The invoices issued by the service provider did not include detailed information on the amounts being charged. This hindered verifications to ensure that the Ministry was billed according to the itemised fee proposal submitted by the contractor for the lighting design. When this shortcoming was brought to the attention of the Ministry, the foregoing presented detailed explanations and a breakdown of costs pertaining to each invoice, stating that it was ensuring that services provided were being correctly charged. However, NAO could not corroborate this information and invoices still could not be matched with the proposal.

Recommendations

Works of considerable value and which are expected to be delivered over a period of time are to be covered by an agreement endorsed by the parties concerned, prior to the commencement of works. Agreements are to clearly stipulate the parties' rights and obligations, amounts due, method of payment and period of execution of works. On the other hand, invoices are to reflect the items detailed in such agreements and respective charges.

The Ministry is also to ensure that payments are effected only after the service has actually been provided.

Management Comments

The contractor was notified via email that there was an approval to commence the consultancy services. While it is true that the approval was for 12 months, it is very important to note that the project was split up into 6 phases, and the period of deliverables was tied to the approval of the respective permits from the Planning Authority. Some permits were delayed, and thus the conceptual design could not start before. One must point out that the overall financial approval was never exceeded.

The first payment for the invoice dated November 2019 was effected following the submission of the design conceptual package by the consultant as per agreement. Following internal review of the same design document, the responsible architect and engineer requested further changes and revisions to the said document, and the consultant revised parts of the design in December 2019. Hence, the change in date of the submittal.

The scope of the quotation was the provision of a conceptual lighting design to cover the entire area of the Malta National Park project at Ta' Qali which consisted in different areas. Every invoice received from the contractor covered all the mentioned areas depending on the progression of works. Some areas are still within the implementation stage while other areas, such as the Adventure Park, have been completed and handed over. Thus, the invoices reflected the services provided according to the implementation phase of each area. The original quotation remained unaltered as no changes in quantity were effected.

Shortcomings in the Procurement of Billboards

During 2021, MTIP rented six billboards for a total period of four months, at an aggregate cost of €19,800 (VAT excl.). Two calls for quotations, each covering a two-month rental, were issued; however, these were not done through the Government's e-procurement platform due to urgency. Instead, in both cases, the Ministry obtained three quotations and contracts were awarded to the cheapest bids, pertaining to the same service provider. In reviewing documentation relating to this service, the following shortcomings were noted:

a. Given the aggregate amounts involved and considering that it was very likely that the billboards were to be rented for consecutive periods, this procurement should have been done through a departmental call for tenders. If the service was indeed required urgently, the approval for direct order should have been sought from the Ministry for Finance and Employment, in line with the Public Procurement Regulations (PPR).

b. The invoice for the rental of billboards during June 2021, amounting to €4,950 (VAT excl.), was dated before the respective direct order objection period had expired, as well as prior to the issue of the letter of acceptance to the service provider. The same situation prevailed in the second two-month rental, having a total cost of €9,900 (VAT excl.).

c. All quotations for the second two-month rental indicated that the service was to be provided during August and September 2021[19]. The direct order approval to go for the cheapest bidder was granted on 15 September, while the letter of acceptance was dated two weeks later. However, the respective invoice, for €9,900 (VAT excl.) did not indicate the months during which the billboards were rented; thus, since NAO could not establish the exact period of service, it could not be confirmed that the direct order approval was obtained before the actual commitment.

d. The bid submitted by the selected service provider for the second two-month period was identical to the previous one, i.e., for six billboards at €9,900 (VAT excl.). In both cases, the charges included installation costs. MTIP did not benefit from the fact that the billboards were still on site during the process of the adjudication of the second direct order and failed to try to negotiate rates, but instead paid the full price as if the billboards were dismantled and re-installed.

Recommendations

The PPR are to be invariably followed. Procuring directly from the open market is to be resorted to only in exceptional circumstances. If this cannot be avoided, the respective clauses of the PPR are to be strictly complied with. Better planning and negotiating prices in favour of Government are also expected so as to minimise public spending.

Furthermore, invoices are to include all necessary details on the service being purchased, enabling the necessary verification before these are processed for payment.

Management Comments

The Ministry reiterates that in view of urgency, quotations were sought in order to provide consistency in the services. The Ministry welcomes NAO's recommendations and shall strive to adhere to them to improve its operations.

[19] MTIP claimed that the quotations were mainly assessed with respect to the price and duration of a two-month period, and that the ultimate practical commencement date for the service was set for 15 September.

Compliance Issue

Direct Orders not published in the Government Gazette

Article 111(2) of the PPR specifically requires all heads of contracting authorities to publish every six months in the Government Gazette a list of all contracts, awarded by the respective entity, whose value exceeds €5,000 (VAT excl.), as well as all instances of variations exceeding the original contract value by more than 5%. However, as at December 2021, when the initial testing started, no details were yet published for the following direct orders:

a. the provision of a lighting conceptual design for the value of €73,000 (VAT excl.), approved by the then MFIN on 25 September 2019; and

b. the two-month rental of six billboards, at an aggregate value of €9,900 (VAT excl.), approved by MTIP on 15 September 2021.

Recommendation

For the sake of transparency, the Ministry is to publish the full list of contracts awarded in the Government Gazette as per standing regulations, within a reasonable time.

Management Comments

It is hereby being confirmed that the direct order for the rental of six billboards was eventually published in the Government Gazette.

Ministry for Social Justice and Solidarity, the Family and Children’s Rights

Children's Allowance

Expenditure

*The audit on **Children's Allowance** revealed considerable overpayments in Foster Care Allowance as changes in household circumstances were not being reported on time. Moreover, efforts to recover overpayments were not sufficient.*

Background

The Department of Social Security (DSS) is responsible for the administration of Children's Allowance which comprised the following for the year 2022:

a. **Children's Allowance (CA)** – Calculated as 6.5% of the difference between the total income of both parents and €25,409 for each child under 16 years of age. Children between 16 and 21 years of age may qualify for a reduced rate if they are unemployed or undergoing full-time education or training.

b. **Children's Allowance Flat Rate (CAFR)** – When the total household annual reckonable income exceeds €25,409, a flat rate of €8.66 per week is payable for every child under 16 years of age.

c. **Child Birth Bonus[1] (CBB)** – €400 payable once on the birth of a child, irrespective of the income of the parents.

d. **Child Adoption Bonus[1] (CAB)** – €400 payable once on the adoption of a child, irrespective of the income of the parents.

e. **Foster Care Allowance (FCA)** – Payable at €110 per week until the fostered child is 21 years old.

f. **Children's Allowance Supplement (CAS)** – The increase in Children's Allowance announced as from January 2021 is paid through this supplement.

This audit covered Children's Allowance for the year ended 2022, during which a total of €43,439,111 was disbursed[2]. Table 1 shows the number of beneficiaries and respective expenditure for the abovementioned categories during the year under review[3]:

[1] A claim for such bonus is not accepted unless it is made by a citizen of Malta or of the European Union or by a person married to a citizen of Malta, provided that the parent had been ordinarily resident in Malta for a period of at least 10 years immediately prior to the claim.

[2] Data extracted by DSS, related to payments effected from 31 December 2021 to 30 December 2022.

[3] Information provided by DSS.

Table 1: Children's Allowance Beneficiaries

Category	Number of Beneficiaries	Expenditure €
CAFR	30,143	20,865,006
CA	14,531	16,248,488
CAS	44,241	3,526,408
FCA	200	1,547,983
CBB	3,135	1,243,321
CAB	19	7,905
Total		**43,439,111**

Financial Information

According to the Financial Estimates (Recurrent Vote 21 – Line Item 5142), €44.5 million was allocated for Children's Allowance in 2022. Table 2 shows expenditure incurred over the last five years in this regard.

Table 2: Annual Expenditure

Year	2018	2019	2020	2021	2022
Expenditure (€)	39,312,497	39,510,734	41,795,339	43,060,196	43,439,111

(Source: Financial Estimates for the years 2020-2023, 2022 figure provided by DSS)

Audit Scope and Methodology

The scope of this audit was to determine whether adequate internal control procedures were embedded in the Children's Allowances administration system, from the assessment of eligibility, up to the respective payment. Furthermore, the audit assessed whether this allowance was processed in accordance with the provisions laid out in the Social Security Act (Cap. 318).

An introductory meeting was held with the Director General (DSS), the Director (Contributory Benefits), Assistant Director (Directorate Corporate Services) and Assistant Director (DSS Gozo - Benefits Department) to discuss the audit objectives and to request information required by the National Audit Office (NAO). Additional meetings were conducted with the pertinent officers, to gain a comprehensive understanding of the procedures adopted in administering this allowance and to obtain the necessary explanations pertaining to audit testing.

The scope of this audit focused on CA and FCA, which were deemed as higher risk categories. As a result, no testing was carried out on CAFR, CBB, CAB and CAS. In the case of CA, a sample of 30 beneficiaries who received the maximum rate was selected on the basis of identified risk factors. With regard to FCA, five of the most material overpayments created under this category were selected for testing. Information on Sistema għall-Amministrazzjoni tal-Benefiċċji Soċjali (SABS), including Jobsplus records and income declaration uploads, was assessed to determine the accuracy and validity of disbursed payments. Documentation supporting the creation of overpayments was also requested, as applicable.

Disclaimer

In order to enable the performance of this audit, NAO requested a list of all Children's Allowance beneficiaries under each category during 2022, including the respective expenditure. However, datasets provided contained discrepancies when compared to information which was initially provided following the introductory meeting. According to the Department, such discrepancies occurred due to different cut-off dates between Corporate Financial Management Solution and SABS. The Department was also notified of other inconsistencies emanating from the CA dataset which were noted by the Auditors. In view of this, NAO was not in a position to ascertain the completeness and accuracy of the information provided.

Control Issues

Considerable Overpayments in Foster Care Allowance

As indicated above, 200 beneficiaries received a total of €1,547,983 in FCA during 2022. The total overpayments registered with respect to this category stood at €144,746 as at December 2022, of which, 11 overpayments with an aggregate value of €33,440 were created during the year under review.

Supporting documentation provided by DSS confirmed that changes in household circumstances were neither being reported on time to the foregoing, by the Directorate for Alternative Care within the Foundation for Social Welfare Services Agency nor by the respective beneficiaries. The highest overpayment registered, which amounted to €15,920, was created in December 2021 and covered a period of almost three years.

Recommendations

In view that FCA, which currently stands at €110 weekly per child, is paid quarterly in advance, failure to report changes on time leads to material overpayments. In this regard, DSS and the Foundation for Social Welfare Services Agency are expected to establish a mutually agreed communication process with the aim of enhancing the administration of the allowance and thus avoiding the creation of unnecessary overpayments. Ideally, such agreement is be formalised through a memorandum of understanding and disseminated internally to ensure clarity and consistency.

Management Comments

The Foundation and DSS took note of NAO's recommendation and steps are being taken to formulate a memorandum of understanding for the sake of further clarity and co-ordination.

Insufficient Efforts to recoup Overpayments

The analysis of Children's Allowance overpayments revealed the following concerns:

a. Beneficiaries were notified of any overpayments through a letter sent by post, wherein the claimant was informed that the overpayment will be deducted from current and future DSS payments; a refund of the amount overpaid was not specifically requested.

b. According to the Department's records, aggregate Children's Allowance overpayments stood at €2,487,767 as at January 2023. It transpired that no repayments were ever registered with respect to certain debtors, amounting to nearly €500,000, which accumulated since 1996. It is pertinent to point out that overpayments recorded under the CA category made up 81% of the foregoing amount.

c. NAO noted inconsistencies in the return of arrears of revenue information provided as a number of overpayments were not recorded under the same benefit from which they had originated[4]. As a result, the actual figure representing Children's Allowance overpayments could not be determined.

Recommendations

Management is to ensure that no effort is spared in order to recover pending dues in the shortest possible time. In this respect, DSS is recommended to redraft the overpayment notification letter. This is to include a specific request for the claimant to visit the respective Area Office and effect the necessary arrangements for the repayment of the amount due. Whilst this will not necessarily make claimants pay instantly, it will at least make them aware that overpaid amounts are expected to be repaid within an agreed time period.

On the other hand, overpayment reports should assist Management in identifying causes of concern and suitable remedial action. Thus, any shortcomings are to be rectified in order to ensure that management information is accurate and complete. Additionally, the recoverability of pending debts is to be assessed for any necessary provisions, or for amounts written off in case their recoverability is impossible, to ensure that figures reported are reasonable.

Management Comments

The overpayment notification letter will be redrafted and rendered more effective in line with that currently in use by the Overpayments Section, which had been adopted following past NAO's recommendations. Thus, besides notification of the revised benefit rate, beneficiaries will be requested to settle the overpayment and will be directed to enter into a reasonable repayment agreement.

The last two points regarding lack of repayments and inconsistencies in the return of arrears return were not addressed.

Control Procedures not supported by Evidence

Claims from Management regarding the performance of internal control procedures were inconclusive. DSS outlined what action is usually taken when it is in possession of reports of employment terminations from Jobsplus and nil income declarations submitted to the Office of the Commissioner for Revenue. However, documented evidence to confirm that such procedures were being followed, and the respective outcome in such cases, was not made available to NAO.

[4] For example, in a particular instance, an overpayment of €32,169 which originated from Social Assistance was recorded under CA.

Recommendations

Internal control is a crucial mechanism to promote compliance and safeguard against abuse. In this respect, DSS may evaluate the effectiveness of a risk assessment exercise to determine whether implementing additional controls can reasonably enhance the management and administration of the allowance.

Additionally, the responsibility for overseeing internal control is to be officially assigned to a designated officer who will be accountable to Management through established reporting structures. This process is to be revisited periodically to identify opportunities for enhancement.

Management Comments

DSS maintains that standing internal controls are sufficiently effective. The review of CA cases is undertaken by assessors who follow control procedures which are innate or part of their training, responsibility and experience. Furthermore, the interaction between the assessor and authoriser provides the necessary checks and balances to ensure a fair evaluation of each case in accordance with set procedures. Borderline cases are referred to Management, so that the public interest is safeguarded in the best way possible. Nonetheless, DSS has taken note of the recommendations and will continue to review the control mechanism periodically in order to take corrective enhancement if the need arises.

Concern over Particular Income Declarations

The amount of CA due to a beneficiary is automatically calculated by SABS following upload of Inland Revenue income declarations. Testing revealed that the highest CA rate was also awarded in instances where the head of household's registered occupation was presumed to attract income which was not commensurate with such amount. Although according to Jobsplus records such individuals were employed or self-employed in the building construction, renovation or carpentry industry, they still declared unreasonably low income.

DSS confirmed that once income declarations were accepted by the Office of the Commissioner for Revenue, nothing was done by the Department to counter the possibility of abuse since the latter was not the competent authority to investigate the veracity of such claims.

Recommendation

The Department may consider proposing the investigation of particular income declarations by the Office of the Commissioner for Revenue, where deemed appropriate. Besides ensuring that the correct Children's Allowance is awarded to eligible individuals in line with the Department's mission and values, this will also assist in the proper collection of income tax by Government.

Management Comments

DSS is not the competent investigating authority. However, when low income declarations are noted repeatedly, the Department draws the attention of the head of household and continues awarding the lowest benefit rate until the necessary explanation is received.

Official Manual of Procedures not available

The Children's Allowance Section does not have an official manual of procedures, but guidelines and notes were compiled and shared between team members. However, NAO noted that the minimum and maximum annual reckonable income for CA entitlement purposes contained therein were not in line with the applicable legislation.

Recommendation

Management is to ensure that comprehensive procedures, which serve as a step-by-step guide in the administration and management of this allowance, are in place. This will support the adoption of a fair and uniform approach, as well as compliance with pertinent regulations.

Management Comments

Point not addressed.

Welfare Committee

Revenue

*An audit on the revenue of the **Welfare Committee** revealed that there was no segregation of duties, as well as serious risks relating to the management of cash and cheques received. Incomplete and inaccurate accounting records to this effect were also noted. However, NAO positively acknowledges the urgent actions being taken to address these issues.*

Background

The Social Security Act (Cap. 318) Article 130 states that a Welfare Committee shall be established with the aim of administering funds entrusted to it for the benefit of the elderly residents in various state-run homes. During the year under review, the Welfare Committee fell under the remit of the Ministry for Social Justice and Solidarity, the Family and Children's Rights (MSFC)[1].

Financial Information

The income for 2022 of the Welfare Committee was due from two main sources, being the yearly Government allocation of €3.6 million, as well as €733,598 in contributions from the elderly people living in a number of Government homes and institutions[2].

These contributions are calculated on the basis of pensionable income (treasury pensions and social security pensions), as well as other income earned by the residents. Contributions withheld at source from the social security pensions are transferred directly to the Ministry for Senior Citizens and Active Ageing, whilst amounts withheld from treasury pensions are transferred automatically to the Welfare Committee. Any other amounts which cannot be directly deducted from the pensions have to be paid by cash or cheque by the individual to the Committee.

Audit Scope and Methodology

The scope of this audit was to verify the accuracy and completeness of reported revenue and that the applicable laws and regulations were complied with. It was also ascertained that revenue was recognised in a timely manner and that internal controls related to the collection and reporting of revenue were effective.

[1] Before the general election in March 2022, the Welfare Committee fell under the remit of the then Ministry for Senior Citizens and Active Ageing.

[2] St. Vincent de Paul, Floriana, Mtarfa and Mosta homes, as well as Karin Grech, Mater Dei Hospital and Gozo General Hospital.

Meetings were held with the Chairman and the Administrator of the Welfare Committee, whereby detailed explanations and procedures were provided regarding the Committee's revenue generation and collection procedures.

As explained in the Disclaimer, no audit sample was taken for the purpose of this audit, because information maintained by the auditee was haphazard and generally lacking. Consequently, testing only focused on the applicable procedures.

Disclaimer

The Welfare Committee kept most of its records manually and the little electronic data maintained was generally incomplete. Details requested for audit purposes from the Administrator were not readily available and had to be compiled on demand after poring over numerous manual documents. Notwithstanding the substantial amounts involved, the situation was an extreme case of incomplete records and in view of the absence of fundamental information, testing was neither comprehensive nor exhaustive in the following areas:

a. Data regarding the total contributions, receivable by the Welfare Committee during the year under review, was only provided to the National Audit Office (NAO) when the audit was in its final stages. Moreover, the information received lacked important details, such as dates covering the period of the contributions receivable and the homes in which the elderly resided. A list of debtors for the same period was also not available.

b. Lists detailing undeposited cash and cheques were not kept by the Administrator[3] and, as such, no reconciliations of these amounts were being made against the records of the Welfare Committee.

Management Comments

Whilst it is agreed that electronic data is lacking and information is mostly held in a manual format, such records mainly relate to debtors (these being amounts due by way of contributions from residents in various homes) and receipts relating to the periodic settlement of these contributions by the same residents.

All invoices and receipts up to the end of financial year 2021 have been inputted on the accounting system in use by the Welfare Committee. In view that the accounting entries for 2021 had only been uploaded on this system in August 2023, information could not be made available electronically.

In this regard, the opening balances for financial years 2022, and eventually 2023, required for populating the general ledger accounts could not be uploaded on the aforementioned system. In the interim period, pending the uploading of this data and opening balances, the Administrator had to inevitably resort to a manual accounting procedure of recording invoices and receipts.

[3] These were only compiled when requested by NAO for audit purposes.

Instructions have also been given to the Administrator to maintain an updated aged debtors' list. This list will be tabled at the meeting of the Welfare Committee every three months. Once a suitable accounting application is selected, information on debtors would be readily available. It is the intention that the maintenance of a manual aged debtors' list is done with immediate effect whilst it is estimated that an updated debtors' list will be able to be extracted from the selected accounting application by January 2024.

Further instructions have been given to the Administrator so that, now[4] that an account has been opened with the Central Bank of Malta (CBM), all cash and cheques received by way of contributions are deposited in this account at least on a weekly basis. This is expected to be done on an ongoing basis.

Key Issues

No Segregation of Duties

The Welfare Committee is managed by an Administrator who is in charge of its day-to-day running operations. The latter is considered to be the key individual, responsible for all payments to suppliers and collection of income, as well as coordination and logistics of activities organised for the elderly. All the work is handled solely by this person, implying that there is no segregation of duties. Of particular concern is the fact that processes pertaining to cash collection, annotation and depositing, are being made without any oversight, thus opening up the possibilities of errors, both intentional and unintentional, which may remain unnoticed.

Furthermore, the Welfare Committee's revenue collection system heavily relies on manual processes. This includes recording information manually on a notebook and maintaining specific data that only the Administrator handles and understands. This creates challenges for tracking and continuity, and in the eventuality that this key officer is absent for an extended duration, it jeopardizes or significantly hampers the continuation of the revenue collection process. Giving a hand over of these procedures is also challenging in view of time constraints and the fragmented nature of this manual system.

Recommendation

Immediate deployment of more employees, including an accounts officer to help in the upkeep of information on the accounting system, is solicited. This would enable controls through segregation of duties, thus decreasing the reliance on just one officer, while also serving as a hand over in preparation for the Administrator's eventual retirement.

Management Comments

As things stand, it is not possible to introduce any segregation of duties over day-to-day process relating to the collection and subsequent lodgement of cash and cheques received from the contributions. In this regard, the Committee heavily relies on the integrity of the incumbent. However, it has no reason to suspect any wrongdoing and irregular practices.

4 Towards the end of July 2023.

Nevertheless, Management fully agrees that structures should be in place to be able to apply the expected control framework. To this end, steps will be taken to deploy one additional clerical resource. This would allow the Committee to have in place the desired controls necessary to address the weaknesses of the system. This would include a procedure whereby deposits are prepared by one individual and checked by another person prior to lodgement. The target implementation date is December 2023; however, this is subject to the required resource being in place by that time.

The Committee will also endeavour to automate, as much as possible, the tasks and processes, especially the revenue collection and overall accounting systems, and to address the business continuity concerns, by identifying and engaging a suitable person to initially assist and eventually take up the role of the administrator when the latter retires. This has to be complemented by the simultaneous recruitment of a junior employee that would allow the introduction and implementation of the desired controls to address the various shortcomings highlighted in this audit report. Where necessary, outsourcing of services, particularly with regard the day-to-day accounting and invoicing process, will be considered. The plan is for this to be done with immediate effect.

Uncertainty about the Recoverability of Deposited Funds

When the Welfare Committee was under the remit of the Elderly Department within the Ministry for Senior Citizens and Active Ageing, contributions from the residents received in cash and cheques used to be deposited in a specific below-the-line account. Funds were used by the Welfare Committee for the needs and activities organised for the elderly. The unutilised balance was brought forward from year to year. As at February 2022, i.e., before the reshuffle, the running balance on this account stood at €1,023,963.

Following the general election in March 2022, which brought about a Ministerial reshuffle, the responsibility of the Committee was transferred to MSFC. With these changes and the introduction of Corporate Financial Management Solution (CFMS), the Welfare Committee lost its access to the below-the-line account, which it had been managing since 1979, when the Committee was established. The foregoing was given no indication as to whether these funds will be returned to the Welfare Committee or whether these will eventually be transferred to the Public Account.

Recommendation

This matter is to be discussed at the appropriate level within the Ministry for Social Policy and Children's Rights (MSPC) to check whether the funds which were originally in the below-the-line account still pertain to the Welfare Committee and, in the affirmative, to be given access.

Management Comments

Through contacts with Treasury by the Department for Corporate Services of MSPC, the accruing balance was traced in September 2023 to its original below-the-line account under the Department for Active Ageing and Community Care. As prompted by Treasury, consultations are underway with the Budget Office as to the best option for the Welfare Committee to revive its access to these funds.

Storage of undeposited Cash and Cheques

Following the closure of the abovementioned below-the-line account, the Committee was operating without a bank account and hence cash and cheques were not being deposited. Neither could direct payments be made by the individuals. This resulted in a significant amount of undeposited cash and cheques received from residents.

The following concerns also relate:

a. NAO performed a cash count[5] of undeposited amounts of cash and cheques. These totalled €376,212[6] and were being kept in a safe.

b. A few days after this exercise was conducted, NAO was informed that other cheques, amounting to €203,377, were found in a separate location.

c. It was of great concern to note that undeposited cheques were not grouped in any particular order. Cheques dating between January 2021 and June 2023 were traced, meaning that they were put away without any particular order, neither chronological nor in line with sequential receipt numbers.

d. The Administrator claimed that, up to the end of year 2022, deposits were made sporadically. Details of what was deposited were written on a manual journal; however, the date of the actual deposits made was not always indicated.

Recommendations

Without further delay, the Welfare Committee is to deposit the cash and unexpired cheques in the CBM account that was opened during the audit, so as to avoid other cheques becoming expired. A plan is to be devised to recover, as much as possible, the expired cheques.

The Welfare Committee is also encouraged to set up a direct debit mandate which would help in reducing the volume of cash and cheques being handled.

Management Comments

As at date of the cash count, the Welfare Committee did not have access to an account wherein to deposit this cash. Following contacts with MSPC and the Ministry for Finance and Employment, the impasse was broken with the establishment of an account with the CBM. The account became operative in August 2023 and, since then, all cash in hand has been duly deposited, taking into account anti-money laundering procedures.

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[5] On 11 July 2023.

[6] Of these, €58,868 was cash, whilst the remaining €317,344 was cheques.

Instructions have also been given to the Administrator to ensure that all cheques are kept in date order and in line with the relative sequential receipt number. This is to be done with immediate effect.

With regard to the details maintained by the Administrator in relation to the deposits made, the observation was noted and the Administrator was informed to keep note of the date of deposit accordingly.

The Committee is committed that, by the end of March 2024, it will reach out to all the drawers of expired cheques so as to seek a replacement cheque.

Recommendation on direct debit mandate has also been taken on board. Residents will however be given the option rather than being asked to comply on a mandatory basis.

Inadequate Cash and Cheques Management

Various instances of inadequate cash and cheque management were also noted:

Stale Cheques

a. From the lists of undeposited cheques provided to NAO in September 2023, it transpired that 450 cheques, with a total value of €415,574, were stale. These covered the period January 2021 to March 2023.

b. It was unclear what approach was adopted when deciding which and how many cash and cheques to deposit, since certain outstanding cheques were dated earlier than the ones that were banked.

Record Keeping and Accounting

a. No details were being kept of the cash and cheques received by the Welfare Committee, except on the manual receipt books. A list was only prepared upon request by NAO; however, certain details were lacking since only names, receipt numbers and amounts received were indicated; other important information, such as identity card numbers, date received and residence of the individual were not included therein.

b. No periodic reconciliations were being made between the manual receipt books, detailing income received and the amount of cash and cheques that were undeposited.

   According to the Administrator, before cheques are deposited, details have to be entered onto CFMS and a unique number is generated for each cheque. However, several cheques recorded on CFMS in December 2022 were still traced to undeposited cheques during the audit in August 2023, causing an overstatement of the recorded deposit amount on the system. Bank statements showing details of the deposited amounts were requested, but they were not provided.

Recommendations

Immediate procedures are to be established to ensure prompt deposit of cash and cheques. A plan is also to be devised to contact residents whose cheques have become stale, to explore the option of replacement.

In addition, lists of the amounts due to the Welfare Committee, as well as the amounts actually received, should be maintained. These are then to be used as a basis for reconciliations.

Management Comments

In the wake of the opening of the bank account, all cash in hand and valid cheques have been deposited.

In addition, a batch of CFMS generated numbers were cancelled and therefore the amounts shown were not overstated[7].

Control Issues

Financial Statements Lagging Behind

NAO was informed that the last audit completed by the private auditors on the financial statements of the Welfare Committee, with an emphasis of matter[8] audit report, was that for 2019. The subsequent two years were being audited simultaneously during 2023 but were not yet concluded when NAO's audit was finalised in September 2023. By August 2023, no bookkeeping entries had yet been inputted on the accounting system for financial year 2022, since the general ledger had not yet been set by the private auditors. As a consequence, the debtors' ledger was not being maintained and no action could be taken to recover those amounts which were due. This situation also hindered audit testing significantly.

Recommendations

The Welfare Committee is to ensure that all audits are up to date and submitted to the relevant authorities by the deadlines stipulated by law[9].

Moreover, it is important that the accounting records are duly updated and shortcomings addressed with the aim of obtaining a clean audit report.

[7] Details of the cancelled batch was requested from the Welfare Committee; however, up to the date of publication of this audit report, this information was not forthcoming.

[8] The emphasis of matter related to the fact that the audit could not establish whether funds provided by Government to the Committee were being used as intended by the Social Security Act. Furthermore, only restricted audit procedures could be performed to confirm accuracy of the amount of additional contributions received from elderly persons residing in Government homes.

[9] 10 months and 42 days after the end of the financial year.

Management Comments

Observation noted. The Welfare Committee is continuously in contact with its external auditors so that all the pending statutory audits are finalised at the earliest. In fact, this is one of the ongoing agenda items wherein the Committee is being updated monthly on the status of the pending statutory audits. Also, meetings have been held with external auditors with the scope of expediting the finalisation of pending audits.

Operating on Two Separate Accounting Systems

The yearly income received by the Welfare Committee under Programmes and Initiatives was accounted for on CFMS as revenue. Costs incurred were withdrawn from these funds to pay the Committee's general expenses.

Towards the end of July 2023, a CBM account was opened for the Welfare Committee to deposit income received by way of contributions from the elderly. Henceforth, related accounting entries were recorded on an accounting system, separate from CFMS, together with related expenses which were to be funded from the foregoing account.

This implies that the Welfare Committee started operating on two different and unrelated accounting systems, thus having scattered information and increasing the risks of errors, inaccuracies and confusion.

Recommendation

NAO opines that this procedure is reconsidered in order to have one uniform accounting system in operation. This will enable the smoother running and upkeeping of the Committee's accounting records.

Management Comments

The recommendation has been noted and will be discussed both with the Ministry for Finance and Employment, and the external auditors by the end of December 2023.

Ministry for Justice and Governance

Court Services Agency

Expenditure

The audit of contractual and transport services at the Court Services Agency revealed that the procurement regulations were consistently bypassed. The upkeep of documents was also inadequate, hindering effective audit trail.

Background

The Chief Executive Officer is responsible for the overall administration of the Court Services Agency (CSA), whilst the legal responsibility for the implementation of judicial orders is vested with the Registrar of Courts. The Administration Section of the Agency comprises the Legal Services, Finance, People Management, Support Services, and Strategy and Digital Innovation. There are also three Registrars, namely that of the Civil Courts and Tribunals, the Criminal Courts and Tribunals, and the Gozo Courts and Tribunals. The Registrars of the Courts are responsible for the respective registries and the officers attached to them, the filing and service of judicial acts, registration of sitting minutes, execution of executive titles, such as judgements, warrants through Court appointed marshals, judicial sales by auction, trials by jury and other criminal court procedures. The Agency caters for all civil and criminal proceedings.

Financial Information

A total budget of €21.5 million was approved for 2022 for the Agency, under Recurrent Vote 23, Line Item 6015 – Contributions to Government Entities.

Audit Scope and Methodology

The scope of the audit was to verify whether standing regulations, in particular, the Public Procurement Regulations (S.L. 601.03) were followed when acquiring contractual and transport services, both in Malta and Gozo. It also aimed to ascertain whether Government resources were used prudently and in a judicious manner and that the basic principles of transparency and fairness were upheld. The audit focused also on the internal controls over chargeable amounts.

Following meetings held with the Permanent Secretary and other officials, the National Audit Office (NAO) obtained a breakdown of administrative expenses for 2022, totalling €4,373,063, of which, contractual and transport services amounted to €1,242,126 and €808,111 respectively.

The accounts pertaining to the hire of self-drive vehicles of the judiciary and marshals, as well as security, cleaning and clerical services, were analysed and a sample of 10 transactions was selected for testing on the basis of materiality or nature of expense. For each sampled transaction, determined the level of internal controls relating to procurement of the applicable service.

Detailed substantive testing was carried out to ensure that the pertinent procurement regulations were followed and that the respective payments were supported by agreements, invoices and fiscal receipts. Furthermore, the rates and hours charged were corroborated with the respective agreements, as well as attendance sheets, where applicable.

Key Issue

Public Procurement Regulations consistently bypassed

Testing revealed a number of concerns related to procurement which does not reflect good governance, namely expired contracts, extensions to the original contract even though not covered by the applicable tender, services obtained without a formal agreement, procurement by direct orders with the same service provider and Ministry for Finance approvals to purchase direct from the open market not obtained. The following relate:

Leasing of Vehicles for Court Marshals

Following the publication of the tender in April 2017 for the provision of vehicles for Court marshals, a contract was signed on 25 September 2017 with the cheapest bidder[1], for a duration of 36 months, with the possible extension of another year, for a maximum value of €113,718. The vehicles were still being leased with the same contractor at least up to mid-October 2023, notwithstanding that the contract had expired by over three years.

The total payments from inception to mid-October 2023, to establish the aggregate amount in excess of the contract value, was not provided.

Cleaning Services

A contract for the provision of cleaning services was entered into with the then Courts of Justice Department and the Office of the Attorney General for a period of 36 months as from February 2020, at a total value of €574,595. However, the service was still ongoing since the evaluation of a new tender was not yet finalised in October 2023. Covering approval from the Ministry for Finance was not obtained in the interim. Payments from March to September 2023, had already reached €148,259.

Furthermore, as specified in the contract, to mitigate precarious work conditions, the hourly rate had to be amended through an addendum. However, that covering year 2022 was not provided for audit purposes; thus, the respective amounts paid could not be corroborated.

[1] Out of the eight offers submitted, at a rate of €6.77 (VAT excl.) per vehicle.

Security Services

The contract for the provision of security services was for a period of three years starting December 2018, for a contract value of €990,724, with the possibility of an extension of six months until June 2022. The second extension of three months[2], up to the beginning of June 2022, was approved by the Department of Contracts in April 2022, subject to approval from the respective Permanent Secretary. However, this was inadvertently not followed up, with the result that an addendum formalising this extension was not issued.

Moreover, the provision of security services continued until the end of January 2023 when the new contract[3] was signed; however, the interim period of approximately eight months was not covered by formal authorisation.

Clerical Services

Given that the recruitment of clerks was not yet approved in January 2020, an addendum to the contract for clerical services in force at the time exhausted the remaining extension clause up to 8 March 2020. Subsequently, CSA continued to depend on eight[4] approved direct orders with the same service provider, up to 31 May 2021, for an aggregate value of €397,011. This notwithstanding that the first approval, covering from 9 March 2020, was granted on the premise that it was to serve as an interim measure till end of May 2020 and on condition that a tender was to be awarded by that date. Various concerns persisted, as raised by the Ministry for Finance, strongly urging the need to find a more permanent solution in order to refrain from sending similar requests.

Moreover, the procurement of clerks was still ongoing in October 2023, although CSA claimed that it had no outsourced clerks from the service provider in question. However, documentation[5] reviewed indicated otherwise.

This Office requested detailed breakdown of payments made from 9 March 2020 onwards, i.e., following the termination date of the extended period. Specifically, this was sought to distinguish between payments covered by direct orders approved by the Ministry for Finance and other payments. However, this data was not provided.

Transportation Services of Cash and Other Precious Items

The contract signed in December 2019 for transportation services in respect of cash and other precious items was for the value of €19,022, for a period of one year, with the option to extend by a six-month period twice. The first extension was formally covered by an addendum, while the second one was not. Moreover, action to issue a new departmental tender was only taken in mid-January 2022 and, up to signing of the new contract on 20 February 2023, this service continued without obtaining approval from the Ministry for Finance. A contract to this effect was also not entered into, except for a four-month[6] period.

2 This brought the total contract value to €1,333,996, comprising the original value of €990,724 and two extensions of €171,636 each; the first extension was authorised in January 2022 up to beginning of March 2022 as per addendum number 4.

3 Contract for the duration of 36 months with a possible extension of another year.

4 In the first request for direct order approval, it was claimed that the service in question could only be provided by the particular economic operator and due to extreme urgency occasioned by unforeseeable events.

5 Payment breakdown, attendance records, invoices and remittance advices.

6 As from 11 October 2022.

Furthermore, in order to confirm whether there were any delays in the execution of the contract that might have triggered penalties of €50 per day, up to a maximum of 15% of the total contract value, this Office requested a copy of the first invoice received after the contract was endorsed. However, this was not provided. Moreover, replies as to whether there were any delays were also not forthcoming.

Recommendations

Procurement is to be in line with standing regulations, so that all potential service providers are given equal opportunity, ensuring fair competition and transparency, which may also result in more advantageous rates. The number of contracts awarded through direct order is to be limited to the barest minimum, used as a last resort in exceptional circumstances and duly approved by the Ministry for Finance and Employment.

Given that the expiration of a contract is an anticipated event, every possible effort is to be made to initiate the appropriate procurement process well in advance. This will ensure that competitive calls are published in a timely manner. Monitoring is also to be performed to ensure that the contract value is not exceeded.

All services are to be covered by a valid agreement. This will ensure that terms and conditions are agreed upon by both parties. This will also enable audit trail and internal verifications before payments are made.

Management Comments

A tender for the lease of marshal vehicles was ready to be issued in 2021; however, Management was instructed to change the tender to cover electric vehicles and not internal combustion engine vehicles. In view of this, Management had to set up the necessary charging points infrastructure, which will be installed in the CSA garage during the first quarter of 2024. The tender for the lease of electric vehicles for Court marshals will be issued by January 2024.

A new contract covering security services was signed following the award of tender, while the tender for cleaning services was to be awarded by end November 2023. Clerks are being recruited through calls for applications and a contract for transportation services covering years 2022 to 2025 is in place, as indicated in the observation.

Control Issues

No Formal Agreement to regulate Support Workers

In January 2017, the then Director General, Courts of Justice Department, requested two support staff from Heritage Malta[7]. Since then, the latter issued monthly invoices for three security officers. The initial request was for a period of three months, at an estimated monthly cost of €1,700[8]. At least up to conclusion of the audit in October 2023, the services continued; however, there was no formal agreement in place to this effect. Hence, NAO could not validate the rate being charged.

[7] At that time, both fell under the remit of the same Ministry.

[8] The request did not specify whether the cost was to cover both staff.

Recommendation

Given that the Agency is now under the remit of a different Ministry, it is even more important to have a formal agreement in place to regularise the position of the support staff until the services are duly acquired, by following standing procurement regulations.

Management Comments

Management will be evaluating all available options.

Shortcomings concerning the Provision of Assistant Clerks

The contract for the provision of assistant clerks was not to be endorsed by the contracting authority until the performance guarantee was submitted. However, the contract was endorsed by both parties on 1 August 2021[9], whilst the first performance guarantee available was dated 17 days later.

Furthermore, the performance of the contract was to commence upon the contracting authority's instructions. However, up to end of October 2023, when this audit was finalised, neither such instructions nor a copy of the first invoice were available. As a result, this Office could not establish whether penalties, in line with section 19 of the contract, were applicable.

Additionally, whilst it was claimed that monitoring of the €640,476 threshold, up to a maximum of 62,400[10] hours was being performed, no details were provided as to the actual total hours consumed and payments made, making it unclear to determine whether the monitoring was actually being carried out and if the maximum number of hours and/or contract value were exceeded.

Recommendations

The conditions of the contract are to be invariably adhered to. Furthermore, instructions regarding the commencement of the contract are to be made in writing and filed accordingly for future reference. Complete records regarding the total number of hours claimed and the respective amount paid are to be readily available, in order to monitor the thresholds of the contract as necessary.

Management Comments

Management took note of the observation made and records started to be kept as suggested.

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[9] As also referred to in the addendum signed in March 2023.

[10] Over a span of 36 months.

Penalties for Late Delivery of Vehicles not imposed

The contract for the leasing of vehicles for Court marshals specified a delivery period of 60 days from the last signature of the contract, being 25 September 2017. If the delivery was not completed by end of November 2017, the contractor was to incur a penalty of €100 per calendar day, up to a maximum of 15% of the total contract value. However, notwithstanding that the vehicles were delivered after the stipulated period[11], penalties of approximately €7,400[12] were not imposed. This delay also triggered a six-month extension to the previous contract which had expired in September 2017.

Recommendation

When the stipulated delivery period is not observed, penalties are to be charged in line with the agreement unless the delays are duly justified.

Management Comments

Management will ensure that in future contracts, penalties will be charged in accordance to the agreement when required.

Shortcomings regarding Attendance Records

During the review of the attendance sheets, working records and contractor's timesheets, certain shortcomings were noted. These included illegible attendance records[13] which could not be reconciled, hours recorded that did not tally with the contractor's timesheets and workings, as well as two overpayments to the contractor, implying that adequate verification was not being performed. Considering that testing was carried out on a relatively small sample, these weaknesses are of considerable concern.

Recommendations

Prior to effecting payment, proper verification is to be carried out to ensure accuracy. Furthermore, time in and out are to be clearly recorded for each day of work and endorsed accordingly by each individual to enable the necessary reconciliations prior to certifying the invoices correct.

Management Comments

Discussions will be held to mitigate these oversights.

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[11] As per correspondence dated end January 2018, vehicles were to be delivered on 7 February 2018. However, a copy of the first invoice and actual delivery date were not provided by end October 2023 when the audit was concluded.

[12] €100 multiplied by 74 calendar days, covering from 25 November 2017 up to 6 February 2018. Not an accurate figure since information regarding delivery date was not given.

[13] Relating to the Gozo Courts.

Compliance Issue

Lack of Documentation

A number of documents were not provided for audit purposes. The following refer:

a. Copies of the performance guarantees, covering the provision of security services, assistant clerks, the leasing of vehicles for members of the judiciary, as well as Court marshals were not all made available. In such cases, it could not be ascertained that Government's interests were duly safeguarded.

b. Insurance policies required in terms of the contracts for the provision of assistant clerks, the transportation services of cash and other precious items, as well as the leasing of 61 vehicles for members of the judiciary and Court marshals were not made available for review.

c. In line with the contract for the provision of assistant clerks, copies of the police conduct, curricula vitae, certificates of specific modules of a certification programme and interim progress reports were to be submitted, but these were not provided for audit purposes. A request by NAO for evidence of a clean police conduct which was to be submitted by the contractor providing transportation services of cash and other precious items was also not entertained.

Recommendations

Performance guarantees are to be in place, covering the entire contract period. This will ensure that the fundamental objective of this requirement is not compromised as it safeguards the contractors' commitment to fulfil their obligation while providing legal and financial protection in case of default by the foregoing.

Furthermore, CSA is expected to be in possession of a copy of all the related insurance policies, duly renewed by the contractor upon expiry, as necessary. This will mitigate exposure to unnecessary risks and provide adequate financial coverage in case of an emergency or accidents.

All additional documentation required in terms of the provisions of the agreement are expected to be available and duly filed for future reference.

Management Comments

Copies of the respective documents are being requested from the contractors. For future reference, copies of the expired performance guarantees will also be filed.

Ministry for Agriculture, Fisheries, Food and Animal Rights

Department of Fisheries and Aquaculture

Revenue

*An obsolete software system for the recording of revenue was being used by the **Department of Fisheries and Aquaculture**. This led to records that were inaccurate and incomplete since different recording procedures were being used by the same Department. Improper use of below-the-line accounts, expired contracts and substantial amounts due from fish farm operators were also noted. Furthermore, adequate reconciliations to confirm completeness of revenue were not being performed.*

Background

The Ministry for Agriculture, Fisheries and Animal Rights[1] (MAFA) was set up to take care of a diversified selection of activities in relation to agriculture, fisheries and animal rights. Its portfolio includes the rural development, agriculture and horticulture, plant protection, fisheries and aquaculture, animal welfare, veterinary services and agriculture and rural payments agency.

Meanwhile, the Department of Fisheries and Aquaculture (DFA) within MAFA is responsible to ensure the sustainability of fish species in the seas and to address the requirements in the fisheries sector, by establishing rules which regulate the activities concerning fisheries and aquaculture. Additionally, DFA strives to promote the development of the aquaculture sector to supply products to the local and foreign market whilst reducing burden on wild fish and ensuring that customers have access to fresh and healthy products.

According to the Financial Estimates, in 2022, MAFA was to collect approximately a total of €760,000 as per Line Item 0999 (2350)[2] – Miscellaneous Receipts while, actual total revenue[3] amounted to €485,139. This was collected by the Ministry and Permanent Secretary's Office (€7,935), Fisheries and Aquaculture (€372,910), Rural Affairs (€22,890), Animal Health and Welfare Department (€70,248), Agriculture and Rural Payments Agency (€17,288) and Public Abattoir (-€6,132[4]).

DFA's revenue was mainly generated from transponder fees charged to boat owners for the use of electricity and water from the various service pillars[5] around Malta, as well as from boat services fees paid for the use of the Hard Standing Facility (HSF) at Marsaxlokk for the maintenance of sea vessels.

1 In the Financial Estimates 2022 it was referred to as the Ministry for Agriculture, Fisheries, Food and Animal Rights.
2 Corporate Financial Management Solution Account – I6360.
3 Excluding revenue posted in the below-the-line accounts.
4 Amount should read €764 since two journal entries were entered erroneously as at year-end 2022. This was rectified later during the audit.
5 Service points providing water and electricity to boat owners.

MAFA also administered various below-the-line accounts; the aggregate closing balance as at end 2022 amounted to €1,048,473. This amount comprised Fisheries and Aquaculture (€416,481), Rural Affairs (€308,623), Animal Health and Welfare Department (€258,049), Agriculture and Rural Payments Agency (€85,627) and Public Abattoir (-€20,306[6]).

Audit Scope and Methodology

The audit focused on revenue generated from fisheries and aquaculture within DFA as it represented 77% of revenue recorded under miscellaneous receipts. Additionally, the National Audit Office (NAO) reviewed the two[7] below-the-line accounts directly related to the foregoing Department. The scope of the audit was to assess the adequacy and effectiveness of internal controls in the respective areas during the year under review. NAO also verified compliance with standard regulations and policies, including procedures in place in relation to revenue recognition and measurement. To this effect, NAO obtained relevant data pertaining to these revenue accounts, and sought information regarding the specific purpose and use of the below-the-line accounts.

A review was conducted, covering transactions effected during 2022 in relation to revenue generated from Fisheries and Aquaculture (€372,910 transponder and boat services fees), together with the following below-the-line accounts; Sale of Fish (€52,604 used for concession fees in relation to tuna) and Environment Promotion and Protection (€47,600 used for the promotion of environmental protection measures). These amounts in the below-the-line accounts formed part of an aggregate total of €416,481 (net of the related expenditure).

A random sample of eleven transactions was selected in relation to five transponder users. These were substantiated with supporting documentation and reconciled to the Corporate Financial Management Solution entries. An additional sample of seven transactions was chosen, specifically focusing on fees related to boat services, based on the materiality of the amounts involved. These were verified against the respective contracts, related approvals, and reconciled to the entries on the accounting system.

Finally, testing pertaining to the below-the-line accounts consisted of the following:

a. Sale of Fish: 24 transactions were selected, based on materiality, and included a mix of both income and expenditure recorded in this below-the-line account during the year under review.

b. Environment Promotion and Protection: all transactions recorded during the year were scrutinised.

Limitation on Scope of Audit

Not all requested data compiled at HSF was generated in an adequate format. This was due to the obsolete software system used at DFA and the lack of reporting facility inbuilt within it. Consequently, NAO could not conduct a proper holistic analysis and comparison of data during this audit, given that there were over 10,000 transactions.

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6 The negative amount represented approximately €14,000 in relation to invoices issued by MAFA which were not yet shown as paid at year-end. However, the remaining €6,306 could not be explained. This issue was referred to Treasury for rectification.

7 No testing was performed on the Fish Marketing Scheme below-the-line account, with a year-end balance of €316,279 as this was completely transferred to the Malta Food Agency in May 2023.

Key Issues

System Shortfalls and Inefficiencies

Different recording Procedures within Same Department

Transponder fees were being processed from two different locations, both falling under DFA: HSF (Marsaxlokk) and Head Office (Għammieri) and paid accordingly. Even though the service rendered was the same in both locations, the receipt of transponder fees was accounted for in a different manner, leading to inaccurate and incomplete records.

At DFA, an obsolete system was in use, incapable of generating comprehensive transaction history for a specific period. Meanwhile, at HSF, transactions were manually inputted into the system, and invoices and receipts were also issued manually. However, the transaction listings for the year at HSF were not being issued in an adequate auditable format, with limited data available from the system generated reports. This hindered NAO from conducting proper testing on selected transactions.

On the other hand, while the Head Office at Għammieri also processed records manually, lists of transactions were maintained in spreadsheet format, separate from the system. Unfortunately, the records from both locations could not be merged; thus, NAO could not analyse the data comprehensively.

Obsolete Software System and Inaccurate Records

Even though all the service pillars across Malta were upgraded, DFA confirmed that the software at HSF, for tracking the usage of electricity and water was outdated. This software lacked user and usage details, making it impossible for DFA to analyse or control utility expenses separately[8].

NAO also noted that the system at HSF only began generating a list of users for transponder services starting from 2008. This list included multiple entries for cases where same user purchased more than one chip[9] (possibly for replacement) or topped up an existing chip for utility services. This occurred since the system did not have an inbuilt feature to gather, sort and analyse information for each unique user.

According to DFA, the invoicing and payment recording process involved considerable manual input into a pre-defined template within the system, resulting in a lack of unique sequential references, as well as inefficiencies. This hindered assurance of the completeness of records and the ability to create a full audit trail. In fact, testing confirmed that none of the seven invoices tested was numbered. Additionally, the system at HSF could not generate a list of receipts. The only amounts provided related to transponder fees which were paid at DFA Head Office (Għammieri). This information was compiled manually.

Records of purchases of transponder chips and top-ups at HSF were not integrated, and these records were retained in hard copy form. Moreover, no proper reconciliations were being performed between the invoices, receipts issued, and the list of the respective users.

[8] This is because other equipment, such as winches, share the same utility meters and service pillars at the same location.
[9] This chip is purchased from DFA by boat owners to be able to make use of transponder services (water and electricity) from service pillars.

Recommendations

DFA is to address its system's inefficiencies and explore options for improvement to maintain updated records of all transponder users. This would enable both locations to work in parallel. The system should be capable of generating official documents, such as invoices and receipts, with a unique reference for audit trail purposes. Invoices should be sequentially numbered, to ensure completeness, accountability and transparency while also making it easier to manage.

Alternatively, a new fully operational system that meets its day-to-day requirements, as well as all service pillar sites, is to be considered to be used at both locations. This would enable the Department to monitor revenue receivable from transponder users, simplifying data gathering and the respective analysis.

Management Comments

DFA will be holding discussions with the existing supplier of service pillars to explore whether such upgrades can be performed. Given that this project is more of a technical nature, the Ministry's Information Management Unit will also be involved in these discussions.

Chargeable Usage Rates for Utilities not adequately supported

DFA confirmed that the chargeable rates of €5.50 per one cubic metre of water and €0.28 per one kilowatt of electricity were applicable. These were slightly higher than the rates actually being charged by the service provider[10]. However, they were not formally backed up. DFA was also not in a position to provide details of when such rates were set.

Recommendation

If there is justification for a higher chargeable rate, it should be formalised to provide support for the rate being applied.

Management Comments

Rates are charged at a higher rate to cover the running and capital costs of the service pillars.

No Proper Reconciliations performed

After depositing cheques covering transponder fees into the Central Bank of Malta account, no proper reconciliation was being performed by DFA or the Ministry to ascertain completeness of revenue. Only basic monthly reconciliations, comparing the total amounts of transponder fees maintained manually and the actual money received was performed. It was claimed that reconciliation could not be done more frequently due to lack of human resources. Full reconciliations were also not carried out at HSF, between the deposits made into an account held at a commercial bank and the official bank statements.

[10] Source for utility rates – https://arms.com.mt/en/information/water-and-electricity/tariff-prices.

Recommendation

Reconciliations are crucial internal control mechanisms to ensure completeness of transactions and reduce the risk of financial mismanagement. Thus, these must be performed more frequently as indicated in the General Financial Regulations (S.L. 601.01) and duly documented.

Management Comments

Standard operating procedures in this regard started being drafted. Once these are finalised, an official communication will be made to all responsible staff to perform the reconciliations on a weekly basis.

No Standard Operating Procedures in place

DFA had no general standard operating procedures in place to cover the day-to-day processes with respect to transponder and hoisting services, money collected and reconciliations. For instance, deposits of cheques to the respective bank account were being performed at irregular intervals, approximately between fifteen days and one month. This situation undermines the necessary financial control, increases the likelihood of errors and amplifies the potential for fraud.

Recommendation

DFA is to compile a set of standard operating procedures to be followed by the pertinent officers. This will enhance accountability and efficiency throughout its daily operations.

Management Comments

Management confirmed that standard operating procedures started being drafted.

Sale of Fish Below-the-Line Account – Concession Fees Outstanding

The below-the-line account pertaining to the Sale of Fish was opened in 2007 to facilitate transactions related to the Amberjack Project, when sea bream started being farmed through a public private partnership agreement. Since then, it had become the practice to deposit also the related concession fees in this account which, according to Management, were initially regulated by concession agreements entered into between the Government and the private operators. A lump sum of €230,000 per concession area was to be paid over a period of the first five years, while the annual applicable fees for all operators was €35,000 per concession.

DFA confirmed that, to the best of its knowledge, all contracts had expired and were not renewed. Thus, the operations of the respective fish farms were operating without any binding agreement in place. Moreover, although DFA continued to issue an invoice of €35,000 to all operators on an annual basis, not all of them honoured such obligation.

Based on the limited information provided by DFA, NAO calculations revealed that over the past 10 years, the Department failed to collect not less than €534,000[11], comprising of €184,000 in relation to the initial charge and €350,000 related to the yearly fees due. This loss of revenue was the result of several factors, including expiration of contracts, lack of documentation available, and the absence of legislation empowering the collection of such fees over the years. NAO also noticed that a further approximate €1.5 million was long overdue (more than 10 years) from the concessionaires, with no supporting documentation available at DFA.

Recommendations

Drafting of the necessary legislation is to be given priority to empower DFA with enhanced enforcement once the law is enacted in Parliament. This will eventually enable the Department to update all expired contracts, with legal backing. Meanwhile, DFA is to put more effort in collecting the outstanding concession fees.

Management Comments

DFA initiated the process of a feasibility study, to substantiate data with respect to the long-term solution required, including legal amendments which are not necessarily required through amendments of the main Act. This study is expected to be finalised by end of year 2023, whilst any changes to the legal amendments shall be concluded by around end of March 2024.

Environment Promotion and Protection Below-the-Line Account – Annual Permit Fees Uncollected

The Environment Promotion and Protection below-the-line account was opened in the year 2020 to promote environmental promotion measures due to damages caused by fish operators. To this effect, each operator was asked to pay annual permit fees[12]; €10,000 in relation to tuna and €5,000 with respect to other fish, which amounts were to be deposited in this below-the-line account.

However, DFA confirmed that, given that there was no additional legislation to regulate this yet, this had also not been enforced, and no action was taken by the Department. The amount outstanding up till end September 2023, when the audit was concluded, was €160,000.

NAO also noted that certain amounts received, totalling €65,000, were not recorded in the foregoing account. DFA confirmed that this was a mistake, and the respective amounts were erroneously recorded in another account. This issue was communicated with Treasury and the matter was rectified during the audit, and the balance was revised accordingly.

Recommendations

DFA is expected to finalise the respective draft legislation to be discussed in Parliament. This will eventually enable the Department to enforce the collection of amounts due on all fish operators. Additionally, consistency is to be ensured when recording transactions, so that statements and balances of respective accounts show a true and fair view.

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[11] This figure only includes amounts due to DFA in the last 10 years.
[12] As per Aquaculture Operations Regulations (S.L. 425.12), Article 5(11).

Management Comments

The legislation was presented and approved by the Cabinet in October 2023. Once it is put into force and a Board is set up in accordance with the newly enacted legislation, DFA will be making its utmost to collect the amounts due.

Control Issues

Lack of Audit Trail and Checking

An invoice issued by HSF indicated a deduction from the total amount due. Management confirmed that this was an error, and corrective action was to be taken. This implies that segregation of duties was lacking and adequate checking was not being carried out as part of the invoicing process.

Recommendation

Adequate segregation of duties and proper verification procedures must be introduced to ensure that invoices are issued to clients without any errors.

Management Comments

The issue of segregation of duties was to be addressed in the relative standard operating procedures.

No Termination Date in Contract

When a vessel was booked for repairs at HSF, a contract was entered into between MAFA and the vessel owner. However, the contract only specified the commencement date without indicating a repair timeframe. This absence of a repair period could adversely affect the efficient planning of the resources and facilities at HSF, ultimately reducing its return-on-investment potential.

Recommendation

The contract signed by both parties is expected to provide an estimated vessel-repair period. This practice will facilitate efficient time management and usage of resources, allowing for a better understanding of the overall status and progress of the vessel repairs.

Management Comments

Estimated termination date for each booking made is being kept on a separate register. This method has proved useful in the overall management of HSF with respect to hoisting vessels. However, one must consider the unforeseen circumstances that may arise given that the environment in which the fishermen operate depends on the weather conditions.

Compliance Issue

Improper use of the Below-the-Line Account for the Sale of Fish

During the audit, the following shortcomings were noted:

a. As stated earlier, the Sale of Fish below-the-line account was originally opened in 2007. It was to be used to record concession fees paid by fish farm operators. Revenue from the Amberjack Project and related expenditure were also to be posted to this account. However, NAO noted that from this account, payments for unrelated consultancy services were being made. In 2022, such payments did not exceed €30,000 (VAT excl.). DFA confirmed that there was no formal approval for this.

b. Overtime, in total amounting to €22,621, was also paid from the same below-the-line account during the year under review. DFA confirmed that it had become a standard practice throughout the years to utilise such below-the-line account for typical extra duties which were not necessarily related to the blue fin tuna. DFA also confirmed that this was not covered by written approval.

c. Certain related overtime hours, which were paid from the foregoing below-the-line account[13], were approved retrospectively, that is after the overtime was performed but prior to payment. This amounted to over €44,000.

d. A total of €12,392 (VAT excl.), recorded as income in the foregoing below-the-line account, pertained to proceeds received following an international congress organised in Malta during 2022 by DFA, with the collaboration of the Events and Promotions Unit within MAFA, in relation to small scale fisheries. This should have actually been recorded under a revenue vote.

Recommendations

DFA is to ensure that its below-the-line accounts are being utilised adequately for their intended purpose. In circumstances where there is no clear definition of how to use such accounts, advice is to be sought from the Ministry for Finance and Employment. Unrelated income is expected to be recorded as revenue in the public account.

Moreover, the below-the-line accounts should not serve as a safe-guard for last-minute decisions or actions when it comes to the recording of transactions.

Ultimately, DFA is to ensure that prior approval for overtime hours is obtained from high-level Management. Such approvals must be duly signed and dated and retained for audit trail purposes.

[13] Certain amounts paid in relation to overtime hours were eventually reimbursed by the service provider.

Management Comments

Remarks have been noted and DFA will ensure to utilise this account adequately and solely for its intended purpose. In fact, DFA will also develop and circulate to all staff a specific standard operating procedure on the proper use of the below-the-line accounts.

Moreover, all overtime hours are being approved and signed by high-level Management. However, extra duties are treated differently than overtime, since these are financed directly by the operators who require the service as stipulated in the Fisheries and Aquaculture Services Payments Regulations (S.L. 425.05).

Ministry for Social Accommodation

Housing Authority

Expenditure

Standing procurement regulations were being bypassed by the Housing Authority when organising promotional events, while ineligible hospitality expenditure was incurred from public funds.

Background

The Housing Authority, falling under the responsibility of the Ministry for Social Accommodation, was established in 1976 by an Act in Parliament, better known as the Housing Authority Act (Cap. 261). The Authority has been contributing to the strengthening of Maltese societies ever since its establishment. Its function is to develop, promote and finance the development of, and to administer, housing estates and other residential and commercial accommodation and related facilities and amenities, to promote and finance home ownership and to improve housing conditions in the Maltese islands.

Financial Information

The latest financial statements audited by a private firm, available at time of audit testing, were those relating to the year ended 31 December 2021. Management accounts for the year 31 December 2022 were also provided during the audit.

The Authority has two line items under its responsibility; Line Item 5287 which is related to Housing Programmes and Line Item 6793 pertaining to the Authority's operations. During 2022, the Government of Malta contributed around €38 million[1], with almost €28 million allocated to Housing Programmes within Programmes and Initiatives and €10 million budgeted under Contributions to Government Entities.

For the year 2021, the Authority registered a deficit of €3,612,906, while the management accounts showed a surplus of €6,951,894 for the subsequent year. This was the result of an increase in the total net Government Contribution[2] of around €13.6 million under Line Item 5287, slightly mitigated by increases in expenditure of almost €3 million.

During 2022, the Authority had around 200 employees and operated from its Floriana offices.

[1] During 2022, the Authority also generated other income, totalling around €22 million, from the sale of properties, rent receivable on occupied tenements, income from the transfer of Home Ownership Scheme plots, refund of subsidies and funds received from the European Regional Development Fund.

[2] Taking into consideration total revenue less cost of sales.

Audit Scope and Methodology

The scope of the audit was primarily to assess the adequacy and effectiveness of internal controls in relation to the Authority's expenditure, while also ascertaining that the procurement procedures applied were in accordance with standing regulations and policies.

Following scrutiny of the Authority's latest audited financial statements for 2021, as well as the management accounts for 2022 and the nominal ledger provided by the Authority, a number of categories were identified for further testing, on the basis of materiality or the nature of expenditure. In order to carry out detailed substantive testing, the respective documentation was reviewed and a number of audit queries were forwarded to the auditee as necessary.

The largest expenditure categories that were identified for the year under review, included wages and salaries (€5.6 million), major repairs and upgrading works (€4.2 million) and administrative expenses (€3.3 million).

Wages and Salaries

A detailed breakdown of the payroll listing for the year ended December 2022 was obtained for all employees. Two employees with different designations who were paid the highest amount of overtime during 2022 were selected. These were paid an aggregate of €22,649 out of a total of €198,961 overtime paid. Testing of allowances was also based on the materiality of amounts paid and the type of allowances received. To this effect, a sample of 11 employees, who received €171,606 out of a total of €488,962, was reviewed to verify pre-tax and post-tax allowances, performance bonuses received, as well as any fringe benefits.

The remuneration of the 12 members forming part of the Board of Directors, as well as the Board Secretary, was checked against the Framework for the Categorisation, Classification and Remuneration Structure of Government-Appointed Boards and Committees. This Office further confirmed the categorisation of the Board as a commercial one with the Cabinet Office.

Major Repairs and Upgrading Works

A total of €4,205,842 was spent during the year under review for major repairs and upgrading works. Most of the expenditure related to a framework agreement issued by the Authority in October 2020, for the execution of responsive structural and other repair works in Government tenements. A total of 31 bidders were interested and eventually all were chosen for the various works that needed to be carried out. Out of these, fifteen suppliers, who were paid over €100,000 each, were identified and detailed testing was carried out on a sample of four. Verifications in this respect were performed to ensure that the selected contractors were paid in line with the pre-established framework agreement rates, that the amount paid did not exceed the contract value and that the various payments were made after the necessary certifications were carried out by the right level of authority. Furthermore, the highest amount, totalling €171,837, paid to another supplier who was not part of this framework agreement, was also analysed.

Administrative Expenditure

Administrative expenditure for 2022 amounted to €3,260,364. The most material accounts were Legal Fees, Professional Fees, Promotional Events, Rents of Offices and Psychological Services, which in aggregate totalled €1.8 million. The nominal ledger for each account was scrutinised and the largest suppliers were identified. This Office reviewed the procurement process, as well as the relevant agreements, related payment vouchers and invoices of the respective suppliers. Queries were also put forward on a number of transactions included within the Hospitality and Social Events accounts[3].

Control Issues

Procurement

Contract of Employment of Legal Advisor lacking sufficient Detail

The Authority entered into a contract of employment with a Legal Advisor in March 2003. This was revised every three years. An addendum to the contract, stipulating that the employee shall give 13.5 hours of service per week to the Authority, was signed effective January 2021. Apart from a yearly remuneration based on the 13.5 hours every week, clauses 2b and 2c stipulate that the Legal Advisor will be reimbursed for "… *court and legal expenses and payment of legal fees according to legal tariffs*" as well as for "*professional fees due, according to law for judicial acts, assistance in court cases, tribunals and arbitrations. Professional fees for legal advice and formulation of contracts and for other work which is above the normal day to day work for the Housing Authority*". The original contract also stated that the Legal Advisor will not be subject to any system that controls the clocking of the work and shall not be subjected to palm readers or punch clock systems or other similar systems. The usual procedure in such cases is that the Authority pays a fixed amount as a retainer fee.

During the year under review, apart from the salary, the Legal Advisor was paid around €100,000 for legal fees. Such fees, which were stipulated by the Court for services provided by the lawyer and the legal procurator, were paid by the Legal Advisor and later reimbursed by the Authority. The majority of such fees relate to court cases with regard to claims from landlords of private residential leases to increase pre-1995 rents, as part of the recent reforms carried out in Malta. The Housing Authority was requested to act as an 'intervenut' by being present and taking an active role in such court cases.

The Legal Advisor was also paid around €14,000 charged by way of professional fees. According to the Authority, the professional fees were justified, especially during 2022 when the Authority was experiencing a higher level of advisory work due to a backlog of cases that could end up prescribed if no action was taken.

However, the agreement lacked detail as to what additional work was expected from the incumbent and on what basis the professional fees were to be charged, as well as on the chargeable hourly rate.

[3] Aggregate expenditure of these two accounts amounted to €17,258.

Recommendations

Given the high legal fees established by the Court, as well as the present total dependency of the Legal Advisor, the Authority may consider employing its own lawyers and train them accordingly on this job. In the meantime, if the incumbent is not paid a fixed retainer fee stipulated by the respective agreement, the hourly rate is expected to be included therein and billed accordingly. This should be supported by timesheets that accurately show the hours worked.

Management Comments

The Authority drafted a revised contract with the Legal Advisor which will supersede the original indefinite contract of services and the addendum to that same contract. The new contract will include payment to be effected on an hourly rate basis and the number of hours worked will be declared and confirmed against an invoice citing the job description of services that are being claimed.

Meanwhile, the Authority is trying to strengthen its internal Legal Unit by employing its own lawyers, in line with Directive 7 of Public Administration. An organigram for this Unit has been prepared with the intent to recruit legal staff under this directive. This would entail roles that shall provide administrative workload and support to the range of Units within the Authority. Legal representation by the Legal Advisor and related office backup would still be required due to the experience in Court and also because of the importance of maintaining stability in a crucial role for the country's housing sector.

Bypassing Standing Procurement Regulations

During 2022, the Authority organised several promotional events. One of the sampled suppliers was engaged to set up 25 of such events, for a total of €73,134. However, the supplier in question was only engaged after obtaining just three quotations. Other suppliers rendering similar services were also engaged after seeking two or three quotations. The related services procured during the year consisted mostly of backdrops, sign boards, rental of equipment, as well as the organisation of a number of press conferences.

Since quotations were only obtained from selective suppliers, besides lack of transparency, the Authority may have been missing out on others who could offer innovative solutions and/or competitive pricing.

Recommendations

Sound planning is necessary to ensure that the provisions of the Public Procurement Regulations (S.L. 601.03) Article 28(5) are complied with. Suppliers are to be engaged only once a public call for tender or a call for quotations is published, as applicable. Direct orders are only to be used in exceptional circumstances and as a last resort, following the necessary Finance approval if the established threshold is exceeded. This would ensure transparency and fair competition within the market environment, while also guaranteeing the best market rates.

Management Comments

The Authority took note of the recommendation and will be broadening the number of suppliers approached whenever a request for quote is issued, to ensure better transparency and fair competition. Going forward, the Housing Authority will also be evaluating the possibility of issuing a tender to cover frequently occurring jobs in line with the Public Procurement Regulations.

Hospitality incurred from Public Funds

As per pertinent circulars issued every year, Christmas staff parties are not to be paid from public funds. However, an activity for all employees engaged with the Authority was held in December 2022 amounting to €9,805. This included an amount of €7,746 for a reception organised for 180 employees working within the Authority, €1,859 for music entertainment and €200 spent on decorations.

In addition, the Authority incurred a total of around €25,000 in various expenditure, including but not limited to food and drinks for staff, wedding and other gifts, flowers, flu vaccines and medicines, Christmas hampers to Board members, as well as gifts to external stakeholders. Expenditure from public funds for particular social events were also noted.

Recommendation

Pertinent instructions also apply to public sector entities and these are to be observed, to ensure that public funds entrusted to the Authority are used efficiently and no undue expenses are incurred.

Management Comments

The Authority will see that the Christmas staff party will not take place in the future. Furthermore, it must be pointed out that with regard to the other small activities, these events formed part of team building activities and were used as a springboard to collect donations for non-Government organisations from staff who participated on a voluntarily basis. Even though these activities were financed from a budget allocated for team building activities and were deemed important from a human resources point of view, the Authority acknowledges this recommendation and will act upon it.

Wages and Salaries

No Pre-Approvals for Overtime

Clause 13 in the collective agreement, signed in 2018 between the Housing Authority and a local union representing the majority of the Authority's employees, states that overtime has to be pre-approved by Management. However, no approval was being obtained in this regard, nor was the reason for such overtime documented. Total overtime payments for the year under review amounted to €198,961.

Recommendation

For audit trail and control purposes, Management is to ensure that formal approval is granted prior to the actual overtime work carried out, substantiated with proper justification as to why such overtime is necessary.

Management Comments

The recommendation will be applied.

No Formal Standard Operating Procedures

Applicable operating procedures, outlining the payroll process within the Authority, were not formally documented.

Recommendation

Management is encouraged to draft a set of procedures, based on good practices to enhance consistency and transparency. These will also serve as a good hand over when staff changes.

Management Comments

The Authority has identified and flagged this observation a few months back after a three-month external consultation process that analysed the strategic and structural situation of the Authority. As a response, the Authority has set up a new department focusing on Policy, Research and Data. The dedicated staff within this newly formed Policy Department is undergoing the process of overhauling all policies and procedures. This Department is tasked with standardising all internal policies and procedures and creating a common Housing Authority Policy Repository. The Corporate Department is also compiling an Employee Induction Handbook, as well as a Manual of Policies and Procedures to be accessible to all the Authority's employees.

Ministry for Education

School Transport

Expenditure

Extensive shortcomings related to the ***School Transport*** *information technology project were noted. Concerns comprised lack of monitoring and control over the acquired assets, payments not in line with agreed terms, lack of action with respect to contract breaches and inadequate upkeep of records. The acquired automated attendance solution was in fact considered as unreliable. NAO acknowledges the excellent cooperation extended by the Ministry throughout this assignment.*

Background

An audit focusing on payments effected to service providers of state and non-state school transport was carried out by the National Audit Office (NAO) in 2022. As a result of the lack of internal controls which were noted, the scope of the audit was extended to also focus on the information technology system used by the School Transport Section.

Up to June 2018, free school transport was provided to students attending primary and secondary state schools[1], as well as other educational establishments[2]. Students following courses[3] not available at their respective middle school or college, and those attending after school Klabb 3-16, as well as SkolaSajf, were also entitled to free transport.

During the electoral campaign of 2017, Government pledged to extend the provision of free school transport to all students attending kindergarten and compulsory schooling, and to also introduce transport supervision, aiming to implement the system as from scholastic year 2018-2019. It was envisaged that, as a result of the new measure, the Ministry for Education would be catering for a total cohort of 37,953 students (previously 12,500), covering approximately 1,500 (previously 600) routes. In view of this and given that up to 2018 school transport was managed through a fully manual system, the Ministry acknowledged the need for an information technology system that could assist in handling the day-to-day business in this area and improve communication with all relevant stakeholders.

Timeline of the System Implementation

Following the announcement of the free supervised school transport in the electoral manifesto of 2017, the Ministry initially considered physical supervision. Documentation reviewed and other information obtained showed different reasons why this option was not pursued further. It was then decided to go for an automated solution, which would provide a notification indicating the students' time of embarkation and disembarkation. As per the implementation

1 Residing more than one kilometre away from their respective school.
2 Comprising the National Sports School, Malta Visual and Performing Arts School, Vocational Creative Centre, Learning Support Centres, Msida Education Hubs, Resource Centres and Migrant Hubs.
3 Including therapeutic pedagogic programmes.

plan in the contract, the system was to be operational on state school transport vehicles by December 2018 and by February 2019 for non-state school transport vehicles.

The system was pilot tested by the Ministry in late 2018, in Gozo College. Results revealed significant discrepancies between the number of students embarking and disembarking from the vehicles. Around January 2019, the same exercise was repeated in St. Margaret's College in Malta, with similar results. Findings were presented to the then Permanent Secretary, with the foregoing requesting an external audit on the system by an independent audit firm. This assessment was carried out on a total of nine schools within St. Margaret's College, for the period 30 October 2019 to 12 March 2020. The conclusions highlighted in the respective report confirmed the shortcomings[4], which were considered significant.

In December 2020, the Ministry informed the contractor that the system's accuracy level was not satisfactory. Correspondence dated April 2021 indicated that, in an attempt to improve performance and accuracy, the operator was to install a battery on the school transport vehicles at the foregoing's own cost. It was also decided that subsequently another pilot test would be carried out, followed by another external audit on a sample of routes to assess improvements. It was envisaged that the system would become operational for scholastic year 2021-2022 should the audit indicate high level of accuracy. The external auditors' report again showed issues similar to those in the original audit, but to a lesser extent. Subsequently, in August 2021, the then Permanent Secretary informed the then Minister that officers were confident to proceed with the state schools' transport roll-out for scholastic year 2021-2022.

However, according to correspondence dated 10 December 2021, the system was only operational in Gozo, and monitoring again showed inaccuracy in the results, ranging between 6% and 20% variation. The contractor was informed and given a deadline, till 14 December 2021, to ensure that accuracy is stable at not less than 98%. Eventually, a decision was taken to shelve the original idea; however, the installed devices were to be used for live monitoring of state school routes as from that month, so that the investment on the respective hardware would still be used for an alternative purpose. No other correspondence was traced after that date.

Financial Information

On 22 August 2018, the General Contracts Committee approved the Ministry's request to enter into a negotiated procedure for the creation of a new school transport management information technology system, for an aggregate estimated cost of €1,951,272 excluding Value Added Tax (VAT), covering a period of five years, with two different economic operators. One of the economic operators was to supply the software, consisting of the School Bus Net (SBN) platform[5], whilst the other was to provide a solution comprising an automated attendance approach using global positioning system tracking and radio frequency identification technology. This system, through the SBN platform, was to provide notifications to parents and/or guardians, indicating the students' time of embarkation and disembarkation from the school transport vehicles.

[4] These comprised missing embarkation or disembarkation records, missing fob identification numbers, delays in data transfer from the solution to the platform provided by the other service provider, events captured beyond the schools operating period, as well as material differences on the number of students' trips.

[5] A tool used for the management of transport operations.

To this effect, the Ministry entered into a five-year agreement with the two service providers in question, effective from 1 September 2018. Contracted amounts payable over the term of the agreements totalled €1,274,728 for the automated attendance solution and €1,000,000 for the SBN platform, both exclusive of VAT. Two direct orders, amounting in aggregate to €251,300 (VAT excl.), were also approved and awarded in September and October 2021 respectively, to the economic operator who was to provide the automated attendance solution.

Audit Scope and Methodology

The main scope of this audit was to assess the adequacy and effectiveness of internal controls in place at the Ministry, ensuring that funds were spent in a judicious manner. Another objective was to ascertain that standing rules and regulations were observed.

The methodology comprised a number of approaches adopted at different stages of the audit, namely documentary review, data analysis, financial analysis and inquiry.

Contracts with service providers and other documentation related to the project were reviewed in order to identify the contracted services. Relevant reports drawn up by external audit firms[6], were also reviewed. Data analysis pertaining to the implementation of the project and installation of the respective devices was undertaken.

Payments effected to service providers since the inception of the project were identified and compared to contracted amounts. Inquiries were also made with the relevant officers as deemed necessary.

Limitation on Scope of Audit

Key officers[7] related to the project were no longer employed at the Ministry when the audit was carried out and some questions remained unanswered. Gaps in documentation were also noted, hindering a full audit trail. As a result, the rationale behind certain decisions could not be determined.

Furthermore, emails related to the project were kept in the officers' mailboxes rather than in the respective file. Hence, it could not be ascertained that all relevant documentation was provided.

Consequently, payments mentioned in this audit report were exclusively based on those traced in a departmental file and those recorded in the Corporate Financial Management Solution for Account 5063 – Extension of School Transport Network.

[6] Related to tests carried out in order to assess whether the system was working as intended.
[7] Comprising the then Permanent Secretary, Chief Information Officer – Information Management Unit, Director General – Strategy and Support, and Head – Education Logistics and Support Unit.

Key Issues

System Failure, Lack of Action and Inadequate Safeguard

Despite the fact that the contract for the automated attendance system was in its fourth year, and the Ministry had paid almost €1.3 million[8] (VAT excl.) to the respective economic operator, no reliable solution had been delivered to the Ministry by the time of conclusion of the audit, in February 2023. Internal and external[9] testing carried out on the system revealed that, key functional components still did not work as intended, resulting in high levels of inaccuracy. Moreover, amounts totalling €505,728[10] (VAT excl.) were paid before the agreement was signed in February 2019.

The following concerns also relate:

a. As per agreement, capital costs (hardware) amounting to €379,992 (VAT excl.) should have been split in two, 50% invoiced in September 2018 and the remaining 50% in February 2019. However, the full amount was invoiced on 23 August 2018. On 27 September 2018, prior to testing the system to ensure its effectiveness, the Ministry paid the amount of €330,992 (VAT excl.) from the foregoing invoice[11]. Documentation reviewed indicated that items were not even in the possession of the service provider at the time of payment. It also transpired that the contractor requested payment for the full capital costs, claiming that the huge scale of the project was putting operational and financial burden on the company.

b. No evidence was noted in relation to the contractor's competency and ability, both technical and financial, to fulfil the contracted obligations, during the negotiation process or when it was finalised.

c. Despite that the contract provided different courses of action in case of delivery delays and material breaches, comprising penalties and termination, the applicable provisions were not enforced.

d. In December 2021, the then Minister requested a senior officer to assess whether there was a breach of contract. However, no formal feedback was traced and payments continued to be effected up till 16 November 2022.

e. None of the performance guarantees required from both service providers in terms of their respective contracts were traced. Hence, it could not be ascertained whether the contractors fulfilled their obligation in this regard.

f. Although the contract specified clearly that incidents and problems had to be reported through the Malta Information Technology Agency's Service Management System, none of the many hitches encountered were lodged through this system.

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[8] With at least another €180,000 (VAT excl.) contractually due prior to the termination of the contract.

[9] By the independent audit firm.

[10] Comprising €330,992 capital costs, €90,736 for 856 software access licences and cloud hosting for one year and €84,000 covering communication data for 1,000 vehicles, all exclusive of VAT.

[11] The difference of €49,000 (VAT excl.) representing the cost for the installation of hardware.

Recommendations

The success of a project of this magnitude depends on the competency of the people involved, both during the selection of the contractor and when choosing those involved for its implementation from the Ministry's side.

Moreover, Government's interests are to be safeguarded both during the negotiation of the contracts, as well as in the ongoing performance. The Ministry is not expected to finance the respective projects, but only pay amounts due when the service is accomplished in line with the applicable agreement. Furthermore, in case of non-fulfilment of agreed terms, action allowable under the respective agreement is to be taken in a timely manner in order to ensure that the aim of the respective project is achieved. This also includes legal action if deemed necessary.

Management Comments

The Ministry agrees and takes note of this recommendation. Moreover, the Ministry shall see that in future contracts of similar scope, definite terms of technical competency are inserted with strict parameters, ensuring that, should the identified contractor fails to deliver such assurance, provisions will be taken.

While this audit was being carried out, the Ministry set up a Compliance Unit within the School Transport Unit to ensure that all the necessary verifications are carried out and all terms in the contract are fulfilled before payment is effected. Furthermore, the said Unit will provide an overarching level of compliance. The Ministry has also sought advice from the Ministry's Legal Office, as well as the Office of the State Advocate, whereby the Ministry's situation in light of the contract and the NAO's management letter were assessed. Furthermore, a notice indicating material breaches and serious misconduct was sent to contractor. The Legal Office together with the Compliance Team will continue monitoring the situation and will take other legal steps accordingly.

Project Mismanagement

The lack of good practices in the management of this project was particularly noticeable. This gave rise to the following concerns besides others reported under Control Issues.

a. Roles and responsibilities of those involved in the project's execution were neither identified nor defined.

b. Other than initial market research carried out mid-2017, no adequate planning related to the execution of the project was noted.

c. The contracts with the two service providers came into effect on 1 September 2018, since the Ministry wanted the project in place for scholastic year starting September 2018-2019. However, basic internal controls were overlooked.

Recommendation

The Ministry is to ensure that prior to embarking on similar projects and ensuing contract management, responsibilities are clearly defined and roles established, thereby ensuring adequate levels of accountability throughout the project's lifespan.

Management Comments

The Ministry agrees with this recommendation. Prior to signing, contracts shall be reviewed to ensure that all deliverables are clearly defined, appropriate procurement procedures have been applied, terms and conditions are clearly set out and the key personnel that will monitor the project implementation will be identified.

Lack of Control over Installation and Management of Devices

The following issues were noted in relation to the installation of devices:

a. In September 2018, the Ministry informed all service providers of school transport to contact the economic operator who was to provide the automated attendance solution, in order to have the tracking device installed on their vehicles. However, no records concerning any development to this effect were available. Moreover, at the time, officials at the Ministry had no oversight over the installation of devices and thus could not confirm the actual number of tracking equipment that was installed, as well as the details of the respective vehicles.

b. As a result of the above, the date of installation of the devices was not known despite that this was the basis for the warranty provided by the contractor.

c. The assets acquired, costing more than €280,000 (VAT excl.) were not recorded in the fixed asset register as required by standing regulations. Furthermore, while a spreadsheet showing the fobs[12] delivered to the respective colleges was provided, no records were available for the desktop readers and magnetic devices procured by the Ministry.

d. In an attempt to exercise some control, in October 2021, Ministry officials contacted state school transport providers to identify which of their vehicles had the device installed. According to these records, as at December 2021[13], only 438 vehicles had the devices installed at that date. No such exercise was carried out for non-state school transport providers. Thus, reconciliation could not be carried out to trace the total of 1,305 devices acquired.

e. Invoices covering the installation of five new devices were noted; however, in the absence of adequate records, it could not be ascertained that these constituted new devices and not devices removed from other vehicles.

f. Two invoices, in aggregate amounting to €220,471, indicated that €198,424 of the invoiced amount had already been paid by the Ministry. However, the foregoing could not find any documentation in this respect.

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[12] A readable fob with a unique number was to be assigned to each student, through which data related to embarkation and disembarkation was to be captured.

[13] Records were not updated thereafter.

Recommendations

Effective internal controls are to be in place at all phases of the project. A holistic exercise is to be carried out, to identify the respective devices and duly include them in the fixed asset register. Moreover, all assets are to be recorded in the fixed asset register and reconciled accordingly, thus ensuring adequate control.

Management Comments

The Ministry acknowledges its shortcomings in not having recorded the devices in the fixed asset register when they were originally acquired. The Ministry will await the outcome of the legal action mentioned in the comments provided to Key Issue 'System Failure, Lack of Action and Inadequate Safeguard', and then decide accordingly on the best way forward on this matter.

Control Issues

Contracted Amount exceeding Approved Amount

The amount approved by the Department of Contracts for the automated solution[14], on the basis of information submitted by the Ministry, was €951,272 (VAT excl.). However, the amount included in the contract was €1,274,728 (VAT excl.). Hence, the difference of €323,456 (VAT excl.) was not covered by approval. The Ministry could not trace any further documentation in this regard.

Recommendations

Any variance from the approved amount is to be duly justified and backed up with a fresh approval. Related documentation is to be filed for full audit trail and future reference.

Management Comments

The Ministry accepts this recommendation. In order to avoid similar occurrences in the future, a standard operating procedure will be created to confirm that contract values are in line with the Department of Contracts and/or the Direct Orders Office approvals.

Questionable Payments based on Unsigned Agreement for Support and Maintenance

The following issues were noted in relation to the support and maintenance service provided by the economic operator who was to provide the automated attendance solution.

a. The original agreement entered into with the contractor in 2018 stipulated that the yearly retainer fee to cover maintenance and support services was included within the agreed cost of €1,274,728. Notwithstanding this,

[14] Excluding amount for the SBN platform.

on 21 August 2021, the Ministry obtained direct order approval for a three-year support and maintenance agreement, including the upgrade of vehicles with the battery system, for a total of €118,800 (VAT excl.), that is €3,300 per month (VAT excl.), which amount was also being paid accordingly. However, the foregoing services were already covered in the original contract while, according to correspondence traced, the upgrade of vehicles with the battery system was supposed to be provided at the contractor's cost. Hence, the need for the second agreement covering support and maintenance agreement is questionable.

b. The Ministry requested direct order approval for support and maintenance of the school transport system, catering for up to 2,000 buses. The actual approval from the Direct Orders Office was given, based on confirmation of the actual number of vehicles. As per information provided during the course of the audit, there were only 1,038 vehicles; however, the Ministry still paid the rate covering the maximum number of buses rather than for the actual number, which was more or less half the amount.

c. As at end February 2023, the support and maintenance agreement had not yet been endorsed by the Ministry. Notwithstanding this, with effect from 20 October 2021, the foregoing started paying €3,300 (VAT excl.) per month, together with other charges included in the unsigned agreement. This may infer tacit agreement to the contract and its contractual obligations.

Recommendations

The Ministry is to adequately assess its needs and determine whether the services additionally paid for are actually required over and above or had been already covered in the original contract. Subsequently, the respective contract is to be revised and endorsed accordingly. Moreover, if it transpires that the services required were those stipulated in the original contract, the Ministry is to request a refund.

Management Comments

The Ministry is reviewing the contract, its provisions and payments made, in order to map out the required course of action.

No Adequate Documentation

Documentation traced was not of the level expected for such a project. The following supporting records were not maintained:

a. Minutes of meetings held with potential software providers during market research.
b. Documentation related to the selection of both economic operators.
c. Minutes of meetings held with the selected service providers to establish requirements.
d. Documentation showing instructions issued by the Ministry to the selected providers.
e. Documentation substantiating the selected providers' declarations on the availability of the necessary skills and expertise.

Further to the above, the agreement entered into with the economic operator who was to provide the automated attendance solution also mentioned several records, vital for the successful implementation of the project, but which were not traced at the Ministry. These comprised:

a. Operations Manual – Contractor was to draft an operations manual, including procedures to be followed, as well as standards and all forms used in the provision of the service. The contracting authority, that is, the Ministry, was to own all copies of the manual.

b. Supplier Management Handbook – Contracting authority was to prepare a supplier management handbook setting out the procedures and templates to facilitate the fulfilment of the contractor's obligations.

c. Service Level Management – Contractor was to measure and report service levels to the Ministry on a regular basis.

Recommendation

Documentation is a vital component of an effective control environment. Thus, the Ministry is to ensure that full documentation is in place, especially in projects of this scale, facilitating internal and external verifications.

Management Comments

The Ministry is taking note of this recommendation and shall be discussing internally together with the Compliance Unit within the School Transport Section. For any future contracts, clear standard operating procedures will be drafted and circulated amongst pertinent personnel.

Ministry for Education - Strategy and Support

Personal Emoluments

*The audit on personal emoluments of the **Ministry for Education – Strategy and Support** revealed that internal controls in the payroll process were weak, denoting poor monitoring. Moreover, lack of coordination was noted between the Ministry, its back office in Gozo processing the salaries, and each respective school, resulting in certain inaccurate salary computations.*

Background

The Ministry for Education, Sport, Youth, Research and Innovation (MEYR)[1] is responsible for the administration of educational resources, both human and financial, within state schools. The National Curriculum Framework (2012), being the backbone of the education system, provides the educational vision for all schools in the Maltese islands.

The prime objective of MEYR is to provide present and future generations with the best resources possible, to develop their personal and social potential, while acquiring appropriate knowledge, key skills and competencies.

During financial year 2022, a total of 8,522 educators in various teaching grades, including heads of schools, assistant heads, teachers, kindergarten educators, and learning support assistants, as well as supply grades, were engaged with the Ministry, all paid from Recurrent Vote 27 – Ministry for Education. This audit focused on expenditure from cost centre Strategy and Support – Allowances and Overtime, Line Items 16 and 17.

Financial Information

For financial year 2022, the budget earmarked for the foregoing two line items was of €42,400,000 and €590,000 respectively. Actual amounts incurred totalled €39,404,957 in respect of allowances and €455,071 for overtime[2].

Figure 1 illustrates the number of officers employed in each nomenclature during the year under review, as well as the total allowances and overtime paid in each grade.

[1] Up to 29 March 2022, this was referred to as the Ministry for Education.
[2] Figures quoted are as per Corporate Financial Management Solution data which also includes reimbursements received in respect of overtime carried out by MEYR staff at other independent agencies and/or entities.

Figure 1: 2022 Educators Financial Data by Nomenclature[3]

Grade Description	Number of Officers in the respective Grade	Taxable Allowances (€)	Overtime (€)
Head of School	105	1,253,697	-
Education Officer	119	957,361	-
Learning Support Centre Coordinator	6	35,383	-
Assistant Head of School	368	3,094,917	11,280
Head of Department	210	1,151,565	3,457
Head of Department Prefect of Discipline	4	18,612	-
Teacher	3,704	20,664,842	346,179
Learning Support Educator III	359	1,838,162	117,631
Supply Graduate Teacher	219	456,386	1,731
Indefinite Supply Graduate Teacher	9	17,439	792
Kindergarten Educator III	69	373,863	-
Temporary Teacher	1	1,488	-
Kindergarten Educator II	640	3,293,608	19,879
Learning Support Educator II	1,652	8,147,710	80,823
Learning Support Assistant	2	7,506	-
Indefinite Supply Teacher	4	9,925	-
Supply Teacher	123	240,708	1,754
Executive Officer	35	33,566	8,045
Kindergarten Educator I	64	239,134	-
Learning Support Educator I	277	1,115,928	-
Supply Kindergarten Educator	3	7,248	-
Supply Learning Support Educator	549	1,129,492	343
Totals	8,522	44,088,540	591,914

[3] Figures in the diagram as extracted by MEYR from the payroll system are inclusive of overtime carried out by MEYR staff at other independent agencies and/or entities. The figure also includes Executive Officers who, although not classified as educators, were still paid from the line items under review.

Sectoral Agreement

In line with the sectoral agreement that came into force as from January 2018, officers within the teaching profession were entitled to the payment of various allowances, any supervision duties, as well as overtime carried out. The main additional remuneration providers are highlighted hereunder.

Allowances

These are fixed allowances payable per annum and on a pro-rata basis.

Supervision Duties

Supervision duties consist of the following:

a. Payments to teachers for extra lessons delivered over and above their maximum load are to be remunerated at the rate of €20.75 per lesson.

b. Non-contact time remunerated at the hourly rate of €20.75. At the primary level, direct contact with students shall not exceed 25 hours, which if surpassed, the additional hours are to be paid for as non-contact time.

c. In the case that learning support educators, who are assigned students with a full-time one-to-one statement of needs, do not take a 15-minute break, this is to be compensated at the hourly rate of €12.92.

d. Invigilation undertaken on a voluntary basis: onboard the transport, upon the student's arrival at and dismissal from school premises, as well as during the breakfast club and mid-day break. Such duties are compensated at the hourly rate of €12.92.

e. Teachers in middle and secondary schools who are assigned cover lessons[4] are paid at the hourly rate of €12.92.

Overtime

This incorporates payment for duties not related to the teaching profession, such as administrative work at contact tracing centres, as well as reading sessions organised by the National Literacy Agency.

Catch-up Classes

Following the COVID-19 pandemic, catch-up educational sessions were introduced. These were intended for learners who were absent from school for long periods due to the pandemic. Teachers were the protagonists in this process, through their direct involvement over an eight-week period. Considering the success and the benefits derived, this programme was extended to be offered uninterruptedly throughout the subsequent years. Lessons were either delivered in person at specific regional centres, virtually or hybrid.

[4] Duties undertaken by a teacher and/or supply teacher in the stead of another teacher.

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 to educators within state schools. Verifications, as to whether payments made were in line with the sectoral agreement between the Government of Mata and the Malta Union of Teachers, the Public Service Management Code (PSMC), where applicable, Standard Operating Procedures (SOPs), as well as respective employment contracts, also formed part of the audit scope.

Checks were also directed towards ascertaining whether overtime payments were supported by the pertinent attendance records and that the necessary approval was obtained before carrying out the respective work.

The audit was conducted in accordance with generally accepted auditing standards. Sampling techniques applied were qualitative in nature and testing was designed with the intention of ascertaining compliance and identifying methods through which current practices could be improved.

In obtaining the required audit evidence, a sample of 32 officers was selected from the 2022 payroll runs. The total population for both allowances and overtime paid was stratified in groups by nomenclature. A sample was then selected from each group, based on the materiality of the amounts involved, targeting the highest amounts paid[5]. Another sample of eight employees was selected randomly from those officers who either started their employment or resigned during the year under review, or were on maternity leave, to ascertain correctness of allowances paid.

Disclaimer

Every scholastic year runs from 1 September to 31 August of the subsequent year. Certain allowances[6], as well remuneration for supervision duties and overtime, are paid in arrears. Verifications carried out covered solely payments effected during financial year 2022.

Key Issue

Insufficient Internal Controls

Audit verifications revealed that, in various areas relating to salaries, internal controls were weak or entirely lacking, denoting that minimal monitoring was in place to ensure efficient administration of public funds. Below are examples, which will be discussed separately further down in the audit report under the pertinent observations:

a. Incomplete documentation to support payments.
b. Attendance records not properly maintained.
c. Lack of verification of allowances and overtime claims before payment.
d. Non-compliance with the provisions of the PSMC and other relevant standing regulations.

[5] The sample covered 10 overtime payments and allowances of 22 officers.
[6] Namely, work resources allowance, special education programme allowance and shared allowance.

Recommendation

The absence of internal control mechanisms, that ensure the accuracy, completeness and authorisation of transactions, increases the risk of both intentional as well as involuntary errors in the computation of salaries. Thus, considering especially the significant amounts involved, MEYR is to review its current operational procedures and introduce robust systems, aimed at ensuring appropriate record maintenance and the correct computation of salaries and allowances, in accordance with established regulations.

Management Comments

MEYR is in agreement with this recommendation and understands the importance of having robust internal control mechanisms to ensure efficient administration of public funds. In view of this, MEYR has already started reviewing the various operational procedures related to the payment of overtime and allowances to educators and drawing up the necessary SOPs to regulate these processes and minimise the risk of errors. These SOPs will, among other things, include the introduction of the four-eyes principle, wherever it is necessary and currently[7] missing. Furthermore, internal circulars are being prepared to flag important issues and ensure compliance with procedures. MEYR is prioritising this exercise. Having said this, it is to be emphasised that the actual computation of salaries is carried out by the Ministry for Gozo (Education Salaries and Central Salaries) and not by MEYR.

Control Issues

Lack of Effective Communication

Data forming the basis for the calculation of supervision duties is collated by each respective school and forwarded to MEYR's salaries back office in Gozo. The latter is then responsible to forward this information to Treasury. However, lack of coordination was noted between the three main stakeholders, namely, the Ministry, its salaries back office in Gozo and each respective school. This had a direct impact on the accuracy of salary payments, primarily due to delays in sharing vital information, especially when there were changes in salary scales or sick leave. This issue also led to increased administrative burdens due to the number of corrections that could have been easily avoided.

Recommendation

The Ministry is to enhance its communication channels and information sharing systems, thereby ensuring a more collaborative and efficient environment, whilst simultaneously minimising the risk of errors in salary payments and the need for subsequent corrections.

[7] Management comments submitted on 19 October 2023.

Management Comments

MEYR agrees that communication and coordination between the main stakeholders involved in the calculation of payments for educators' overtime and allowances needs to be strengthened to ensure more timely, clear and accurate data sharing which ultimately forms its basis. The SOPs that are being prepared will be tying in all the relevant stakeholders and information sharing systems involved in each process while setting clear timelines for all processes.

Incorrect Computations

The audit process involved recalculating allowances and overtime payments for the officers in the audit sample. However, checks expected to be carried out by MEYR were lacking.

This revealed several issues, mainly related to incorrect computations. Queries were raised, and the auditee investigated these issues on a case-by-case basis. The related payments were recalculated, necessary workings were gathered from the salaries back office in Gozo, and explanations together with copies of the attendance sheets were requested from the respective school's administration, as the Ministry did not have this data.

When incorrect computations were confirmed, payment adjustment forms were raised to rectify the situation immediately. However, there were occasions where instructions given were incorrect, leading to further overpayments or claims for reimbursement that were not due from employees. Hence, the auditee was urged to recall and amend the notifications accordingly. Although individually the related amounts were immaterial, the frequency of inaccuracies was of concern.

Additionally, the audit revealed several corrections made by MEYR in 2022, to educators' basic salary and allowances, due to errors that had gone unnoticed by the Department in previous periods.

Recommendations

The Ministry is to review its current payroll processes and implement the necessary internal controls and ensuing checks and balances to prevent, as much as possible, any errors from occurring. This also necessitates adequate verifications prior to the processing of the related payments. The manual calculations to amend the exceptional errors are to be independently checked before requesting refunds.

Management Comments

MEYR agrees with this recommendation and, as already explained above, is currently reviewing its processes and introducing all the necessary internal controls and checks and balances to minimise, as much as possible, the possibilities of such errors from occurring in the future. However, the processes and systems used by the Ministry for Gozo (Education Salaries and Central Salaries) for the computation of salaries are beyond this Ministry's control.

Overtime Work not duly approved

Section 2.2.7 of the PSMC stipulates that overtime requests are to be approved beforehand by the respective Permanent Secretary, unless this authority is formally delegated in writing to suitable public officers within the Ministry, not below salary scale 5. However, sample testing revealed the following:

a. At times the request for overtime work was either not approved by the Permanent Secretary, or approval was granted following the commencement of the overtime period.

b. In one case, overtime was approved by the then Director General Strategy and Support Department who was not provided the necessary delegation of authority by the Permanent Secretary.

c. At times, the same signature featured under different designations. Moreover, in a number of instances, the endorsing officer did not indicate the name and grade. Thus, it was not possible to check whether approval was duly sought from the right level of authority.

Recommendations

Proper approval of overtime is vital to help Management control the respective expenditure. Thus, a best estimate of the required overtime hours is to be submitted for the Permanent Secretary's approval prior to the commencement of overtime. In line with the provisions of the PSMC, the Permanent Secretary can approve overtime for periods not exceeding three months. Where deemed necessary, the foregoing can delegate this authority to suitable officers within the Ministry, not below salary scale 5.

For the sake of transparency, officers approving overtime requests are also to disclose their designation to enable verification that authority was properly delegated.

Management Comments

MEYR agrees with these recommendations. Action ensuring that overtime is approved, in line with the provisions of the PSMC, either by the Permanent Secretary or by a suitable officer within the Ministry not below salary scale 5 as delegated by the Permanent Secretary (in which case, an official written delegation of authority would be prepared by the latter and kept for audit verification purposes) and prior to the commencement of the overtime period, had already been taken. As recommended, the Ministry will ascertain that officers approving overtime requests disclose their designation to enable the necessary verifications; any requests without the proper signatures and rubber stamps will not be processed for payment.

Attendance Records not adequately maintained

Educators are required to record their presence through the signing of manual attendance sheets. Besides control deficiencies, sample-based verifications also revealed lack of standardisation in the way documentation was maintained amongst schools. The following relate:

a. Attendance records were either left completely uncertified or the date of endorsement was not disclosed. Hence, it could not be ensured that these were approved by the responsible party on a weekly basis as required by the PSMC. Furthermore, certain attendance records pertaining to 2022 were certified during the audit, in April 2023, following the National Audit Office's request for the pertinent documentation.

b. Amendments on the attendance records were not countersigned by the senior officer in charge as stipulated by the cited regulations.

c. The master file containing daily hours of supervision duty by each educator, as compiled by the schools, was maintained in a spreadsheet format, thus making it susceptible to human error and potential manipulation. Moreover, certain schools did not maintain separate attendance records for supervision duties, hindering verification of the hours as included in the master file and accuracy of the respective payments. Consequently, adequate monitoring could not be performed.

d. The attendance sheets maintained by one particular primary school for mid-day break supervision was still endorsed during the first two days of June when the school day was shorter and there was no mid-day break.

e. An officer in the audit sample signed for overtime work on a particular day and MEYR later confirmed that no overtime on this particular day was performed.

The above matters imply that the related attendance records were only maintained as a way of formality and not for control purposes.

Recommendations

While attendance records are in themselves an element of internal control, if incomplete and/or inaccurate, they will hinder the benefits that are expected to be attained from them. Thus, payments in respect of supervision duties and overtime are to be substantiated with adequate attendance sheets, duly approved on a weekly basis. To achieve this, MEYR is to issue clear guidelines for the upkeep of separate records in respect of supervision duties, highlighting the importance of indicating the type of duty performed, date and respective hours worked. These are also to be endorsed by the officer carrying out the related duty and subsequently approved by the responsible officer. This will enhance accountability whilst enabling the necessary reconciliation.

Management Comments

MEYR agrees with this recommendation and has already started working on the standardisation of record-keeping within its schools and the issuance of clear guidelines to ensure consistency and compliance. In view of this, the *necessary SOPs are being drawn up, templates are being amended as necessary to ascertain accuracy and clarity of information, and internal circulars are being prepared. The Senior Management Team will be constantly monitoring such processes to enhance accountability. This will ensure that attendance records are indeed strong internal controls.*

Unsubstantiated Claims and Payments

The audit revealed instances of payments made to educators for extra duties, which were not substantiated by adequate documentation. A discrepancy between the remuneration payable in respect of catch-up classes as per the related expression of interest and the actual payment made was also noted. The following relate:

a. An extra duty payment of €9,389, disbursed to an officer in connection with the role as national coordinator for catch-up classes held during summer 2022, covered 305 hours. However, supporting documentation provided did not cover all hours paid for.

   It was also noted that the same officer signed as having performed extra duties on the two public holidays in June 2022. Moreover, the letter of definite contract for duties as coordinator stipulated that the officer was to be called for duty as from 9 June 2022. However, the foregoing started being paid as from 17 May 2022.

b. The expression of interest issued to public officers in the grade of teacher for the summer catch-up educational programme stipulated an all-inclusive remuneration of €17.59 for each 40-minute lesson, covering both contact time as well as remote preparation. Yet, the pertinent educators were paid for non-contact time and break supervision duties, in addition to the all-inclusive remuneration.

Recommendations

Proper documentation is fundamental to ensure transparency and audit trail to substantiate the respective payments. Attendance records are also to be duly certified by the head of school.

Management Comments

MEYR agrees with this recommendation and is taking the necessary action as described in the Management comments provided for the previous recommendation.

Furthermore, the Ministry has already implemented part of this recommendation. The call position of part-time teachers for catch-up classes issued during September 2023 in the Government Gazette clearly stipulates that remuneration for catch-up classes shall be calculated for every 40-minute lesson contact time, an additional 30-minute non-contact time will be added for preparation. Break supervision is optional and considered over and above normal teaching duties and teaching grades are to be paid for it as per sectoral agreement.

University of Malta

Personal Emoluments

*The review of payroll expenditure incurred by the **University of Malta** during 2022 revealed the need to seek alternative options of work schedules to avoid the repeated resorting to overtime. NAO is informed that the Administration is already considering such option. An inadequate audit trail also prevailed for the recording of the extra hours claimed for payment.*

Background

The University of Malta (UM) is constituted and governed in accordance with Part VII of the Education Act (Cap. 605). It is composed of 14 faculties, 114 academic departments, 1 academy, 17 institutes, 13 centres, 3 schools and 12 administrative directorates. Whilst the main campus is based in Msida, there are three other campuses located in Valletta, Marsaxlokk and Gozo, as well as two outreach centres situated in Argotti and Cottonera.

The administrative setup of UM involves a number of academic, administrative and technical staff members. The University is one of the largest employers in the country, with 2,960 academic staff[1], as well as another 1,260 employees[2] in administrative, technical and industrial roles.

Payroll expenditure is regulated by two collective agreements[3], i.e., one for academic staff and that for administrative, technical and industrial employees. Latter agreement expired in 2021 and was still being negotiated by end of 2022. Meanwhile, the agreement for academic staff covered until 2023.

UM's financial year covers from 1 October to 30 September. The budgeted amounts for allowances and overtime for year ending 30 September 2022 were €2.3 million and €0.79 million, respectively. A further €15.5 million was allocated for academic supplements[4], whilst €1.2 million was budgeted for sundry payments. Total actual expenditure incurred on allowances during the year under review amounted to €2.6 million while that on overtime was €0.83 million. The payments for additional academic supplements exceeded €15.6 million and sundry payments[5] amounted to €5.3 million.

1 860 full-time and 2,100 part-time academics.
2 1,010 full-time and 250 part-time staff.
3 A third collective agreement, covering Junior College employees, was in force during the audit. However, this was outside the audit scope.
4 A monetary benefit over and above the salary payable to lecturers, senior lecturers, associate professors and professors.
5 Paid to casual staff or paid for work carried out by academic members over and above their duties.

Audit Scope and Methodology

The scope of this audit was to ensure that overtime was justified, approved beforehand from the relevant levels of authority and adequate documentation was maintained supporting each transaction. Further verifications were carried out to check whether the disbursements related to academic supplements, other allowances and sundry payments, were in line with the relevant agreements, regulations, collective agreements and standing policies.

An introductory meeting was held with the University officials to discuss the audit objectives, as well as to obtain a general understanding of UM's operations after reviewing the University's latest audited financial statements, i.e., those for year ended September 2022.

A walkthrough exercise was carried out to determine the different types of allowances that University employees were entitled to. Subsequently, the internal control procedures in place over the payments for allowances and overtime were analysed. Discussions were also held with the internal audit team at UM to discuss the related audit reports prepared from its end. It transpired that significant testing on allowances, pertaining to continued professional development and Academic Work Resources Fund, was undertaken as part of the internal audit and which was being duly followed up. Thus, it was agreed that this assignment shall focus on other allowances.

Since most of the allowances were paid to the academic grades, testing of these payments focused on this staff category. Although University Management did not deem the academic supplement and sundry payments as allowances, considering their materiality, these benefits were also reviewed. To this effect, 10 other officials were chosen based on materiality of the total sum paid in the period under review.

Overtime was only paid to the administrative, technical and industrial university staff. Therefore, a sample of 10 officials, classified by designation and with the highest value of overtime paid, was selected from this segment.

Limitation on Scope of Audit

During audit fieldwork, significant delays were registered in the submission of replies to queries raised by this Office. This ultimately limited the extent of testing that could be carried out. Moreover, these circumstances revealed a weak audit trail, as some of the requested documentation related to allowances and overtime was still not made available by the end of the audit.

Key Issue

Repeated resorting to Overtime Work

The budget allocation for overtime for year ending September 2022 was €787,000, while actual expenditure amounted to €825,094, paid to a total of 527 University employees. According to UM, the overtime budget overrun was mainly due to unplanned activities, such as conferences and events, which are usually self-financing.

The National Audit Office (NAO) noted that overtime was performed regularly by certain individuals, mainly by the 47 beadles and 35 library staff who claimed extra hours on a daily basis. Between them, the amount spent on overtime between October 2021 and September 2022 totalled €296,067. According to UM, there is an arrangement with beadles and library officials to work and be paid semi-permanent[6] overtime during the year.

The UM collective agreement states that overtime work should be resorted to only in exceptional circumstances and periodic reviews of overtime work should be made so as to economise on overtime and increase productivity by other means. This concern was also commented upon by the UM internal audit in February 2019 and May 2020. However, no action was taken to address this issue.

Recommendations

Considering the substantial amount in overtime expenses, UM is to verify whether all overtime was being performed in a cost-effective manner and is unavoidable. The possibility of less costly alternatives, including the introduction of new work patterns, the adjustment of existing work schedules, the restructuring of work processes or a combination of these, are to be considered to reduce this expense. As far as possible, overtime is to be linked to ad hoc assignments with specific targets to be attained.

Management Comments

The overtime being referred to is that of beadles and library staff; this overtime is mainly to provide a service to students. Library hours are extended beyond the normal office hours and beadles have to open buildings in the morning and close buildings once lectures are over (most evening courses finish at 20:00).

With regard to the library, the UM is working on a long-term solution by providing a space, underneath the existing library building, which will be open to students 24x7 without the need to be manned. The main challenge is the financing of the necessary structure changes and refurbishment.

Control Issues

Weak Internal Controls over Attendance and Recording of Leave

Recording of Attendance and Leave for Academic Staff

Administrative, technical and industrial personnel record their attendance upon logging to the online system, while maintenance and beadles use a card logging system. However, attendance of academic staff is not recorded anywhere. The lack of attendance system for this category of personnel also resulted in inconsistency of leave management.

[6] To cover the opening hours of the University gateway, mainly between 06:00 and 07:45 and after 17:15.

Shortcomings in Overtime

From the sampled attendance reports, overtime requests and returns, the following shortcomings were noted:

a. During 2022, one of the administrative staff in the audit sample was paid a total of €18,525 in overtime. However, this was not supported with attendance records. Thus, the amount in question could not be validated. This also raised concern as to whether adequate verification was being performed before the respective payment was processed.

b. The attendance reports of several employees claiming overtime did not include the time out which is very relevant for the calculation of overtime. In other instances, the time out did not reconcile with what was claimed and paid as overtime.

Recommendations

UM is recommended to implement a homogenous system to record attendance for the entire staff complement. The record keeping of leave on the same system would enhance audit trail.

Internal controls with respect to overtime payments need to be enhanced, thereby ensuring the reliability of overtime hours claimed and correct payment thereof, in line with the detailed requirements of the pertinent overtime policy established by the University. Moreover, payment for overtime is to be invariably supported with reliable attendance records.

Management Comments

All claimed overtime is checked against the clockings prior to payment.

a. The administrative staff member was not using the clocking system as there were technical issues which have been resolved and evidence was sent to confirm that the employee is now[7] clocking in and out.

b. The audit identified issues where employees claiming overtime do not clock out. All such instances are checked with the respective heads prior to payment as it is not uncommon for overtime to be performed outside campus, such as during graduation ceremonies.

Overtime Work not covered by Prior Authorisation

Out of the 28 sampled payrolls, only 3 request forms were approved before the actual work was performed, as required by the collective agreement. This shortcoming was also reported upon by the UM internal audit in 2019; however, no evidence was provided that it was duly addressed.

[7] Management comments submitted on 25 July 2023.

Recommendation

UM is to process overtime requests before the end of the pay period in question, as stipulated in the collective agreement, as well as the overtime policy which also states that any requests for overtime not raised on time will be regarded as infringement of the policy.

Management Comments

Following the internal audit findings, a new online system has been implemented for authorising overtime requests.

Overtime carried out during Teleworking

As per appendix IV, section 12.4.3 of the collective agreement covering administrative, technical and industrial staff, overtime duties cannot be carried out when remote working. However, most of the overtime claimed by an administration specialist in the audit sample, covering 240 hours to the tune of €4,273[8], was worked remotely. The reason for overtime duties was reported as backlog of work.

Recommendations

Management is to ensure that claimed overtime is justified. Any changes to the collective agreement are also to be formally approved.

Management Comments

Though some overtime might have been allowed to be carried out remotely, there might be a misunderstanding; when Salaries Section is processing overtime returns, it makes a note when the employee has approval for telework but this does not mean that the overtime was actually done remotely.

Shortcomings in Sundry Payments

The review of the sampled sundry payments revealed the following shortcomings:

a. **Payments not supported by a contract for service** – In January, April and July of 2022, a visiting associate professor received remuneration as sundry payments with an aggregate value of €30,636. These related to various European Union research projects. However, such work was not covered by a contract for service or an engagement letter.

b. **Disbursement for additional lectures not substantiated** – According to section 40.1 of the collective agreement, a resident academic may, on a voluntary basis, teach beyond the established teaching workload. Such work is subject to additional remuneration at a fixed hourly rate, in line with the rate paid to casual providers. These

[8] The majority of these overtime request forms were not approved before the actual work was performed. This concern has already been reported upon under a separate title.

supplementary teaching activities must be supported by a written justification, as well as a prior approval from the head of department or director of the institute, centre or school.

However, a number of additional lectures performed by two academics in the audit sample, were only approved following the delivery of the lectures and without giving the respective justification. Thus, the related disbursements of approximately €5,000 could not be validated.

Recommendations

Management is to ascertain that all services are supported by a contract or letter of engagement. Furthermore, any extra lectures in addition to the established teaching schedule are to be supported by a written justification, as well as preauthorised by the relevant authority, in this case the head of the centre or school.

Management Comments

a. *The visiting associate professor was highly involved in different European Union projects and has ad hoc contracts for each of the projects working on[9].*

b. No reply was forthcoming.

Directors' Allowance not substantiated

During 2022, an allowance was paid to two professors, in aggregate amounting to €6,000. The payroll records did not include any details about this allowance.

Moreover, the contract of employment of these individuals was not provided for audit purposes. Consequently, the payments in question could not be validated.

Recommendations

Allowances for staff covered by the collective agreement must align with it. Any additional allowances, if warranted, should be documented in an addendum.

Management Comments

This issue is referring to two academics who had been assigned the role of a director of an institute. Directors of institute are provided with a letter of appointment[10].

9 Despite this reply, NAO was not provided with an engagement letter and/or contract pertaining to the mentioned services.
10 Despite several reminders, the letters of appointment were not provided for audit purposes.

Lack of Audit Trail regarding an Academic Supplement Payment

In 2008, upon the signing of an earlier collective agreement for academic staff, a transitionary clause to alter the working conditions and two Plans (A and B) with different terms and conditions, were introduced. Amongst others, this resulted in a difference in the academic supplement payable to different grades. Staff members who were employed from 2008 onwards were automatically engaged on Plan A. The remaining staff, who were engaged prior to 2008 were assigned to Plan B. However, in June of any year, those on the latter Plan had the opportunity to switch permanently to Plan A from the first date of the subsequent scholastic year[11]. UM was to be informed and approve accordingly.

Only one staff member in the audit sample was engaged prior to 2008. Thus, the individual should have been automatically engaged on Plan B. However, although the foregoing was being paid on Plan A, UM did not provide any supporting documentation showing the respective approval. Thus, NAO could not ascertain the professor's eligibility to the difference in higher academic supplement assigned to the respective grade, amounting to €19,387[12].

Recommendations

Full audit trail is to be invariably maintained to substantiate each payment. Such changes are also to be supported by an approval from the University.

Management Comments

The staff member's request to switch to Plan A was forwarded to NAO[13].

Unauthorised Payments

On 20 February 2023, a retrospective engagement letter revealed that the Council officially appointed a visiting professor[14], within the Department of Architecture and Urban Design. The appointment was for one year effective retrospectively from 1 October 2022.

Moreover, as at October 2022, i.e., before this retrospective appointment, UM had already paid an aggregate amount of €22,003, covering the preceding scholastic year 2021-2022. However, no evidence was provided that this appointment was regulated by a formal letter of engagement.

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[11] In line with another agreement to facilitate the implementation of the collective agreement for academic staff of UM, signed by the President of UM Council, the Rector and UM Academic Staff Association on 19 February 2021.

[12] Difference in academic supplement for professor grade: €32,311 (Plan A) less €12,924 (Plan B) equal to €19,387.

[13] The respective approval was not made available for review.

[14] As a visiting professor, the academic was required to deliver nine contact hours per week during term-time.

Recommendation

UM is to ascertain that staff is officially appointed through a letter of engagement endorsed by the Council and that a proper audit trail is maintained to support the respective payments.

Management Comments

The letter of appointment for academic year 2021-2022 of the visiting professor was provided[15].

No payments are processed before Council's approval. Any arrears are paid after the Council's confirmation.

[15] A letter of appointment was provided to NAO when the audit was concluded; however, this was not signed by both parties.

Ministry for the Economy and Industry

Concession Fees

Revenue

*Despite that the Ministry for Economy, European Funds and Lands is a party to the respective concession agreements, vital documentation was not available at its end. Moreover, as a result of gaps in the documentation made available, the rationale behind certain decisions related to the **Concession Fees**, such as the waiving of the casino concession fee and the calculation of the minimum financial offer for the same casino concession, could not be determined.*

Background

Concession fees pertaining to the Ministry for Economy, European Funds and Lands (MEFL) relate to the Concession to open and operate a Casino in Malta and the Concession for the Rights of the National Lottery of Malta, awarded to Dragonara Gaming Ltd and National Lottery plc, respectively.

Budgeted revenue for 2022 as set in the Financial Estimates, under the Ministry's Line Item 0917 – Concession Fees, was €41 million, while actual revenue recorded for the same year amounted to €40 million. As per the terms of the agreements entered into with the respective concessionaires, both concessions were awarded for a period of 10 years without any entitlement for renewal.

The two concession awards were preceded by a Request for Proposals (RfP) issued by the then Privatisation Unit[1] (PU). It was also the PU who, through an Evaluation and Adjudication Committee (EAC), evaluated the proposals submitted and identified both concessionaires as the preferred proponent in each case.

Concession to open and operate a Casino in Malta

The concession fee for the casino set out in the RfP amounted to €11.1 million, payable in three equal payments of €3.7 million each, spread over a period of three years. However, the same clause also provided for the possible waiving of the concession fee.

Bidders were to make a financial offer of not less than €1.5 million[2], which consideration would become payable by the successful proponent upon the award of the concession.

[1] The PU has been replaced by the Malta Strategic Partnership Projects Ltd (MSPP) as from 17 June 2022.
[2] The higher the contribution the more the points awarded.

On 27 May 2021, the PU informed Dragonara Gaming Ltd, the only bidder, of its decision to accept the respective proposal and award the concession[3] to the latter. The concession agreement was subsequently entered into on 28 July 2021.

The financial offer made by the winning bidder was equal to the requested minimum amount of €1.5 million, of which €500,000 was to be paid upon the signing of the agreement and the balance of €1 million when the required licence was issued by the Malta Gaming Authority (MGA). The agreement also entitled the Ministry to charge the concessionaire an annual monitoring fee not exceeding €10,000[4].

In addition to the concession agreement, this concession is governed and regulated by the Concession Contracts Regulations (S.L. 601.09), the Gaming Licence Fees Regulations (S.L. 583.03), and the Gaming Tax Regulations (S.L. 583.10).

Concession for the Rights of the National Lottery of Malta

The operation of lotto and related games was privatised in 2004, with the concession under review being the third[5] one since privatisation. The concession entitled the concessionaire to:

a. operate on an exclusive basis, all lottery games available for consumption in Malta; and

b. the rights to the exclusive use of the National Lottery Intellectual Property Rights in terms of and subject to the Intellectual Property licence granted pursuant to the concession agreement.

Three RfP applications were collected; however, only two were submitted. The collection of the RfP was subject to a fee of €15,000, while the respective submission comprised another fee of €35,000. Evaluation consisted of three stages; the administrative stage, ensuring compliance with the requirements of the RfP, the next stage to assess the fitness and propriety of bidders, as well as the technical aspect of the bid, and the final stage consisting of an analysis of the financial offer. The latter was the final and decisive criterion.

The minimum offer set out in the RfP was €40 million. The offers submitted were €105,077,777 by the winning bidder, namely National Lottery plc, and €53,330,001 by the other bidder.

The concession agreement was entered into on 10 March 2022, whereby the concessionaire was entitled to the exclusive organisation and operation of the national lottery games for a period of 10 years. The financial offer was to be settled through an initial consideration of €20,000,000, payable at the time of signing of the concession, a further €20,000,000 due within six months from take-over date[6], and the balance of €65,077,777 payable in equal annual instalments over the term of the concession. In addition, as per the terms of the agreement, the concessionaire was

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[3] Dragonara Gaming Ltd already held the concession to operate the land-based casino between 2010 and 2020, which was eventually extended to 2021, until the finalisation of the new competitive process.

[4] Correspondence reviewed indicated that, during a meeting held in July 2021, it was agreed that this monitoring fee would be paid directly to the PU.

[5] The first exclusive licence to operate the National Lottery of Malta came into effect on 5 July 2004 for 8 years, expiring in 2012. This was followed by a second concession granted till July 2022.

[6] Taken to be 5 July 2022.

to make an annual contribution of €50,000 to the Responsible Gaming Foundation and pay an annual monitoring fee of €35,000 to the PU.

Prizes related to all games forming part of the National Lottery Games Suite[7], which remain unclaimed by the lapse of the set 60 days, are to be transferred to the Social Causes Fund (90%) and the Responsible Gaming Foundation (10%). In addition, the concessionaire is to pay an annual licence fee to MGA, as well as compliance contribution fees, levies and gaming taxes stipulated in the concession agreement, as per the provisions of the Gaming Licence Fees Regulations and the Gaming Tax Regulations.

A warrant of prohibitory injunction[8] was filed on 3 December 2021 by the other bidder against the then Ministry for Economy and Investment, the PU, MGA, the then Ministry for Finance and selected bidder (collectively the defendants). The application was rejected by the Court on 17 December 2021. However, on 28 January 2022, proceedings were instituted against the defendants in the Civil Courts[9]. The case was still ongoing as at end August 2023.

Being a concession for lottery services awarded to an economic operator on the basis of an exclusive right, in line with Article 5(r) of the Concession Contracts Regulations, this concession was actually excluded from the applicable procedures of these regulations. However, the concession notice was still published in the Official Journal of the European Union in line with standing provisions.

Audit Scope and Methodology

The main scope of this audit was to ensure completeness of revenue and assess the adequacy and effectiveness of the supervision[10] in place over the two concessions.

An introductory meeting was held with the Director Corporate Services, MEFL, to obtain an understanding of the processes involved. A documentary review of records[11] related to the concession was undertaken, whereby compliance with the requirements established in the RfPs and applicable regulations was assessed. This was followed by an analysis of the amounts paid by the two concessionaires. Enquiries were also made with MEFL, Malta Strategic Partnership Projects Ltd (MSPP) and MGA, to understand their respective roles vis-à-vis the monitoring over the concession agreements, identify any income paid thereto and enquire about other decisions relating to the concessions under review.

7 Lotto, Super 5 and Grand Lottery.
8 In their application, the plaintiffs requested the Court to prohibit the defendants from taking any action in line with the decision to award the concession to the preferred bidder.
9 The Court was requested to declare the process through which the preferred bidder was identified, to be without effect on two counts; one related to the working capital and the other in respect of the number of employees.
10 The audit only focused on the concession fees and other amounts payable to Government and other public institutions specified in the concession agreements.
11 Comprising mainly the respective RfPs, bids, evaluation reports, agreements and evidence of payments.

Limitation on Scope of Audit

Documentation reviewed, relating to the National Lottery Concession, indicated that various meetings were held with the different stakeholders during the negotiation process, including with the then Minister for the Economy and Industry. However, related minutes were missing to substantiate conclusions reached.

Key Issues

Lack of Adequate Control by the Ministry

Lack of adequate control by the Ministry was noted with respect to various aspects related to the two concessions under review. The following issues refer:

a. Although winnings were reported to MGA on a monthly basis, there was no indication as to whether these were claimed or unclaimed. The Ministry further stated that the payments made to the Social Causes Fund and the Responsible Gaming Foundation were based solely on self-declarations, with the National Lottery licensee directly transferring the funds to these organisations. However, no distributions[12] had been effected in terms of unclaimed winnings by June 2023[13].

b. No evidence of the second monitoring fee payment of €35,000, due to the PU by the National Lottery concessionaire, was provided by end June 2023 when this audit was concluded. Moreover, no action had yet been taken by the Ministry to amend the agreement which provided for the payment of the fee to the PU, despite that the latter was replaced by MSPP a year earlier, on 17 June 2022.

c. Documentation held by the Ministry with respect to both concessions was minimal and, following the dissolution of the PU, most of the records provided for review were retained by MSPP or MGA.

d. Despite being a signatory to the concession agreement, the Ministry was not in a position to answer queries with respect to the setting of how the minimum financial offers were established. The only reply provided by the foregoing related to the National Lottery concession and stated that "*… the minimum concession fee was based on the previous concession issued, which had been set at €37 million*". No replies were provided with respect to the casino's minimum financial offer of €1.5 million.

Recommendations

As a signatory to the agreement on behalf of Government, the Ministry has the ultimate responsibility for the oversight over the concessions and the management thereof. In this respect, it is expected to ensure that all revenue due to Government, including that not payable directly to the Ministry, is collected in a timely manner and, for control purpose, evidence thereof is provided to the foregoing, as the contracting authority.

[12] Related to the concession under review.

[13] Documentation provided after the conclusion of the audit indicated that €474,045 and €52,671 were transferred by concessionaire to Social Causes Fund and Responsible Gaming Foundation respectively on 21 July 2023.

Moreover, responsibility for the monitoring of unclaimed winnings and their timely distribution is to be allocated to a specific individual to carry out the necessary checks on a regular basis. Reports submitted to MGA are to distinguish between claimed and unclaimed winnings, enabling independent verifications. This process is to be duly documented, outlining the specific terms, such as frequency of distribution. Furthermore, an addendum to the contract is to reflect the necessary change, showing the relevant entity to whom the monitoring fee shall be paid.

Furthermore, as the responsible contracting authority and a party to the agreement, the Ministry is expected to have a copy of all related substantiating documentation which is easily retrievable for both internal and external verifications.

Management Comments

MEFL affirms that revenue due to the Ministry is monitored as per contract conditions. A dedicated officer within the Accounts Section regularly monitors payments due to MEFL.

In relation to unclaimed winnings, MEFL has been in contact with the concessionaire and transfers were recently[14] carried out for the period July 2022 to March 2023. The Ministry shall continue to ensure regular oversight on these transfers as recommended.

As regard the monitoring fee, the reason why they are still pending is because the Ministry is considering an amendment to the concession agreement that such a fee is paid to MEFL rather than the PU or MSPP, as it is not MSPP who is responsible for the monitoring. MEFL shall ensure that relevant discussions with MSPP on the matter and finalisation of addendum is carried out at the earliest so that the monitoring fee for 2023 is paid accordingly.

Note has also been taken of the Ministry having a copy of substantiating documentation.

No Cost-benefit Analysis and Lack of Documentation substantiating Decisions

A number of issues which hinder accountability and weaken the control environment were noted. The following refer:

a. In the case of complex concessions, the Department of Contracts recommends that a cost-benefit analysis[15] is carried out, in order to have more clarity on the investment. However, the need for this exercise for the casino concession[16] was questioned by the then Head PU[17] and, in fact, no evidence of this cost-benefit exercise was traced.

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[14] Management comments submitted on 31 July 2023.

[15] Addressed to MSPP.

[16] Since National Lottery fell outside the scope of the Concession Contracts Regulations, contracting authority was not required to carry out the cost benefit analysis.

[17] The then Head PU who was also Chair of the EAC claimed that since there were no costs involved for Government, but only revenue, a cost-benefit analysis for such project was a waste of time and money; all that was needed to carry on with the project was the approval from Permanent Secretary within the Ministry for Finance.

According to MGA, the amount of €11.1 million was calculated in terms of the yearly average revenue generated from casinos licensed by the Authority based on the years 2020 and 2021[18], which in aggregate amounted to approximately €3.7 million. However, although the relative calculations were provided to this Office, no explanation on the rationale behind the selection of the years 2020 and 2021 as a basis was given.

b. As per the terms of the RfP for the operation of the casino, the successful proponent was encouraged to make an annual contribution towards the Foundation for responsible gaming initiatives. Although these contributions were included in the bid and taken into consideration during the evaluation process, they were not incorporated in the agreement.

c. As a result of the lack of documentation, those involved in the decision-making process related to the two concessions under review could not be identified.

Recommendation

The Ministry is to ensure that all decisions taken are adequately documented, clearly showing the basis on which they have been taken and who was assuming responsibility.

Management Comments

The Ministry takes note of the recommendation and is already applying it.

Control Issues

Waiving of Concession Fee

The RfP for the National Lottery concession clearly specified that all amounts offered by the successful proponent are payable in full without any deductions or set-offs. The proponent was also responsible for the payment of all taxes, duties, charges, and relevant expenses. On the other hand, the RfP related to the casino, from the outset, provided for a waiver from the payment of the concession fee in the event that, during each of the relevant 12 months, concessionaire pays MGA[19] by way of contributions, licence fees, gaming device levies and/or gaming tax, a sum equal to or exceeding €3.7 million[20].

The first of three payments of €3.7 million due on 1 August 2022 was waived and only the financial offer of €1.5 million was paid as at time of writing of the Management Letter, that is June 2023[21].

Given the lack of documentation to support the rationale behind certain decisions taken, the National Audit Office considers that such arrangement was not in the best interest of Government.

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[18] Actual amounts were taken in consideration for 2020 and the first months of 2021, while an estimate was taken for the rest.
[19] Charges due in accordance with the Gaming Licence Fees Regulations and/or Gaming Tax Regulations.
[20] Being the amount for one of the three equal payments which in aggregate make up the concession fee of €11.1 million.
[21] By the time this Annual Report went for publication, the second concession fee of €3.7 million was not paid either.

Recommendations

The Ministry is to ensure that Government's interests are safeguarded at all times. Such decisions are also expected to be documented and filed for future reference.

Management Comments

The concessionaire paid a total of circa €5.9[22] million during 2022, which is significantly more than the yearly average amount paid by casinos. Therefore, the Ministry does not agree with the assessment that the Government's interests were not safeguarded in this case.

Limitations in the Evaluation Process

The following issues were noted with respect to the evaluation of the casino concession:

a. **Employment levels** – Proponents providing highest full staff complement for the gaming operations and ancillary services were to be awarded ten and five points respectively, while the others were to be awarded points on a pro-rata basis. The proponent was arbitrarily[23] allocated nine points for the expected staff complement related to gaming operations and four for that related to ancillary service.

b. **Implementation plan** – Although 13 out of 15 points were allocated by the EAC for the implementation plan, no comments thereon were noted in the evaluation report.

c. **Qualifications, experience and reputation of key staff and advisors** – A maximum of five points were to be awarded in respect of qualifications, experience and reputation of key staff and advisors. Although the management team was specifically excluded from the key staff criteria, MGA[24] considered the management and Board of Directors to be part of the foregoing and awarded two points with respect to the two directors who had the relevant qualifications, notwithstanding that points for same qualifications of the foregoing had already been allocated under a different criteria. Consideration and scoring for experience and reputation of key staff were also based on the management and Board of Directors, despite that these had also been considered under a different criteria.

Recommendations

Evaluations need to be carried out on a fair and transparent basis. It is expected that benchmarking guidelines are available prior to the start of any evaluation, providing the EAC with a yardstick against which submitted bids may be assessed. Such data should be relevant to the specific industry being evaluated. Moreover, all established criteria need to be thoroughly taken into account when allocating marks.

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[22] Aggregate payments of €5,873,791, paid by the concessionaire in the respective 12 months, covered compliance contributions, tax, licence fee and levies. In total, these exceeded the minimum of €3.7 million.

[23] No data other than the accountant's report, provided by the proponent as part of the bid and information from the bid itself, was noted in the evaluation report.

[24] In the role of a technical sub-committee appointed by the EAC and entrusted with assessing the feasibility and technical aspects of the proposals.

Management Comments

MEFL agrees with the recommendations. However, there can be instances where individuals can serve multiple roles in the same organisation and someone in the management team can also be part of the key staff. This may have been the reason why points were awarded twice in this case.

Compliance Issues

Bypassing of the Electronic Public Procurement System

The Electronic Public Procurement System (e-PPS) supports all public procurement procedures foreseen by the law through several dedicated sub-modules providing facilities for each stage of the procurement process. The following issues were noted in relation to the casino concession[25] under review:

a. Rather than carrying out the full procurement process via the e-PPS, the contracting authority created a hybrid tender on the e-PPS for the casino concession, by using the system only for publishing documents, as well as for handling clarifications during the tender submission period. This is against the policies of the Department of Contracts.

b. The submission of offers, opening thereof and evaluation, were all carried out through the traditional manual system and no record thereof is available on the e-PPS. Consequently, the casino concession is still shown on this system as pending, despite it being awarded in May 2021. This defeats the main objective of the system, i.e., transparency. Moreover, when the system is bypassed, the contracting authority and respective Ministry are losing all the safeguards provided by the system which may be of utmost importance in cases of legal challenges.

Recommendations

Standing procedures are to be complied with at all times. Transparency is to be considered as a top priority in all procurement matters undertaken by contracting authorities.

Management Comments

The Ministry takes note of this recommendation.

[25] There was only an obligation for the casino concession to go through e-PPS since the concession related to National Lottery fell outside the scope of the Concession Contracts Regulations.

Provisions not complied with

The Concession Contracts Regulations require the calculation of the estimated concession value[26], which shall be calculated using an objective method specified in the concession documents, taking into account specific elements listed in the same regulations.

a. Notwithstanding the above, no documentation was provided showing the Ministry's estimate of the concession value and no reference to the calculation method of the same estimate was made in the concession documents as stipulated in standing regulations.

b. The award notice related to the casino should have been published in the Official Journal of the European Union. However, no such publication was traced. In reply to queries, the Ministry stated that such publication was placed on the PU's website, which website is now defunct.

Recommendations

Standing provisions are to be observed. The estimated value of a concession is to be calculated at the onset and the calculation method adopted duly included in the concession documents. Moreover, all mandatory publications are to be effected in a timely manner and relevant evidence kept for possible internal or external verifications.

Management Comments

The Ministry takes note of this recommendation.

[26] *"The value of a concession shall be the total turnover of the concessionaire generated over the duration of the contract, net of VAT, as estimated by the contracting authority …".*

Malta Government Investments Limited

Revenue and Expenditure

*A number of control weaknesses were noted in the management of Government investments by the **Malta Government Investments Limited**. This enabled divergences from the standing terms of reference governing the operations of the Investment Committee. Other governance issues comprised missing documentation related to the original investments hindering audit trail, and unsubstantiated monitoring.*

Background

Malta Government Investments Limited (MGI) was registered as a limited liability company under the Companies Act (Cap. 386) in December 1988. It is fully owned by Government and the major shareholder is the Malta Government Board of Trustees, while responsibility for the management of the company is vested with seven Directors. In addition to the Companies Act, MGI is also governed by the provisions of the memorandum and articles of association adopted in November 2017. MGI seeks to yield consistent returns for the Government of Malta and create value for current and future generations. This is done principally through the investments which the company holds on its own behalf or as agent for the Government of Malta.

Financial records drawn up by MGI comprise two different sets of accounts; one covering the operations and direct investments undertaken by MGI, and the other covering the subsidiary and associate investments in Government-owned companies[1], as well as related operations, for which MGI considers its role solely as an agent[2] of Government and refers to the respective financial records as Agency accounts. The most recent audited financial statements pertained to 2019. As a result, the audit focused on the management accounts for 2022 and covered the processes in place at MGI with respect to the acquisition and disposal of investments by MGI.

Financial Information

As at December 2022, through MGI, the Government held investments in 21 subsidiary companies[3], with ownership ranging between 50% and full ownership. Another 21 investments in associate companies[4] were also held, with ownership ranging between 0.01% and 30%. Carrying amounts of these investments, as shown in the management accounts (Agency accounts), stood at €59,299,661 and €349,406 for those in subsidiaries and associate companies,

[1] Funds for these investments are allocated by the Ministry for Finance and Employment to MGI, with the latter showing them as share capital in the respective company.
[2] As MGI has no control over these investments.
[3] Of which three were in dissolution.
[4] Of which six were in dissolution.

respectively. In addition, the management accounts also included another investment with a carrying value of €4,734,628. Income attributable to Government for the year totalled €2,390,820[5], while related charges amounted to €1,138,782; thus, ending the period with a surplus of €1,252,038 for 2022 (2021: €4,921,728).

Further to the abovementioned investments, MGI also invests directly itself. This is done either through direct acquisition of financial instruments by MGI's Investment Committee (IC)[6] or through three private financial advisors, referred to as Investment Managers. Agreements[7] in place grant the authority to the latter to manage MGI's portfolios and make investment decisions based on their discretion, but within the agreed mandates.

As per management accounts, investments held by MGI comprised an immovable property with a carrying value of €1,600,200 and an aggregate amount of €8,713,866[8] in financial investments.

MGI is financially self-sufficient, with operations financed entirely from the investment income. During 2022, aggregate income, comprising investment income, finance income and other income, totalled €840,226, while finance costs and other related charges amounted to €302,485. During the year, the company reported an unrealised loss of €807,851 arising from changes in fair value of its financial assets. This triggered a pre-tax loss of €649,789 registered in 2022[9].

Investment Committee

The IC`s main goal is to advise MGI`s Board of Directors on investments owned or managed by the company. The main roles and responsibilities of the IC are specified in the respective terms of reference. One of the main tasks laid out in the foregoing document is the setting up of the investment strategy and investment policy of the company. It is also the responsibility of the IC to:

a. monitor and review the investment policy and performance of portfolios under management;

b. determine the investment allocation criteria;

c. set up the portfolio structure and asset allocation;

d. effect and/or authorise transactions related to the acquisition, disposal, or transfer of investments on behalf of the company, up to an estimated value of €250,000[10] (exclusive of charges, fees, or taxes); and

e. prepare guidelines that regulate decisions adopted by IC with respect to the acquisition, disposal or transfer of investments as approved by the Board, amongst other duties.

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5 A significant portion of this income, amounting to €1,976,000, related to a claim associated with debt servicing. The respective funds were provided from Recurrent Vote 28, Ministry for the Economy and Industry, Line Item 5879 – Malta Government Investments Debt Servicing.

6 Composed of a Chairman, three members and committee secretary.

7 Each agreement stipulates the type of investment portfolio to be maintained, the level of risk, the parameters by industry within which they can operate their investment activity and the reporting obligations on the portfolio's activity, as well as performance, to the IC, amongst other clauses.

8 This amount included the investments held with the three Investment Managers, as well as other investments acquired directly by the IC shown at fair value.

9 In 2021 pre-tax loss stood at €121,417.

10 Other transactions are to be authorised by the Board of Directors and/or authority on recommendation by the IC.

Audit Scope and Methodology

The main scope of this audit was to determine whether procedures related to Government investments were in place, documented and duly followed.

An introductory meeting to discuss the audit objectives was held with the Ministry's Director Corporate Services and a representative from the IC. Relevant documentation[11] was obtained and analysed. Compliance with the provisions of the terms of reference was assessed and analysis as to whether Investment Managers complied with the agreements was also undertaken. A reconciliation of the balances in the management accounts with the portfolio balances was also carried out. This was followed by enquiries and clarifications raised with MGI in relation to the processes reviewed.

Control Issues

Terms of Reference not endorsed nor dated

The terms of reference is the official document outlining the composition of the IC, the appointment term of members, their functions and duties. It also grants authority from the Board of Directors to carry out specific activities and sets transaction thresholds for the IC's responsibilities. The final article states that amendments to the terms of reference require the approval of the Board of Directors of the company.

However, despite its importance and significance, the terms of reference is merely a word processor which is neither dated nor endorsed by anyone.

Recommendations

The terms of reference are expected to be in a format that limits the possibility of unauthorised changes. Moreover, given that it represents an approval by the Board of Directors, it is to be duly dated and endorsed by the foregoing, and kept updated at all times.

Management Comments

The terms of reference will be reviewed by the IC and presented to the Board of Directors for approval. Subsequently, it will be signed by the Chairman of the Board and the Chief Executive Officer as chair of the IC. Moreover, it will be reviewed annually for any necessary changes.

[11] Comprising management accounts, agreements with Investment Managers, a sample of investments reports, namely for January, March, September and December 2022, IC's terms of reference and investment procedures.

Divergences from the Provisions of the Terms of Reference

A number of divergences from the provisions stipulated in the terms of reference were noted. The following refer:

a. As per terms of reference, the IC was mainly responsible for setting up the investment strategy and investment policy of the company. The Committee was also responsible for the preparation of guidelines that regulate decisions to be adopted with respect to the acquisition, disposal or transfer of investments. However, these were not documented.

b. Another duty of the IC was to regularly report[12] on the status of investments to the Board of Directors. However, the National Audit Office (NAO) was informed that the Board used to receive verbal updates on MGI's investments managed by the three Investment Managers. Thus, NAO could not determine to what extent this requirement was complied with.

c. Also stipulated in the terms of reference was the fact that the IC should, at least once a year, review its own performance, constitution and terms of reference, to ensure it operates effectively, and recommend any changes it considers necessary to the Board for approval. However, no such reviews were carried out.

Recommendations

All the provisions of the terms of reference are to be complied with and, where possible, duly documented. The investment strategy and investment policy are to set out the strategic vision and objectives of the IC, to be then reflected in the investment mandates with the Investment Managers. On the other hand, the guidelines are to incorporate all aspects of the IC. Amongst others, these are to indicate when additional funds are to be allocated to the Investment Managers and when these are expected to be invested by MGI itself. Besides complying with the provisions of the terms of reference, such guidelines will be a valuable asset for new members to the Committee.

Furthermore, at least on an annual basis, the IC is to assess its own performance and document the respective process. This may include assessing the achievement of objectives, adequacy of meeting frequency, and whether additional resources are required for the effective performance of the Committee.

Management Comments

It will be ensured that the provisions of the revised terms of reference will be duly complied with.

The investment policy will be drafted accordingly and subsequently reviewed against the investment mandate of the three Investment Managers. Likewise, working instructions (guidelines) will be reviewed to ensure compliance with the terms of reference.

The Board will be formally informed on the status of the investments through a quarterly board paper, which was to start from quarter ending September 2023.

[12] Either on a quarterly basis or as and when required.

The IC's performance will be assessed through an annual questionnaire, capturing its operational aspects compiled by the members and secretary of the same Committee. Results will then be discussed within the IC members.

Investment Activity not processed through the dedicated Bank Account

The investment procedure stipulated that "*a bank account has been assigned to cater for funds received and paid out in relation to the investing activity carried out by MGI, both on its own esteem as well as the activity carried out via its appointed Investment Managers*". The bank account in question was in place[13]; however, amounts transacted through this account were not always investment related. This hindered the reconciliations of the amounts declared in the portfolios.

A net amount of €615,954 was transferred from this account to other accounts attributed to MGI. Besides this, the only other outgoing transaction recorded in 2022 was for the acquisition of €1,000,000 in Treasury bills, acquired directly by the IC. However, as per documentation provided, the total amount invested by the latter during the same year amounted to €9,492,025. This implies that the balance of €8,492,025 was financed from other accounts, rather than the Dividend Account. Moreover, out of this amount, €6,494,289 was either redeemed or sold by MGI, but only €2,500,000 was traced in the bank account. A further amount of €198,000 was added as new capital to one of the portfolios, but this amount was also not traced in the Dividend Account.

On the other hand, one of the Investment Managers indicated that withdrawals during the year under review amounted to €190,815. However, only a total of €34,562 was traced as income in the foregoing bank account. Upon further inquiries, the Investment Manager claimed that this related to stock acquisitions allocated to the wrong account. However, this amount was not substantiated.

Recommendations

The scope of a separate account is to be able to easily identify all incoming and outgoing amounts related to the investment activity. In this respect, the use of this account is to be limited to its intended use as stipulated in the applicable investment procedure. Moreover, periodic reconciliations between the Investment Managers' reports and MGI's records are to be carried out in order to identify any discrepancies in a timely manner.

Management Comments

During 2022, transactions in the account were in the majority related to dividends received from the three Investment Managers, as well as some investment transactions executed by MGI itself. However, the latter transactions were not all financed through this account. Going forward, all transactions[14] with the Investment Managers will be processed through the account, as well as funding and charges related to investments undertaken directly by IC. Withdrawals will be effected in line with the company's cash flow requirements.

Reconciliations are being carried out monthly and will continue to be carried out at monthly intervals, and adequately evidenced so that the audit trail is visible.

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13 Referred to as Dividend Account.

14 Including additions and withdrawals to and from the portfolios, dividends received, and settlement of invoices related to fees associated with the portfolios which were not settled through the cash accounts held by Investment Managers.

No Audit Trail with respect to Amounts originally invested with Two Investment Managers

The relationship between MGI and two Investment Managers was formalised in September 2019 through the agreements; however, this had already been ongoing for about eight years. Moreover, no documentation indicating amounts originally invested by the foregoing, as well as related transactions, was in place at MGI. Since there was no audit trail for the period in question, the initial portfolio values indicated in the agreements in force were taken to be the value of the respective portfolios as at 4 September 2019.

Recommendations

MGI is to ensure that adequate audit trail is in place at all times. All relevant documentation should be duly filed and made available as and when requested for internal and external verifications.

Management Comments

The IC is of the opinion that subsequent to the formalisation of the old agreements with the two Investment Managers in question and the signing of the new agreement with the other Investment Manager, an audit trail of all documentation is generally in place. Having said that, it will be ensured that the audit trail is improved wherever possible. Moreover, all documentation related to the IC will be stored on a common drive.

Limited Monitoring

According to minutes of the IC, only four meetings were held by the foregoing in 2022, which is the minimum number of meetings to be held as established in the terms of reference. As a result, monitoring by the foregoing was mainly limited to a review of the portfolio reports submitted by the Investment Managers, and quarterly representations given by their representatives.

It was also claimed that the amounts specified in the portfolio reports provided by stockbrokers were reconciled and supported with the contract notes for sold and purchased investments, as well as with dividend notes, and it was ensured that broker fees were reasonable. However, the only evidence provided in this respect was a sample of contract notes reflecting transactions undertaken by the Investment Managers.

Recommendations

Monitoring is an element of control and hence vital for successful operations. Hence, while acknowledging MGI's limited resources, monitoring activities are to be detailed in the guidelines and performed on a regular basis. Ideally, for accountability, this task is to be assigned to specific officers and/or members. Moreover, evidence of such monitoring is also to be kept. Quarterly reports submitted by the Investment Managers are to be endorsed by the IC, after confirming correctness of data contained therein. Any other verifications carried out, including reconciliations, are also to be documented.

Management Comments

The IC fully agrees that monitoring is an element of control and hence vital for successful operations. Control procedures and working instructions will be reviewed to ensure proper and effective control is always in place. Furthermore, checks carried out should be properly documented and signed.

Diversion from Approved Mandate without Investment Committee's Approval

According to the minutes of the meeting held on 23 August 2022, due to market volatility, all investments held with one of the Investment Managers were liquidated at a loss and held in cash without the IC's approval. This course of action was not in line with MGI's risk profile[15], whereby it was specifically indicated that, in case of a downturn in the value of investment, the Investment Manager was to hold on the investment, expecting conditions to improve.

Furthermore, changes to the investment parameters set for the same Investment Manager were approved by the IC in the same meeting in August. However, following this meeting, all funds remained in fixed term bank accounts and cash holdings. Notwithstanding the limited return that such holdings yield, this issue was not discussed during the last meeting for 2022 held by the IC in November to maximise return on investments.

Recommendation

MGI is to have measures in place to ensure that such mandates are respected at all times.

Management Comments

All investment mandates should have a possibility of liquidating the portfolio into cash. This is mainly activated in extreme circumstances in response to market risks experienced at a particular point in time. The year 2022 was a horrendous one for markets whereby practically all markets suffered losses and market established correlations embedded in suitable structured portfolios, with the objective to cushion, at least, a level of losses, failed to trigger. However, the IC acknowledges that in such extreme circumstances whereby the Investment Manager decides to liquidate the portfolio into cash, it is always prudent to discuss with the IC a priori.

The matter was discussed internally at IC level, as well as with representatives of the respective Investment Manager, during meeting held on 21 April 2023.

The working procedures will ensure that the asset categories reported each month by the Investment Managers agree with the investment parameters as stipulated in the respective mandate. An audit trail will also be visible.

[15] Undertaken by the respective Investment Manager.

Shortcomings related to Letters of Appointment of Committee Members

The letters of appointment of IC members only stipulated that the respective individual was appointed as a member. Vital details expected to be included in the letter of appointment, such as effective date, duration and key responsibility were totally lacking.

Moreover, according to the minutes of the November 2022 IC meeting, two individuals were appointed as new members. However, as per letters of appointment provided, the two had been members since 2 September 2020 and 9 July 2021 respectively.

Recommendation

The letter of appointment is a legal document that confirms both the appointment of a person for a particular position and acknowledges the person's acceptance of same position. Thus, it is expected to include all pertinent details regarding the post. It is also crucial to maintain it updated at all times.

Management Comments

Appointment letters will be re-issued backdated with the necessary details as recommended.

High Balance Fee

During the year under review, a total of €15,169 was paid by MGI[16] by way of banking fees associated with a high balance, introduced as a result of the negative interest rate scenario.

Recommendation

While this specific fee has been withdrawn by the relevant bank with effect from 1 August 2022, the Committee is encouraged to keep abreast of changes to the bank's tariff of charges, in order to be able to plan effectively and keep such fees to the bare minimum.

Management Comments

Excess cash is being invested, where possible, into short-term Treasury bills at a positive yield.

[16] Out of the Dividend Account.

Acquisition of Property for Public Purposes

Expenditure

*The list relating to the **Acquisition of Property for Public Purposes**, covering those properties which were acquired but had still to be processed, was not exhaustive. Furthermore, from the total compensation paid by Government in 2022 to cover expropriation, more than half was related to accumulated interest. NAO acknowledges that this aspect was beyond the control of the Lands Authority.*

Background

The Lands Authority, falling within the remit of the Ministry for the Economy, European Funds and Lands[1], was established in 2017 through the Lands Authority Act (Cap. 563). In line with Article 5 of the said Act, this Authority must have a Board, which is composed of a chairperson and ten members. The mission of the foregoing is to promote and maintain the highest and best use of Government's immovable estate, and to ensure an equitable process for the acquisition of property that may be required for public purposes.

The Land Acquisition (Public Purposes) Ordinance (Cap. 88) regulated the acquisition of land for public purposes and established the procedure to be followed in relation thereto. This Act was amended in 2003, requiring that the amount offered as compensation be included in the declaration published in the Government Gazette. Subsequently, in April 2017, the foregoing legislation was repealed, and the Government Lands Act (Cap. 573) came into force.

From 1995 onwards, following a directive issued by the then Ministry of Finance, funding of expropriated property became the responsibility of the entity concerned[2].

Articles 64 to 69 of the prevailing legislation regulate how compensation is determined. In this regard, the list of expropriation requests for 2022 under Capital Vote 7104 – Acquisition of Property for Public Purposes indicated that, in several cases, Article 64 of the relevant Act was applied. This relates to cases for which a declaration by the President of Malta or Governor General of Malta was issued before the Act came into effect, without providing notice or specifying the compensation. In such cases, anyone who proves ownership of the land by valid title, to the satisfaction of the Arbitration Board, may demand that the competent authority acquires the land by absolute purchase. In such cases, the amount is calculated on the value of the land when the declaration was published in the Government Gazette, adjusted by the rate of inflation. Moreover, as per Article 66, the owner has the right to receive 8% interest, which shall start to accrue from the date when the declaration was published.

[1] During the year under review, the Lands Authority was under the remit of the Ministry for the Economy and Industry.

[2] There is an exception in the case of Transport Malta, since the foregoing no longer has a vote allocated for expropriations, but the necessary funds are taken from Line Item 7104 – Acquisition of Property for Public Purposes within the Capital Vote under review.

Financial Information

In the Financial Estimates for 2022, a budget of €9 million was allocated to Line Item 7104 – Acquisition of Property for Public Purposes, under Capital Vote XV, with extra funding of €3.7 million approved through warrants. The total of €12.7 million covered compensation for court cases after a ruling, and dues for properties which were expropriated, mainly through Article 64.

However, as at 4 August 2023, an aggregate amount of €2.6 million, was still not disbursed, mainly due to Court proceedings that were instituted or which were awaiting the Board of Governors' approval. Figure 1 refers.

Figure 1: Funds requested

Audit Scope and Methodology

The scope of this audit was primarily to ensure that acquisitions of property for public purposes were made in accordance with prevailing regulations and policies. To this effect, verifications were performed on a sample selected from the compensation paid during 2022. It was ensured that the necessary architect valuation reports were duly drawn up, that compensation payments were calculated according to the court decisions and Article 64 of Cap. 573, and that the supporting Board of Governors' decisions and memos were available. Additionally, it was confirmed that deeds between the Lands Authority and the owners were drawn up.

Following a meeting held with senior officers at the Lands Authority, this Office obtained a breakdown of the compensation payments effected during 2022. Subsequently, a sample of six cases was selected, based on financial materiality of the amounts paid; thus, testing was carried out on those payments exceeding €500,000. However, another three related payments, bearing the same file references, were also included. The aggregate sampled compensation payments amounted to €5,415,594.

Testing comprised a review of the relative documents filed on the pertinent system, to ensure that architect valuations, notary calculations and agreements were available. In order to carry out detailed substantive testing, the respective documentation was reviewed, and a number of audit queries were sent to the auditee as necessary.

Key Issues

List of Expropriated Properties not exhaustive

The National Audit Office requested a list of properties which were acquired for public purposes, but which were still awaiting processing. According to the Lands Authority, the list consisting of 2,432 cases, submitted to this Office on 4 August 2023, was not exhaustive. It was further confirmed that an exercise involving thousands of records would need to be reviewed to have a comprehensive list.

Recommendations

The Lands Authority is encouraged to give this exercise priority since it is important to maintain an accurate and comprehensive list. The possibility of outsourcing this task may also be considered if the Authority does not have sufficient resources.

Management Comments

The Lands Authority is currently[3] engaging in the digitalisation of the entire archive. A request for the planned outsourcing of this task is being prepared. In order to compile this specific list, phase B of the task would entail the utilisation of the digital data acquired through the scanning process, in order to populate the existing database with data which can be queried.

Both phases of this task are extensive, time consuming and require specific funding. However, the Lands Authority is committed to accelerate this process through the employment of new internal resources and possibly external.

Accumulation of Interest

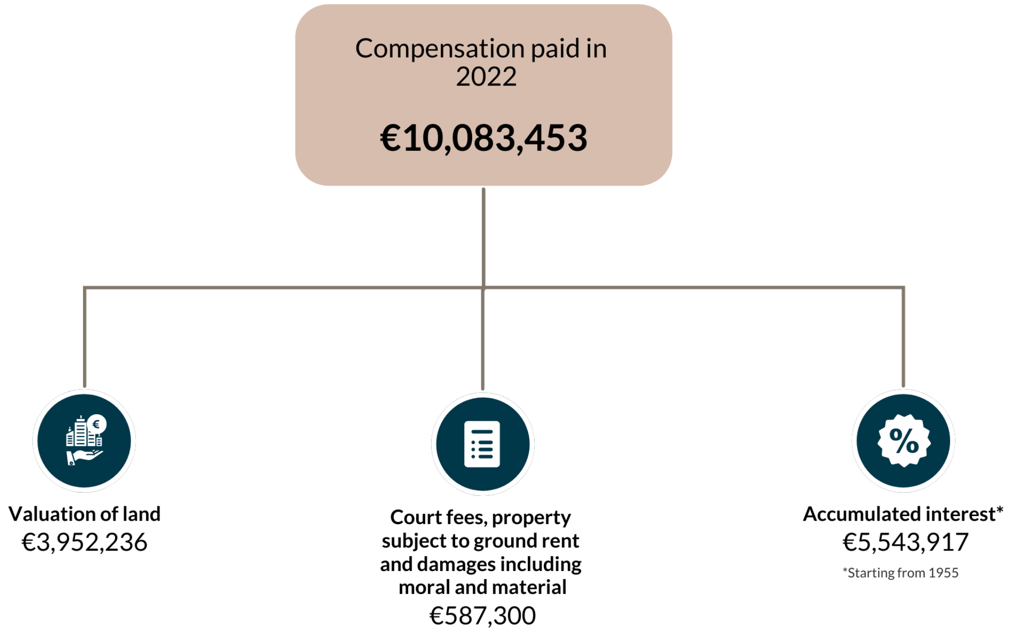
According to the file reference of properties still to be processed, the oldest case dates back to 1948 and the most recent was in 2019. This is in addition to another 800 court cases which are still pending.

The Lands Authority gives priority to process court cases first; the others are selected depending on their ageing.

As shown in Figure 2, from the total compensation paid in 2022 from Capital Vote 7104 to cover expropriation, more than half related to accumulated interest for land expropriated several years back.

[3] Management comments submitted on 25 October 2023.

Figure 2: Breakdown of Compensation paid in 2022



Recommendations

Given the substantial interest accruing, it is prudent to explore potential time-saving measures that could streamline the administrative process, ultimately aiming to minimise interest expenses, particularly in those cases that do not progress to court. Before embarking on this exercise, it is advisable to liaise with the Ministry for Finance and Employment for the necessary funding.

Management Comments

This matter is directly linked to the first Key Issue, but cases in hand are going to be monitored closely in order to try to minimise interest paid. The Lands Authority is also considering creating a process where, if cases are extended without reasonable cause, funds are deposited in Court, after which, owners are duly informed and given enough time to take the necessary action.

Control Issue

Substantial Amount of Idle Funds in Current Account

When funds were not disbursed, these remained deposited in a local bank current account held in the name of the Lands Authority. Compensation payments were issued therefrom upon the request by the notaries. This was resulting in a substantial bank balance in the current account which, as at end December 2022, amounted to €11.4 million.

Recommendations

An exercise is to be performed to determine the average duration before the funds are disbursed to the owners following the initiation of the respective case. Based on the investment options that the local banks can offer, the Lands Authority is to assess the best option accordingly.

Management Comments

Finance Section had pointed out that the current account balance has increased even further for 2023, when theoretically this should not happen as funds are being requested and held in this account upon notaries' specific requests. Therefore, it has been suggested that firstly, new cases are not to be opened before closing cases in hand. Secondly, each amount held is going to be analysed and pointed out to the responsible notary in case further action is required. Remarks are going to be added to those cases which cannot be closed due to unforeseen events.

General Comments

Except for the issues highlighted above, this Office satisfactorily noted that the procedures and controls in relation to the sampled payments were adequate and in sound operation, in accordance with prevailing regulations and policies. Furthermore, staff was well versed on the respective areas of work and the required documentation was properly maintained.

Ministry for Inclusion and Social Wellbeing

Aġenzija Sapport

Expenditure

*The review of expenditure incurred by **Aġenzija Sapport** revealed lack of transparency over the award of contract for the provision of respite accommodation and care for persons with disability, the value of which was over €6.6 million. Considerable disbursements were also effected for cancelled transport services booked to transfer clients from their residences to the day centres and vice versa.*

Background

The objective of Aġenzija Sapport is to enhance the quality of life of persons with special needs, as well as their families. It provides professional services to individuals with disabilities, particularly those having severe challenging behaviour, those at risk of institutionalisation and young people with disability already living in institutions due to lack of alternative accommodation. The aim is to provide the persons concerned with adequate support rather than care, so that they could continue living in the community, whilst achieving their independence to the best of their abilities. The assistance provided by the Agency includes transportation services, from their residences to the day centres and vice versa, with specialised vehicles.

The Agency was established in 2016, in terms of Aġenzija Sapport (Establishment as an Agency) Order, 2016 (L.N. 104 of 2016), and assumed the responsibilities formerly vested to the Foundation for Social Welfare Services.

According to the Financial Estimates 2022, recurrent Line Item 6774 under Vote 30, Ministry for Inclusion and Social Wellbeing[1], the Agency was allocated €22 million for recurrent expenditure. This budget was supplemented by over €7 million, sourced from reimbursements made from the Programme and Initiatives allocations, capital grants, as well as contributions made by residents through deductions from their pensions[2].

Audit Scope and Methodology

The scope of the audit was to assess the adequacy and effectiveness of internal controls over expenditure incurred on outsourced services, transport and travelling costs, as well as to establish whether Government resources were used prudently and in a judicious manner. The National Audit Office (NAO) also ascertained that the procurement was made in accordance with standing regulations, policies and procedures.

1 At the end of 2021, after the publication of the Financial Estimates for 2022, the Ministry changed its name to the Ministry for Inclusion, Voluntary Organisations and Consumer Rights.

2 Upon the service user's admission to the Agency's residence, all the disability pension is deposited into the bank account of Aġenzija Sapport; 40% is allocated for the clients' needs (pocket money) and 60% is recorded as other income, being a contribution to the Agency to part-fund the residences day-to-day expenses. Aġenzija Sapport manages the clients' pensions, i.e., 40% apportionment in line with a detailed standard operating procedure.

An introductory meeting was held with Management, to discuss the audit objectives. After a review of the Agency's internal operating procedures, a walkthrough exercise was carried out to ascertain the existence and effectiveness of internal controls over the collection of the contributions from service users' pensions, as well as the weekly cash handling.

Moreover, the Agency's management accounts were analysed to obtain an understanding of the type of expenditure, as well as the respective amounts incurred. The review was focused on the accounts with highest amounts; namely, outsourced expenses, transport costs, as well as travelling and accommodation.

A total sample of ten service providers was selected from those under the category of outsourced expenses and transport costs. Four trips abroad and a conference organised locally by the Agency were also reviewed. The sampled expenditure represented 76% out of the total payments effected from the foregoing three accounts. Selected transactions were reviewed to determine whether the procurement of the respective goods and services was in accordance with the Public Procurement Regulations (PPR), the applicable circulars, as well as the pertinent agreements. It was also ascertained that expenditure on travelling was in line with the applicable regulations. Direct orders which exceeded the threshold of €10,000 (VAT excl.) were also reviewed.

Key Issue

Concerns related to the Agreement for the Provision of Respite Accommodation and Care for persons with Disability

A contract for the provision of respite accommodation and care for persons with disability for a three-year period was signed on 12 July 2021, at an estimated total value of €6,682,713 (VAT excl.). The review of this agreement revealed the following concerns:

a. **Agreement not covered by a definite approval from the Department of Contracts** – The preliminary authorisation dated 21 May 2021 stated that a definite approval was to be issued once the actual costs of contract were known. This was based on an estimate as respite costs fluctuate according to demand. As at time of audit fieldwork, i.e., April 2023, over €3.4 million was already paid and the necessary final approval was not yet available. Definite covering approval was only requested following NAO's queries.

b. **Lack of publication on Electronic Public Procurement System** – One of the prerequisites for a definite approval was that the negotiated procedure was to be published on the Electronic Public Procurement System. However, there was no evidence of such publication.

c. **Irregular use of negotiated procedures** – The sampled contract, which covered the period between 2021 and 2024, was awarded through a negotiated procedure. This followed another three-year contract with the same contractor, which was also given through a negotiated procedure, covering 2018 and 2021. However, according to Article 154(2) of PPR[3], a negotiated procedure for similar services could only be adopted if the first contract was awarded through a tender and this possibility is included therein. Moreover, the second

[3] Confirmed by the Director General of Department of Contracts.

contract (signed in 2021) included a clause which stated that the "… *agreement shall be renewed for further periods of one (1) year* …". This indicated that the contract had the possibility of being extended indefinitely. However, Article 154(2)(c) of PPR states that a "… *negotiated procedure for repetition of similar services may be resorted to only during the three years following the conclusion of the original contract*".

d. **Estimates not supported by evidence** – Documentation substantiating the calculation of €6.6 million, quoted in the preliminary approval, could not be traced. Subsequently, a rudimentary computation without source documentation to support the workings was compiled for the purposes of this review.

e. **Total contract value prone to misinterpretation** – The contractor had to provide accommodation and care for a minimum of 50 clients. The agreement stipulated the rates per client per night (according to the level of care provided, irrespective of the duration). However, the total contract value was not stipulated in the agreement and could not be calculated by NAO, as a number of service users were only residing for a short stay. Moreover, the respective agreement did not include the general, as well as the special conditions, as recommended by the Department of Contracts. In the absence of such information, there is the risk of potential disputes since this may lead to various interpretations of the pertinent clauses within the contract and respective amounts due.

f. **Lack of publication in Government Gazette** – According to Contracts Circular No. 2/2017 – 'Submission of a List of Contracts by Contracting Authorities', every six months contracting authorities are to publish in the Government Gazette a list of all contracts awarded, with a value exceeding €5,000 (VAT excl.). However, notwithstanding its materiality, this Office was not provided evidence that this contract was published accordingly.

Recommendations

All awarded contracts above the established threshold are to be endorsed by the Department of Contracts in a timely manner. Moreover, any conditions stipulated in the respective approval should be invariably followed. Where applicable, procurement is to be published on the Electronic Public Procurement System to ensure fair competition.

In line with Article 154(2)(c) of PPR, a negotiated procedure for repetition of similar services may be resorted to only during the three years following the conclusion of the original contract, and this applies only when the contracting authority has initially opted for an open call for tenders for the required goods or services. Any further extensions are not allowed.

An adequate audit trail should be maintained to back up all values submitted for authorisation. Moreover, the Agency is to have a mechanism in place to ensure that, every six months, the award of contracts is published on the Government Gazette.

The maximum contract value is to be clearly stipulated to prevent the possibility of disputes and overpayments. In order to safeguard Government's interests, all agreements are to include the general and special conditions as listed in the respective templates prepared by the Department of Contracts. It is also expected that agreements include an obligation on the contractor to submit a performance guarantee.

Management Comments

The omission was initially noted in February 2023. The first written communication with the Department of Contracts took place on 7 March 2023, and as of June 2023 this was still being followed up to rectify the situation. In its original request Aġenzija Sapport had requested to extend the contract in line with the clauses therein (clause 12.1 of the first contract signed in 2018). Following several discussions, the extension was not granted, and a fresh procedure was requested. The subsequent conditions set out in the approval in principle were erroneously not followed.

Negotiated procedure was not published through the Electronic Public Procurement System contrary to the instruction given by the Department of Contracts in 2021. Unfortunately, the omission could not be rectified since the agreement was already signed. All contracts are now being published in the Government Gazette in line with regulations.

In the upcoming future, all negotiated procedures will follow the conditions set out by the Department of Contracts, including the general and special conditions, and will not contain an extension clause. During June 2023, Aġenzija Sapport was working on an open call for this service, which was intended to be published in the subsequent months. As a result, the Agency did not envisage the need for a further negotiated procedure with respect to this service.

All recommendations were noted and accepted.

Control Issues

Transport Supervision Services procured directly from the Open Market without the necessary Approval

Between 2018 and 2022, a total of €119,511 was paid to a voluntary organisation for transport supervision services provided to young adults with multiple learning disabilities. This procurement was acquired by direct order and was not authorised by the Ministry for Finance and Employment (MFE).

Moreover, the award of this direct order was not published in the Government Gazette.

Recommendations

All goods and services procured directly from the open market exceeding the stipulated threshold, including those acquired from voluntary organisations, are to be endorsed by MFE. Moreover, in line with the pertinent circulars, the award of contract is to be duly published in the Government Gazette.

Management Comments

With effect from July 2023, any services obtained from voluntary organisations, whose value exceeds €10,000 (VAT excl.), will be covered by a direct order approval from MFE. This particular contract will be regularised accordingly. All contracts and direct orders entered into are now being published in the Government Gazette in line with the regulations.

Payments effected for Cancelled Transport Services

In line with the provisions of the two contracts for the transport for disabled persons, the Agency appointed an individual to act as a coordinator for the management of the necessary transport services. Prior to effecting payments to the service provider, the coordinator was to fill a spreadsheet with all the details of each route for each day of service and indicate the respective cancellations. Invoices were also to be cross checked against this spreadsheet. However, such verification was not evidenced.

Moreover, according to the terms of reference attached with the contracts signed with two particular transport service providers, the Agency was not to pay for services which had been cancelled with at least 24 hours' notice period. Following audit queries in this regard, the Agency carried out an exercise to establish how many trips were cancelled and which should have been deducted from the respective invoices from start of contract[4].

Recommendations

The Agency is responsible for establishing effective internal control procedures to ascertain that trips are cancelled immediately when these are known to be cancelled and no payment is effected if notification is timely submitted. All overpayments are to be recouped.

Management Comments

These observations were noted and the Agency agreed that the processing system needed to be upgraded. The newly appointed transport coordinator is retaining the spreadsheets for all transport contracts, and cross checking between invoice and spreadsheet is done accordingly. Additionally, the team is liaising with the Information Technology Department regarding the creation of a procedure which can further enhance the internal control of transport invoices and minimise human error.

Any communication in relation to transport is being done via email for reference keeping and formal recording. All personnel within the service were informed of the 24-hour clause and were guided to inform of any transport cancellations at the earliest. This direction has been added to the operating procedures with effect from March 2023 so that this standard practice is formalised even further.

An exercise has been carried out to determine the quantum of additional payments made from March 2020 to February 2023. For year 2022, the amount for both contracts was €15,263 whilst for the whole period this amounted to €31,216. All efforts will be made to try and recoup these amounts.

[4] The contracts were effective as from 19 February 2020 and 8 March 2020 respectively.

Negotiated Procedure not supported by Bargaining Discussions

The PPR defines a negotiated procedure as a bargaining process where contracting authorities consult one or more economic operators of their choice and negotiate the terms of the contract. However, no evidence of negotiations was provided, showing that appropriate discussions were held, before signing the contract for the provision of Transport Services by Minivans, which services should have been procured using this approach. The contract, with a total value of over €4.2 million (VAT excl.), was signed with a local company, after submission of the only bid.

Recommendation

Management is expected to negotiate the terms of the contract awarded through a negotiated procedure, to ascertain the best value for money in the utilisation of public funds.

Management Comments

Following an unsuccessful call for tender, Aġenzija Sapport entered into negotiated procedures based on Article 154(1)(c)[5] of PPR. Whilst it is understood that one is to negotiate terms for such a procedure, this time round, Aġenzija Sapport was not in a position to negotiate the terms of the agreement since they were in line with the original tender and could not negotiate the price since the bidder is the sole company in Malta with enough capacity to fulfil the requirements.

Insurance Policies not requested by the Agency

As per clause 13.2 of the two contracts for the provision of transportation services using specialised vehicles, copies of valid insurance covers were to be provided to the Aġenzija Sapport prior to the signing of contract. These should have comprised policies covering employer's liability, public liability, as well as motor insurance.

However, notwithstanding that the three-year contract[6] for the provision of transport services by tail lift vans was effective as from 9 March 2020, the Agency did not have any evidence of the employer's liability insurance and public liability insurance. Furthermore, as at date of audit fieldwork[7], the latest motor insurance policies covered till end 2020. The missing documentation was only requested following NAO's specific queries in this regard.

For the other contract for transport services by minivans, which was signed on 19 February 2020, the contractor also had not submitted the employers' liability insurance and public liability insurance policies. The policies were only made available by the contractor when the audit was in progress, on 21 March 2023[8], after several requests by the Agency. However, the sum insured for public liability was of €500,000, which was still insufficient since, as stipulated

[5] For reasons of extreme urgency.
[6] With the possibility of an extension of a further one year.
[7] End of April 2023.
[8] Dated February 2022. This insurance was further renewed until 20 March 2024.

in clause 13.2 of the contract, this should have amounted to €1 million. Evidence that the period between February 2020 and February 2022 was covered with an insurance policy, if any, was not provided. Moreover, the motor insurance policies provided for verification purposes, besides being expired[9], did not cover all the vehicles listed in the respective agreement. Renewed policies were only requested following audit queries.

According to clauses 13.5 and 13.9 of the contracts, the Agency had the possibility of covering the payment itself and subsequently deduct the amount paid from what is due to the contractor. However, this option was not exercised.

Recommendation

Prior to the signing of the contract, Aġenzija Sapport is expected to have copies of the related insurance policies in hand and eventually ensure that these are duly renewed upon expiration to mitigate exposure to unnecessary risks.

Management Comments

The ongoing procedure is that all newly signed contractors will be requested to provide all insurance documents requested in the special conditions. All existing contracts in place that require the updating of insurance policies every year, will be seen to and collected if required.

General Comments

Documentation requested was always submitted in a timely manner and officers involved during meetings were cooperative and knowledgeable on the respective area of work.

[9] The majority of the motor insurance certificates expired in 2020.

Ministry for the
Environment, Climate
Change and Planning

Building and Construction Authority

Expenditure

*An audit carried out at the **Building and Construction Authority** revealed that a significant portion of procurement occurred through direct orders without the necessary approval from the Ministry for Finance and Employment. Furthermore, approval to perform overtime was not sought, while an allowance paid to some members of staff was not covered by the collective agreement. Standard operating procedures on procurement and payroll processes were not yet in place.*

Background

The Building and Construction Authority (BCA), falling under the responsibility of the Ministry for Public Works and Planning[1], was established on 16 April 2021 by an Act in Parliament, known as the Building and Construction Authority Act (Cap. 623). The Authority's mission is to ascertain that the core aspects of a building's life cycle are executed through the generation of up-to-date regulations, implemented effectively and efficiently in a controlled environment.

BCA is also responsible for spearheading the creation of a construction eco-system and embracing good governance, as well as developing policies and tailor-made practices that support networking platforms promoting compliant and sustainable buildings.

Financial Information

The Authority's first financial statements, provided to the National Audit Office (NAO) for the period till 31 December 2021, were audited by a private audit firm. For the subsequent year, only management accounts were obtained for audit purposes, since the audited financial statements reached NAO beginning October 2023.

Since the Authority's inception in April 2021, apart from the Government subvention of €2.325 million in Line Item 6010[2] – Building and Construction Authority and other Government income of €100,847[3], the Authority generated its own income, totalling €41,102 from masons' licences. In 2022, the Authority received €4.965 million as subvention from Government. Income relating to assessments carried out to issue energy performance certificates amounted to €616,276. It also generated €115,598 from training courses[4], masons' licences and income from fines. Surpluses of €39,483 and €1,316,518 were registered for the first financial period and for the year 2022 respectively.

[1] During the year under review, under the remit of the Ministry for the Environment, Climate Change and Planning.

[2] Line Item 6010 in the Financial Estimates shows a figure of €3.1 million which relates to the full year January to December 2021. This includes the Government's subvention also given to the then Building and Construction Agency before the Authority was set up.

[3] During the period when the then Building Regulations Office was functioning under the Ministry for Transport, Infrastructure and Capital Projects. Money received from energy performance certificate assessors' courses was deposited in a below-the-line account. The balance in this account was eventually transferred to BCA.

[4] Relating to energy performance assessment of buildings (dwellings) in Malta.

During 2022, the Authority had around 60 employees and operated from its Floriana offices. A change in BCA's Chief Executive Officer (CEO) occurred mid-year, in June 2022.

Audit Scope and Methodology

The scope of the audit was primarily to assess the adequacy and effectiveness of internal controls in relation to the Authority's expenditure, while also ascertaining that the procurement procedures applied were in accordance with standing regulations and policies.

A request by the Permanent Secretary was put forward to NAO to audit the full period from April 2021 up till December 2022. Considering the validity of this request, NAO proceeded accordingly.

NAO held an introductory meeting with the Permanent Secretary, the CEO and other officials at the Authority, to obtain an overview of its operations. Further meetings were then held with the responsible officials to understand the respective policies and procedures in place.

Following scrutiny of BCA's latest audited financial statements for 2021, as well as the management accounts for 2022 and the nominal ledgers as provided by the Authority, a number of categories were identified for further testing, on the basis of materiality or the nature of expenditure. In order to carry out detailed substantive testing, the respective documentation was reviewed and a number of audit queries were forwarded to the auditee as necessary.

The largest expenditure categories identified included salaries and related employee benefits, contractual services, advertising, information services, architect and engineering services, Information Technology (IT) development and other services. During 2021, these amounted to around €1.98 million out of a total expenditure of €2.43 million. In 2022, expenditure under the same categories amounted to around €4.03 million out of a total expenditure of €4.38 million.

Salaries

Following a walkthrough test with an official responsible for salaries, the payroll process was explained. A detailed breakdown of the payroll listing was obtained for all employees, covering both years under review. NAO selected seven employees with different designations, which were chosen based on their total emoluments, including overtime and allowances[5]. The various allowances paid during the years under review were compared to those approved in the collective agreement.

Board of Directors Remuneration

Besides the Authority's Board of Directors, there is the Masons' Board which is responsible for licencing masons, as well as the Building and Construction Tribunal which replaced the Building Regulatory Board.

[5] Including on call, expenses, communication, disturbance, cash for own-car usage, performance bonus, training and obnoxious and hazardous duties.

The remuneration of the Chairperson, Deputy Chairperson and 11 members forming part of the Board of Directors, including the Board secretary, amounted to €137,423 and €236,481 for 2021 and 2022 respectively. This was checked against the Framework for the Categorisation, Classification and Remuneration Structure of Government-Appointed Boards and Committees. NAO further confirmed the categorisation of the Board as a regulatory one with the Office of the Prime Minister. Furthermore, the remuneration of the members in the other two Boards was also verified.

NAO went through the Authority's Board meeting minutes for the period under review.

General Expenditure

The nominal ledgers for 2021 and 2022 were analysed. The most financially significant accounts included Studies and Consultations, Public Relations Expenses, Hire of Self-Driven Cars, Architect Services, IT Development Costs, Contractual Services, Advertising and Other Services. The largest suppliers were also identified. NAO reviewed the procurement process, as well as the relevant agreements, respective payment vouchers and invoices. Queries were put forward on several transactions classified under Hospitality.

Key Issues

Procurement by Direct Order

During its first two years of operation, the Authority's procurement was generally made by direct order. This amounted to €697,545 and €616,753 both excluding Value Added Tax (VAT) in 2021 and 2022 respectively. This mainly related to consultation fees, professional services, auditing service of method statements and the provision of IT services. Most of these direct orders were split into various amounts not exceeding €10,000 (VAT excl.) evidently, to bypass procurement regulations and thus not necessitating approvals from the Direct Orders Section within the Ministry for Finance and Employment. Quotations were not obtained to ensure that the best price was acquired. No evidence was provided regarding the approval of these direct orders within BCA. The following relate:

Studies and Consultations

A tender for consultation services from architects was issued in April 2021, with the evaluation process concluded in August. Until November 2021, when the framework agreement was eventually signed[6], the Authority acquired consultation services from architects by direct order. During the year, a company, which was engaged from the open market to perform the audit of method statements, had already been awarded a total of €123,600 (VAT excl.). In 2022, the same company received another six direct orders, totalling €59,550 (VAT excl.), all without the necessary approval from the Ministry for Finance and Employment.

In addition, two other companies were paid €70,743 and €62,191 respectively for consultation services through direct orders, lacking Finance approvals.

[6] The framework agreement included seven lots. Since vetting of method statements was increased from sample basis to all Planning Authority applications, some lots got exhausted quickly and BCA had to resort to direct orders again in January 2022.

Information Technology Development Services

BCA entered into monthly contracts for IT development services. Each contract was for a total of 90 hours, at the hourly rate of €55 (VAT excl.). Between 2021 and 2022, the service provider was awarded a total of €84,778 (VAT excl.) in direct orders. However, the necessary Finance approval was not obtained.

According to BCA, this service was procured due to the resignation of the IT Director in July 2021, and the recruitment delays, mainly because of the General Election and the Authority's subsequent change of Ministry[7].

Moreover, the contract required detailed record of work performed endorsed by top Management to support the invoices raised. However, only the total weekly hours were indicated.

In a separate instance, another service provider was chosen for IT expertise to develop a software system for the Authority. In 2021, the individual received €21,000 (VAT excl.) in direct orders, without a formal agreement and Finance approval. Only one quotation was provided, covering part of the payment[8], for a total of €9,440.

Following a public call for application, in December 2021, this individual was engaged with the Authority as Chief Officer Core Operations, starting with a basic salary of €55,160[9] and an ad hoc allowance of €10,000, which was not part of the Top Management Structure approved by the Industrial Relations Unit. This allowance was still being paid in 2023.

Advertising

A review of transactions pertaining to two advertising service providers revealed that in 2021 and 2022, one was paid an aggregate of €48,044, while the other received €33,507 in direct orders, without BCA resorting to requests for quotations or obtaining Finance approval in both cases. Moreover, no formal agreements were entered into with these advertising agencies.

The Authority claimed that, as from June 2022, it started obtaining quotations but, from testing on two invoices, it transpired that in one of these instances, only two suppliers were contacted for a quotation. This limits transparency and potentially also missing out on other competitive options.

Architect Services

Similar situation was encountered in the procurement of services from a particular architect who was paid an aggregate amount of €18,691 in 2021 and 2022 for different services acquired by direct order.

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7 Following Cabinet reshuffle, BCA was transferred from the Ministry for Infrastructure, Transport and Capital Projects to the Ministry for the Environment, Climate Change and Planning.

8 Quoting the hourly rate of €50 (VAT excl.) for 160 hours.

9 Apart from the basic salary, the employee was entitled to communication, vehicle, expense, resource, as well as training and disturbance allowances, in aggregate amounting to €15,743 annually, as well as a maximum of 15% performance bonus.

Communication and Support Services

During 2021 and 2022, a company providing communication services was paid an aggregate amount of €210,691 since, according to BCA, it had no internal staff to do the job while promoting the newly established Authority. However, no Finance approval was sought and a formal contract was not in place up till June 2022, making it impossible for NAO to verify whether the rates charged in the sampled invoices were correct.

Recommendations

Proper planning is essential to follow the Public Procurement Regulations, in particular Article 28(5). Direct orders should be resorted to as a last resort, used only in exceptional circumstances, and only after obtaining the necessary Finance approval if the established threshold is exceeded. Suppliers are to be engaged after a public call for tender or a call for quotations is published, as per Article 101 of the Public Procurement Regulations, depending on the amounts involved; thus ensuring transparency, fair competition and guaranteeing the best market rates. A valid contract is also to be entered into.

Management Comments

On its inception, in April 2021, BCA lacked, still, the sufficient resources required to operate as a fully functional Authority. Founded by means of Cap. 623 (Laws of Malta), it was set up to perform and succeed the functions of the Building Regulations Board, the Building Regulations Office, and the Building and Construction Agency, amongst others, as per Article 6 of same legislation. This had put further pressure on the Authority's administration as, whilst it was destined to evolve and strengthen its regulatory function, it had to bear and resolve all pending matters handed over by the previously established and latter mentioned functions.

Described as somewhat unsustainable, it might have been this reason why the Authority at the time had opted to outsource the procurement of services through direct contracts. Nonetheless, this does not excuse, or waive adherence to the established Public Procurement Regulations.

Notwithstanding the above, BCA has since registered progress in both its operations and legislation, permitting it to evolve into a functional regulator. It has since invested in its internal control mechanisms, strengthened its operations and is heavily investing in IT. The adoption and implementation of the listed recommendations by NAO will further contribute in this direction to safeguard public finances and good governance.

Studies and Consultations

The Authority is informed that during the tenure of one of the prior CEOs, direction was given to employees to randomly review or audit method statements. Following a number of incidents, reviewing of method statements had to be intensified in an expedited manner. BCA employees were given verbal direction by the former CEO, to start reviewing all method statements that involved excavation. This was mainly triggered by the enactment of the respective legislations.

Hence, the tender in place was being exhausted much faster than it was originally intended. Subsequently, the Building Industry Technical Committee report was published, wherein it was recommended that all method statements should be reviewed.

Given that the building industry was experiencing permitting delays, the Authority had to act fast and without delays. Thus, there was no time to stop the reviewing until another tender was published. Direct orders were awarded for continuity purposes at a time when the construction industry was at a standstill.

This situation has in the meantime been addressed by the current administration through the award of a framework agreement contract in June 2023.

Information Technology Development Services

BCA has in the meantime, managed to engage a Senior Manager in IT and has terminated the contract for service agreement with the prior service provider.

The second service provider referred to has been assigned duties which go beyond the day-to-day functions as Chief Officer Core Operations. Thus, it was deemed fair and reasonable for an ad hoc allowance to be granted in this regard. Put into context, BCA, at the time, was depending on an outsourced supplier for the provision of IT services.

Advertising, Architect Services and Communication and Support Services

These direct contracts were awarded and approved by the then Chief Officer and were processed by the then Senior Head responsible from the Finance Department.

Services of an Accountant not formalised

In November 2019, the then Building and Construction Agency engaged a qualified person to provide payroll and accounting services through seven letters of acceptance[10]. The individual was paid a total of €19,514 for the period ending 2021 and €28,727 for 2022. No formal contract was entered into; the agreement was verbal. The letters of acceptance referred to a quotation, but NAO did not receive a copy with details.

Recommendations

Given the size of the entity, BCA may consider employing its own accountant. Apart from the benefits derived from the expertise of the incumbent, issues relating to financial matters could be settled as soon as they arise.

If BCA opts to continue outsourcing this service, a contract is to be entered into, stipulating all the terms and conditions, including the hours of work per week, the applicable rate per hour and detail of what type of work is being expected.

[10] The letters of acceptance were dated between July 2021 and November 2022 with the amounts ranging from €4,000 to €9,900, excluding VAT.

Management Comments

These direct contracts were awarded and approved by the then Chief Officer and were processed by the then Senior Head responsible from the Finance Department.

In the meantime, two officers from within BCA were given the necessary training and salaries are being managed in house.

Allowance not covered by the Collective Agreement

As from March 2022, two employees started receiving a fire marshall allowance, approved by the then CEO but which was not part of the collective agreement.

Subsequently, the fire marshall allowance was replaced by a deputising allowance, with each employee receiving an additional €1,315. This increase represented the difference between the employees' salaries and that of a health and safety officer.

According to BCA, in line with the Occupational Health and Safety Authority Act (Cap. 424), the safety officer required assistance during fire drills. A skill profile exercise was carried out in the first quarter of 2022 and both employees were found to be best suited for such tasks and thus followed the necessary training. However, NAO could not verify this claim as BCA did not provide a copy of the skill profile exercise.

Recommendations

Management is to ensure that any allowances paid to officers, in addition to what is specified in the collective agreement, are duly approved by the Office of the Prime Minister. Following such authorisation, the respective officers' entitlement is to be formally documented.

Management Comments

This allowance has since been suspended once new officers joined BCA and the Authority had sufficient staff in place to honour its obligation in terms of the Work Place (Minimum Health and Safety Requirements) Regulations (L.N. 44 of 2002).

Approval for Overtime not obtained

There was no pre-approval for overtime claimed by one of BCA's employees. Overtime hours carried out from 1 July to 30 September 2022 were approved by the Senior Head Human Resources, Standards and Internal Control, a year later, in June 2023.

Another three employees regularly worked approximately 70 hours of overtime each per pay period between July and September 2022. This resulted in an aggregate overtime payment of €36,000. However, the respective approval only covered around 70% of this overtime.

Recommendation

In line with the provisions of the Public Service Management Code, to maintain the necessary control over the respective expenditure, overtime has to be approved beforehand from the right level of authority, when such additional hours are being paid for.

Management Comments

Timesheets were approved by the then Chief Officer and processed by the then Senior Head who was at the time responsible from the Finance Department.

In the meantime, overtime requests are being pre-approved according to established policies and consequently the matter has been addressed.

Control Issues

No Information Technology System available

The procurement of a proper IT system that could cater for BCA's needs was still being discussed. Work relating to finance was being done manually, and then posted on the accounting software. Thus, management reports could not be generated on a regular basis.

Moreover, the payroll system was not integrated with the time and attendance module, and payroll adjustments had also to be done manually.

Recommendation

A suitable system is necessary for the daily operations of the Authority, allowing for a level of automation and reducing the need for manual adjustments, that could lead to human errors. The system should be able to monitor actual expenditure compared to budgets and include an integrated payroll function that links salary computations to time records.

Management Comments

BCA has in the meantime made a request for additional funds, totalling €1.8 million, which were approved by the Ministry for Finance and Employment to permit for the procurement of a robust and fully integrated Enterprise Resource Planning system.

No Standard Operating Procedures

Formal operating procedures outlining the payroll and the procurement processes were not in place. These were still being compiled.

Recommendation

Management is encouraged to develop a set of procedures, based on best practices, to enhance consistency and transparency.

Management Comments

Management agreed with this observation and recommendation.

Hospitality Expenses incurred from Public Funds

In December 2021, a total of €2,100 was spent on the purchase of hampers, as a year-end gift to staff and various external stakeholders. Another €8,900 was paid for potable water and at a local supermarket during the period under review.

Recommendations

The Authority is to ensure that public funds entrusted to it are used efficiently and no undue expenses are incurred, irrespective of the amounts.

A more cost-effective solution is also to be considered for the provision of drinking water, such as the installation of a reverse osmosis system.

Management Comments

The procurement of hampers and other hospitality items were directly procured by the then Chief Officer.

Overpaid Allowance

A proper system of verification of allowances was not in place since testing on obnoxious and hazardous duties allowances, paid to one of the sampled employees, revealed an overpayment that was not detected. When this was brought to the attention of the Authority, the employee was requested to refund the amount in question.

Recommendation

Workings leading to payroll payments should be checked to identify errors or discrepancies before they become significant problems. It allows for timely corrections and reduces the possibility of overpayments, which at times might prove difficult to recoup.

Management Comments

Management agreed with this observation and recommendation.

Payroll Reconciliation not provided

NAO requested the Authority to provide the yearly salary reconciliation between the nominal ledger payroll accounts and the annual statement of earnings. Although BCA stated that reconciliations were prepared with every payroll, as well as at year-end, these were not provided for review. Thus, this Office could neither ascertain that the reconciliation was regularly being done, nor its accuracy.

Recommendation

Salaries are to be reconciled with each payroll run to ensure accuracy, compliance with fiscal obligations and fraud prevention in an entity's payroll system. It will also help to identify any discrepancies so that these are resolved in a timely manner.

Management Comments

Reconciliation referred to was not provided, however other pertinent documents were provided in full.

Compliance Issues

Expenditure not covered by a proper Tax Invoice

BCA is a VAT registered entity. However, unless a tax invoice was automatically provided by the supplier, this was not being requested. From the sample tested, this was missing for eight invoices, in total amounting to €46,986.

Recommendation

The Authority is to ensure that all suppliers, who have received payments, adhere to VAT regulations by issuing a proper tax invoice.

Management Comments

This function fell under the responsibility of the then Chief Officer and the person responsible from the Finance Department.

VAT Quarterly Returns not submitted

The Authority confirmed that it never submitted the defaulters' list to the Commissioner for Revenue for non-compliance with fiscal obligations, in accordance with the pertinent circulars. During the audit, the Authority took the necessary action to find the resources to commence this exercise and the first list for the period April to June 2023 started being compiled for eventual submission.

Recommendations

Those suppliers who fail to adhere to VAT regulations are to be reported on a quarterly basis. A nil return is to be submitted, when applicable. When possible, purchases from defaulting suppliers are to be discontinued until the matter is rectified.

Management Comments

BCA is in line with this requirement and will comply to VAT regulations.

Ministry for Gozo

Ministry for Gozo

Expenditure

*The review of contractual and professional expenditure incurred by the **Ministry for Gozo** during 2022 revealed habitual bypassing of procurement regulations, shortcomings in the management of contracts and significant concerns regarding the administration of the Community Work Scheme.*

Background

The Ministry for Gozo (MGOZ) was set up to secure and bring about the economic and social prosperity for Gozitan entities and its residents, taking into consideration the island's unique characteristics and distinctiveness. It is the only Ministry that has a regional dimension and has a vital role in influencing national policies and the channelling of national funding programmes towards the needs and aspirations of Gozo and its inhabitants. In 2022, MGOZ was allocated[1] over €8 million for contractual and professional services.

This audit focused specifically on expenditure related to contractual and professional services of the Corporate Services Directorate[2], since reviews were carried out at the other two Departments falling within the remit of MGOZ, namely the Operations Division, as well as the Strategy and Support Division, in the recent past. During 2022, the budget for the foregoing Directorate with respect to contractual and professional services amounted to €5.4 million, whilst the total actual expenditure[3] totalled €5.9 million.

Audit Scope and Methodology

The scope of the audit was to assess the adequacy and effectiveness of internal controls over expenditure incurred on contractual and professional services, as well as to establish whether Government resources were used prudently and in a judicious manner. The National Audit Office (NAO) also ascertained that the procurement was made in accordance with standing regulations, policies and procedures.

An introductory meeting was held at MGOZ with Management[4] to discuss the audit objectives and to obtain an understanding of the main contracts for contractual and professional services, which were in place during 2022.

[1] Through the Financial Estimates 2022, Recurrent Vote 33 (Line Items 30 and 31).
[2] Reported in Financial Estimates as the cost centres of the Ministry and Permanent Secretary's Office.
[3] According to information provided by Management.
[4] MGOZ Permanent Secretary, Director General (Operations Divisions), Director General (Strategy and Support), as well as Assistant Director (Finance).

The transactions posted on the Corporate Financial Management Solution within the subaccounts of contractual and professional services were analysed to obtain an understanding of the type of expenditure, as well as the amounts incurred. Four of these accounts were selected for review, on the basis of materiality; three accounts categorised under contractual services, namely Security Services, Cleaning Services and Contractual Services – Others and the fourth account Other Support Services from the professional services category. Subsequently, a sample of a total of 10 suppliers from the above accounts was selected, also on the basis of materiality.

Selected expenditure was reviewed to determine whether the procurement of the respective goods and services was in accordance with the Public Procurement Regulations (PPR), the applicable circulars, as well as the pertinent agreements. A sample of invoices was selected for testing to ascertain that MGOZ was charged according to the rates agreed upon with the service providers or suppliers. NAO further checked whether all the necessary approvals were in place prior to procurement, as well as when effecting payments.

Limitation on Scope of Audit

NAO experienced limited cooperation during the conduct of this audit. There were significant delays for the submission of replies to audit queries as information requested was not readily available. Following the establishment of a final deadline, several documentation requested for the purposes of this audit was still not provided for review. Besides the significant prolonged time to finalise this audit, this revealed a weak audit trail that also limited the extent of audit fieldwork that could be carried out.

Key Issues

Habitual bypassing of Procurement Regulations

Services of substantial value were being habitually split into several contracts not exceeding the €10,000 excluding Value Added Tax (VAT) threshold laid down in PPR. Such method of procurement, which actually merited a public call for tenders, was endorsed by the respective Permanent Secretary. The following issues were noted:

a. **Cleaning services** – Between March 2020 and August 2022, MGOZ was acquiring cleaning services from the same service provider through consecutive direct orders of one month each. Total payments during aforementioned period amounted to €219,588 (VAT excl.).

b. **Security services** – Between 9 December 2021 and 28 November 2022, MGOZ issued 37 direct orders towards a security services company, for a total value of €209,082 (VAT excl.). Several agreements, each covering a period of a few weeks, were separately signed to cater for different locations within the Ministry's remit. This procurement was in addition to the security services being rendered by the same contractor covered by another contract that was awarded to the foregoing in 2019 following a call for tender, and which was still in force during 2022. Another two agreements which were entered into following negotiated procedures, in 2022, were also in force during the year under review.

Several other direct orders, whose value did not exceed the €10,000 (VAT excl.) threshold, were also regularly awarded to other security service providers[5], during the same timeframe. This indicated that the respective procurement was not adequately planned.

c. **Statistical and research consultancy services** – Between June 2020 and January 2023, the Ministry paid a total of €68,000 (VAT excl.) for statistical and research consultancy services related to different assignments. These were procured through consecutive two-monthly contracts which were awarded by several direct orders to the same service provider.

d. **Project management services** – Fifteen consecutive direct order agreements, each mainly covering a period of nine weeks, were entered into with an individual to provide project management services to MGOZ between January 2020 and end of 2022. Each agreement stipulated that the service shall be rendered on a 40-hour week basis at the rate of €13.50 per hour (VAT excl.)[6]. The aggregate amount paid for the services rendered until the end of 2022 was €64,164 (VAT excl.). Notwithstanding that these short agreements had been ongoing for over three years, MGOZ claimed that the Ministry should not be burdened with a contract of a long duration if no projects were to be undertaken during a particular period of time.

e. **Clerical services** – Between March 2021 and February 2023 MGOZ acquired clerical services, through direct order contracts of two or three-months duration each time with the same service provider. An aggregate of €26,584 (VAT excl.) was paid in this respect. The services were initially required at the COVID-19 vaccination centre. In August 2021, the foregoing was transferred to the Procurement Unit of the Ministry.

During the same period, another clerk was also engaged directly from the open market through regular three-monthly contracts, at a total cost of €26,992 (VAT excl.)[7].

NAO was not informed of any call for application that was issued in this respect. Management claimed that despite several requests to the Office of the Prime Minister, clerical staff under general grades was not provided.

In most of the above instances, the proviso of the pertinent circulars, requiring contracts for services to be endorsed by the Ministry for Finance and Employment (MFE), as well as to publish the award of contracts, were being bypassed.

Recommendations

MGOZ is expected to invariably follow the provisions of PPR and limit the use of direct orders to the barest minimum. This will ensure that services are procured following a competitive procedure for a fair and transparent selection process. Procurement is to be planned in advance so that a public call for tenders is issued in time, encompassing all the required services at the various locations within the Ministry's remit. If the occasional purchase of services direct from the open market is duly justified, the necessary Finance approval is to be sought beforehand. Fragmented purchases to bypass procurement regulations are not allowed.

[5] Not included in the audit sample.
[6] Amounting to €4,860 (VAT excl.) for nine weeks.
[7] Pertaining to Operations Division and Corporate Services Directorate.

Management Comments

a. **Cleaning services** – *A discussion was ongoing to decide whether these expenses should continue to be borne by MGOZ or by INDIS Malta Limited[8]. In fact, the company informed the Ministry that it was issuing a tender for cleaning services at the Innovation Hub. This tender took a long time to be awarded and MGOZ continued to provide the services via direct order so that the standard at the Innovation Hub will be retained.*

b. **Security services** – *Prior to the issue of the security tender, MGOZ had engaged a services consultancy firm to carry out an audit to ensure the optimal allocation of security detail in the Administration Centre and outposts. This exercise took a while to conclude. In the meantime, MGOZ carried out discussions with Budget Affairs Division to secure financing for this tender, which had to consolidate all security services required by the Ministry. Again, this process delayed the publication of the tender.*

   Once the tender was published, due to a technicality, it had to be cancelled and this once again delayed the process. This tender was cancelled in line with section 18.3(b) of the general rules. Consequently, a new tender had to be issued and was awarded on 23 May 2023.

   In the meantime, the security services at MGOZ were still required. The Ministry utilised the same rates as pegged by the Department of Contracts for precarious employment when quoting rates in the respective direct orders.

c. **Statistical and research consultancy services** – *The consultant had been engaged on different assignments on various areas that fell under the remit of MGOZ. Whereas other Ministries have vertical responsibilities, MGOZ has a horizontal array of responsibilities with various projects and programmes which are completely different from one another, all directly affecting the inhabitants of Gozo. In order to assess these different initiatives, MGOZ gave specific assignments to the service provider to present this Ministry input on such projects and/or programmes and how they will affect the economic and social wellbeing of the local residents.*

   Since each assignment was treated as a different subject, these were contracted with a value below €10,000 (VAT excl.). Therefore, they were authorised by the Permanent Secretary as per financial regulations.

d. **Project management services** – *In January 2020, the priority of the newly appointed Minister was to ensure that a number of major infrastructure projects, that had commenced in previous years, were to be concluded as soon as possible. For this reason, the Ministry engaged the project manager to ensure that these projects would not fall behind deadlines.*

   This Ministry could have opted to go for a longer contract and sought MFE approval, but the Ministry opted for contracts of shorter duration to ensure that if the contracted manager does not deliver, then this manager will not be offered further assignments. In view of the fact that the Ministry was not ensured that MFE will approve further projects, as good governance, it felt that it should not be burdened with a contract of a long duration if no projects were to be undertaken during a particular period of time.

[8] Formerly known as Malta Industrial Parks. INDIS Malta Limited is responsible for the administration of Government-owned industrial parks and related facilities around Malta and Gozo, as well as supporting and promoting their further development.

e. **Clerical services** – *During 2020, MGOZ centralised its corporate functions and required additional staff to implement this measure. Unfortunately, despite various requests to the Office of the Prime Minister to provide additional clerical staff, this request was not acceded to. The two suppliers who fulfilled the role required to provide the necessary administrative services until sufficient clerical staff was available.*

Community Work Scheme

Community Work Scheme Agreement not sufficiently detailed

An agreement was formally signed retrospectively on 16 October 2017, effective as from 1 January 2017, between the Community Work Scheme Enterprise Foundation[9] and MGOZ, for the former to provide persons currently enrolled in the Community Work Scheme and/or any other persons which Jobsplus may deem appropriate, to be assigned with the Ministry. A termination date for the provision of these workers was not indicated. According to MGOZ, the agreement was to remain in force until the Ministry has community workers assigned to it. As at end 2022, 335 community workers were allocated with MGOZ.

Total payments made in this respect between January 2017 and December 2022 amounted to €16.1 million (VAT excl.). The Scheme was still ongoing in 2023.

Furthermore, this agreement did not provide the appropriate level of detail since it did not make reference to the compensation payable to employees, the administration fees being actually paid, which in 2022 amounted to around €450,000[10] (VAT excl.), and insurance covering third party liabilities.

The agreement only stated that the Foundation shall pay the full-time community workers a basic salary equivalent to 40-hours per week and no extra payment for overtime was to be paid. In cases where such need arises, extra compensation was to be paid at a rate agreed by the Foundation and MGOZ. The latter stated that overtime rates are those applicable by law, whereas the salary that the Foundation had to pay to the community workers was stipulated in another agreement that the said Foundation had with Jobsplus. However, no such evidence was provided.

Performance Bonuses paid to Community Workers not duly substantiated

Except for the related invoices from the Community Work Scheme Enterprise Foundation, documentation supporting the three sampled transactions covering the performance bonuses paid to community workers, in aggregate amounting to €8,212 (VAT excl.), was not provided for audit purposes. Consequently, the amount in question could not be validated.

Furthermore, although the copies of the two sampled invoices were signed by MGOZ senior officials, there was no signature on the related carbon copies attached with the receipts. This casts doubt on the timeliness of the signatures on invoices. The other sampled invoice was not signed by the Ministry's responsible official.

[9] The Community Work Scheme Foundation is managed by the General Workers Union.
[10] Administration fee of €112.40 (VAT excl.) per community worker per month. As at end 2022, 335 workers multiplied by €112.40 (VAT excl.) and 12 months is equal to €451,848 (VAT excl.) per annum.

Irregularities in Sampled Attendance Sheets

Despite the responsible officials endorsing the respective records, shortcomings were identified in the sampled community workers' attendance sheets, for whom a sample of one month attendance was checked for audit purposes. The following relate:

a. The total weekly hours reported on the attendance sheets of a maintenance and general cleaner did not reconcile with the 40 weekly hours as per agreement. Furthermore, no time ins and outs were reported for one whole week in the audit sample for a beach cleaner[11].

b. During audit fieldwork, no attendance sheet was provided for the sampled month[12] of one of the other sampled workers[13]; the Auditors were only furnished with an application form for vacation leave utilised on 5 May 2022.

Recommendations

Community Work Scheme Agreement not sufficiently detailed

Since it was not Government's intention to retain employees benefitting from the Community Work Scheme for an indefinite period, but rather to provide them with an opportunity to find employment, it is important to ensure that this objective has been achieved. Furthermore, MGOZ is responsible to ensure that the agreement regulates and safeguards the interests of all parties involved, and that its implementation effectively fulfils the primary objective of the Community Work Scheme[14].

Performance Bonuses paid to Community Workers not duly substantiated

Documentation substantiating the rate of performance bonus given should be available for each employee.

Irregularities in Sampled Attendance Sheets

For control and transparency, detailed attendance records are to be maintained for each employee to substantiate the respective payments, as applicable, also enabling internal and external verifications. Invoices are then to be certified correct after being checked against the relevant records, before payment is effected.

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[11] Although a beach cleaner signed the attendance sheet from 1 to 5 February 2022, no timings were recorded.
[12] May 2022.
[13] Enforcement officer with the Wild Birds Regulations Unit.
[14] The objective being of helping unemployed people gain work experience and improve their chances of finding a job.

Management Comments

Community Work Scheme Agreement not sufficiently detailed

The Ministry presented the only contract it had available. As at August 2023, discussions were being held with the Foundation to draw up a new contract to cover the points raised above. MGOZ was not privy to agreements between Jobsplus and the Foundation and was not in a position to request agreements between third parties.

Performance Bonuses paid to Community Workers not duly substantiated

The performance rating is carried out by certifying officers[15] towards the end of the year through an online system. The results are extracted by the Foundation and an invoice is issued accordingly to MGOZ. Each invoice is certified correct by the respective Director and any necessary checking is done at this point by the respective Directorate.

Irregularities in Sampled Attendance Sheets

The beach cleaner's work schedule was Monday to Friday from 06:00 to 13:00 (total of 35 hours), whereas on Saturday from 06:00 to 11:00 (total of 5 hours). Thus, the total amount was 40 hours per week. In the attendance sheets for the period between 31 January 2022 and 6 February 2022, the worker had quarantine leave on 31 January 2022. Unfortunately, the worker did not indicate the time in and out for the rest of the week. However, as all other attendance sheets indicated, the working hours were as highlighted above.

The community worker who was a maintenance and general cleaner had mistakenly noted his break as 1.5 hours, when it should have been 15 minutes. Action was taken by the Xewkija Local Council in this regard.

Due to the voluminous amount of information, this mistake was regretted and the respective attendance sheet was provided with the Management reply.

Administrative Costs paid on behalf of Another Entity

MGOZ was incurring an unnecessary administrative burden and additional costs by supporting services required by the Malta Industrial Parks (MIP). Since March 2020, the costs for cleaning services at the Gozo Innovation Hub, which fell under the remit of MIP, were being expensed by the Ministry without requesting reimbursement. According to the latter, this was planned until MIP issued a tender for the required services. However, due to various appeals, the award of the respective contract was delayed. Up till December 2022, MGOZ paid an aggregate of €284,838[16] on behalf of MIP.

Moreover, although the Ministry was incurring these costs, it was not in a position to monitor the service delivery.

[15] The certifying officers are the persons in charge of the unit or section where the community workers are placed.

[16] Between March 2020 and August 2022, €259,113 was settled through several direct orders. A further €25,725 was incurred through the Ministry's generic cleaning tender as from end of August 2022 onwards.

Recommendation

In order to ascertain the economic and efficient utilisation of resources, the costs incurred on such services on behalf of other entities are to be charged to the foregoing. This would enable the Budget Office to allocate the respective funds accordingly.

Management Comments

This Ministry had incurred these expenses to ensure that the Innovation Hub was kept in a pristine condition that befits such a complex. Since this building is operated by another Government entity and not the private sector, this Ministry decided to take on these costs until the INDIS Malta Limited tender was awarded. MGOZ assists other Ministries and entities that operate in Gozo by various means in order to ensure that their operations are to the highest standard.

Control Issues

Concerns on the Procurement of Security Services

The review of contracts signed with the sampled security services provider revealed the following concerns:

a. **Contract modifications not covered by an addendum** – According to section 20.1, any modification to the contract must be set out in writing in an addendum. However, variations pertaining to a contract with an aggregate value of €543,649 (VAT excl.), as well as another modification relating to another contract amounting €10,297 (VAT excl.) were not covered by an addendum.

b. **Predetermined modifications to contract** – Before signing a contract for the provision of security services at the Gozo College Secondary School Car Park on 11 December 2020 (at a total value of €20,593 VAT excl.), an approval by Permanent Secretary was already issued on 7 December 2020 for a modification to contract, amounting to €10,297 (VAT excl.), i.e., 50% of the contract value. This was to include another security person.

c. **Performance guarantees not available** – According to the four agreements signed with the selected security services provider, which were in effect during 2022, the contractor was required to submit performance guarantees, at an aggregate value of €97,422. However, the documentation pertaining to two contracts, with a total value of €23,293, were not made available. Moreover, the performance guarantee of another contract, expired in January 2022 and no further renewals were provided.

d. **Absence of monthly reports** – Section 8.1 of the terms of reference attached with one of the contracts stated that the contracting authority shall monitor the contractor's performance through the submission of monthly reports. However, these were not provided for review; Management claimed that they made use of attendance sheets to confirm the service delivery.

Recommendations

In line with the guidelines issued by the Department of Contracts, Management has to ascertain that any variations are justified and covered by an addendum to the original agreement. Modifications to the provisions of the tender, prior to the signing of agreements, are prohibited as this would constitute unfair competition.

Performance guarantees are to be requested from the contractor at the signing of the contract, to safeguard Government's interests in case of default. Management is also encouraged to make use of logbooks and monthly reports, as stipulated in the contracts, to monitor the overall service delivery and to plan for its future requirements.

Management Comments

a. **Contract modifications not covered by an addendum** – *Unfortunately, these addenda were not provided by the Department of Contracts. Therefore, these could not be provided from MGOZ's end.*

b. **Predetermined modifications to contract** – *The tender process took four months from drafting of tender document to award. During this period, circumstances changed continuously and unfortunately MGOZ needed to accommodate the service requirements.*

c. **Performance guarantees not available** – *The performance guarantees were provided by email on 12 May 2023 following request made by NAO*[17].

d. **Absence of monthly reports** – *Note has been taken and monthly reports will be requested accordingly.*

Shortcomings in Contracts

Clauses to safeguard Government's Interest omitted from Contracts for Cleaning Services

The monthly contracts for the provision of cleaning services covering between March 2020 and August 2022 did not include certain clauses to safeguard Government's interests, such as the requirement of insurance policies, as well as pertinent health and safety clauses.

Agreements for Security Services not covered by an Insurance Policy

Clause 13.3 of a contract signed with a security services company stated that the contractor shall insure against legal liability to third parties, in the joint name with the contracting authority. Two insurance policies were attached to the agreement; however, these had expired in January 2019, i.e., two months prior to the signing of the contract in March 2019 and were not renewed. Additionally, these documents named the then Ministry for the European Affairs and Implementation of the Electoral Manifesto as additional insured party, instead of MGOZ.

[17] Counter-comments by NAO: Documentation for two of the contracts was still not provided to NAO, as Management claimed that the supplier unfortunately renewed the guarantees and used the incorrect contract reference number.

Recommendations

Management is to ascertain that all agreements include clear contractual clauses covering third parties' obligations in the eventuality of any loss, damage, death or body injury which may occur during the delivery of service. To this effect, the contractor is to be covered by a valid insurance policy, both in the foregoing's own and the contracting authority's name, throughout the entire duration of the contract. Copies of the respective insurance policies are to be filed for future reference.

Management Comments

Note has been taken. Insurance clauses will be included in the future.

Insufficient explanation regarding Monitoring of Service Delivery

In certain instances, the Auditors were not provided with a sufficient explanation to ascertain that internal controls were in place to monitor project management services, prior to effecting payments.

According to MGOZ, to ensure the deliverables of the particular projects, the respective manager periodically submits a report to the Director General Strategy and Support, outlining the tasks performed. Notwithstanding, no supporting reports were provided for the certified invoices, relating to the three sampled transactions[18].

Recommendation

MGOZ is expected to invariably exercise adequate monitoring prior to effecting payments and ensure that documentation supporting all transactions is filed accordingly.

Management Comments

MGOZ submitted two reports at random as an example of the internal control procedures being carried out[19].

Compliance Issue

Non-compliance with VAT Fiscal Requirements

Submissions of the quarterly VAT defaulters' lists, covering the three Departments within MGOZ for 2022, were not being regularly sent to the Office of the Commissioner for Revenue. The latter was only furnished with some of the defaulters' lists following queries raised by this Office during audit fieldwork in July 2023, whereas no evidence of submission was provided for the first three quarters of 2022 for the Corporate Services Directorate.

[18] MGOZ only provided two reports relating to work carried out during February and March 2020.

[19] Following Management reply, NAO asked again for the reports submitted by the project manager during 2022; however, MGOZ replied that it was the project manager who was to provide reports; these were later provided on 21 August 2023 when this audit report was being concluded.

Recommendations

MGOZ is to ensure that payments to suppliers and service providers are all supported with fiscal receipts in line with standing VAT regulations. Defaulters are to be reported to the pertinent authorities on a quarterly basis.

Management Comments

The VAT reports were not submitted on time since there were various factors which hindered this. At one point, MGOZ had a severe shortage of staff and there was a work backlog. However, MGOZ has recruited and trained new staff and respective reports were submitted.

Ministry for Home Affairs, National Security and Law Enforcement

Malta Police Force

Debtors, Prepayments, Creditors and Accruals

*An audit of the **Malta Police Force** revealed that the Corporate Financial Management Solution was not being used to its full potential for recording and accounting of debtors, prepayments, creditors and accruals. Furthermore, there was no formal debt collection policy in place.*

Background

The Malta Police Force (MPF) is a Department within the Ministry for Home Affairs, Security, Reforms and Equality[1], that aims to provide a professional and trusted policing service to ensure safety and security within the community.

Financial Information

Debtors' balances reported by MPF at year-end were due for services rendered to third parties, as well as unpaid weapons licences, air carrier fines in case of passengers arriving in Malta without the necessary documentation, and other outstanding revenue, mainly relating to salary refunds and legal fees due to MPF from individuals. Credit balances related to various trade creditors. Accrued expenses mainly covered outstanding utility bills and personal emoluments, whilst prepayments related to rental of premises by MPF. The respective amounts reported as at 31 December 2022 were as follows:

- Debtors: €1,668,510
- Prepayments: €47,798
- Creditors: €879,176
- Accruals: €1,892,777

Audit Scope and Methodology

The scope of this audit was to assess whether debtors, prepayments, creditors and accruals were being accounted for in accordance with accrual accounting principles and to establish whether respective records were kept on the Corporate Financial Management Solution (CFMS) or another system.

The National Audit Office (NAO) also assessed whether CFMS was being used as originally intended, namely for financial management purposes.

[1] During the year under review, it was referred to as the Ministry for Home Affairs, National Security and Law Enforcement.

A high-level meeting was held with representatives from MPF, whereby the scope of the audit was discussed and data required for this assignment was also communicated. Since the scope of the audit was mainly to assess the Department's understanding of the accruals accounting system and the correctness of its reporting of debtors, prepayments, creditors, and accruals, the information provided was sorted by materiality to determine the highest amounts. However, samples were also chosen on a qualitative basis with the aim of checking the effectiveness of the system of internal controls to recover outstanding amounts and ensuring that the figures were properly reported in the appropriate accounting period as required by the accounting standards.

A mixed sample of debtors from each category was selected and a list of aged debtors was also extracted from CFMS and matched against the debtors list as provided by the Department. With regard to prepayments, five rental agreements were chosen for testing.

Queries were also made in relation to the accounting for accrued income. However, the respective return was not being compiled; thus, no further testing could be performed.

Five different creditors' balances were chosen for detailed testing. In the case of accruals, analysis and enquiries were made on accrued personal emoluments whilst testing was carried out on a sample of utility bills.

In order to assess the completeness and cut-off of the creditors and accruals balances, an exercise on the payments made by MPF in January 2023 was conducted. Through this test, NAO assessed to which period each invoice pertained and when it was issued and received by MPF.

Disclaimer

Testing confirmed that the amounts presented to NAO, as per returns provided to Treasury, were correctly classified in their respective category. However, completeness could not be ascertained since the figures could not always be corroborated as further detailed in the Key Issue.

Key Issue

Accounting System not used for its Intended Purpose

Debtors

MPF confirmed that debtors were only recorded on CFMS when payments were actually received. In the interim, records of amounts payable were maintained on spreadsheets. Thus, the debtors' balances reported as at year-end were incomplete.

An aged debtors' report was also extracted by this Office from CFMS. This mainly showed the outstanding balances in the old accounting system[2]. However, the amounts therein did not tally to supporting documentation provided on spreadsheets by MPF.

[2] The Departmental Accounting System.

Creditors

With regard to the compilation of creditors, MPF raised reports from CFMS showing those invoices and amounts which were due for payment or scheduled for processing in the month following the quarterly deadline given by Treasury. Only these amounts were included in the closing balance of creditors. This practice does not ensure completeness of creditors at year-end.

Treasury provided guidance on creditors reporting; however, accuracy depended on the data entered onto CFMS and its timing. The system allows invoices to be entered upon receipt and kept pending until authorised for payment. However, in the case of MPF, this functionality was not being used to its full potential.

Furthermore, an exercise conducted by NAO to test the completeness and cut-off of the creditors balances, by reviewing payments processed by MPF in January 2023, showed that 53 transactions, totalling €24,465, related to invoices dated in 2022 but received by MPF in January 2023. Details traced from CFMS showed that seven transactions, totalling €2,065, should have been reported as accrued expenditure, whilst no information was available in relation to the rest. Thus, it could not be ensured to what extent the balance of creditors was incorrect.

Prepayments and Accruals

Prepayments and accruals were also primarily recorded on spreadsheets. Although journal entries in this regard could be recorded on CFMS to be reversed at the beginning of the following financial period, this was not being done by MPF.

Recommendations

As far as possible, CFMS is to be used to its full potential. Thus, MPF is to enter all invoices on the system immediately upon receipt. Subsequently, when a bill is paid, it is to be recorded accordingly in order to update the respective balance. This would ensure accurate records for debtors, creditors, accruals and prepayments.

Management Comments

NAO's recommendation to use CFMS to its full potential is being accepted. Training will be carried out to staff at the MPF Finance Branch so that the procedures recommended by NAO will start to be implemented with effect from January 2024.

Control Issue

Shortcomings relating to Debt Collection

MPF does not have a formal debt collection policy in place. This poses the risk of inconsistent and ineffective debtor management which may lead to amounts due that remain uncollected. The absence of a policy also means that there was no clear guidance on provisions for bad debts. Consequently, MPF took a provision arbitrarily.

Testing of an air carrier fine revealed that debtors, totalling €17,936, had been overdue since 2019. Additionally, the largest debtor in the same category, amounting to €50,282, had been overdue for more than two years. No action was taken since September 2021. The absence of a debt collection policy is also likely to slow down collection of outstanding dues.

Recommendation

The Department is encouraged to create a formal and comprehensive debt collection policy to optimise the debt recovery process, enabling quicker collection of revenue and minimising the likelihood of bad debts.

Management Comments

NAO's recommendation for the introduction of a formal and comprehensive debt collection policy to streamline the debt collection process at MPF is being accepted. The policy will be introduced in the second quarter, 2024.

Ministry for Energy,
Enterprise and
Sustainable Development

Energy Efficiency Schemes (PV Systems Grants)

Expenditure

*The review of the **Energy Efficiency Schemes (PV Systems Grants)** confirmed that prior to the disbursement of funds, the Regulator for Energy and Water Services was not obtaining confirmation from the Planning Authority that the installation of photovoltaic panels was in line with the applicable guidelines.*

Background

A scheme to apply for a grant for the purchase of renewable energy systems in the domestic sector was launched in March 2021[1], with a budget of €5 million allocated to the Ministry for Energy, Enterprise and Sustainable Development[2], as Line Item 5238 – Energy Efficiency Schemes (PV Systems Grants). The scheme was renewed[3] in December 2021, with another allocation of €5 million and respective applications were received in 2022. Actual expenditure incurred during the year under review was around €3.5 million. The aim was to make better use of energy being generated within the Maltese islands, by encouraging the use of photovoltaic (PV) systems for residential use. The Regulator for Energy and Water Services (REWS), falling under the remit of the highlighted Ministry, was responsible for the administration of the nationally funded scheme.

The following five options were available:

Option A – PV system with standard solar inverter – Refund covered 50% of eligible costs, up to a maximum of €2,500 per system and €625 per kilowatt peak.

Option B – PV system with hybrid inverter – Refund covered 50% of eligible costs, up to a maximum of €3,000 per system and €750 per kilowatt peak.

Option C – Hybrid or battery inverter and battery – Refund covered 80% of eligible costs of the battery storage, up to a maximum of €3,600 per system and €600 per kilowatt hour, plus 80% of eligible costs of the hybrid inverter up to a maximum of €1,800 per system and €450 per kilowatt peak.

[1] In terms of Government Notice No. 302, dated 2 March 2021.
[2] In the Financial Estimates 2023 referred to as the Ministry for Environment, Energy and Enterprise.
[3] In terms of Government Notice No. 1666, dated 28 December 2021.

Option D – Battery storage only – Refund covered 80% of eligible costs of the battery storage, up to a maximum of €3,600 per system and €600 per kilowatt hour.

When applying for Option B, applicant could also apply for Option D.

The submission of applications was split in two parts. Part A, which represented the grant application form, was to be submitted prior to the purchase and installation of the equipment. In those instances where the scheme criteria were met, a grant offer letter was sent to the applicant, giving the green light. Subsequently, the beneficiary had an eight-month period to install and commission the technology, as well as to submit Part B application which represented the request for reimbursement, along with related supporting documentation.

Audit Scope and Methodology

The main scope of the audit was to ascertain the adequacy and effectiveness of internal controls over expenditure incurred during 2022 on PV grants, as well as to establish whether Government resources were used prudently and in a judicious manner. The National Audit Office also assessed whether the administrative procedures adopted were in compliance with the applicable requirements.

An introductory meeting was held with Management to discuss the audit objectives, as well as to obtain a general understanding of the procedures adopted for the administration of the scheme. In addition, the applicable guidelines and Manual of Procedures were reviewed to determine the extent of internal controls in place.

From the list of individuals who benefitted from the scheme, a stratified random sample of 20 applications was selected from the different categories (A – D), according to the materiality of costs incurred. The accuracy and validity of the payments were ascertained by analysing the established criteria, applications, as well as supporting documentation, as applicable.

Disclaimer

The grant under review was only intended to private individuals for use on their residential properties and specifically excluded those properties which were used to generate any economic activity. Applicants were required to submit an electricity bill in their names with the consumer scheme denoted as residential, as well as evidence that payment transfers from bank accounts were in the name of the applicant. However, this Office was not in a position to ascertain that the beneficiaries were actually residing in the respective registered address and were not using the property for commercial or business purposes.

Key Issue

Lack of Verification

No Confirmation with Third Parties

The review of the procedures to administer this grant revealed the absence of third party confirmations from other entities in the following areas:

De Minimis State Aid[4] – According to the guidelines, the total amount of de minimis aid granted to a single undertaking[5] could not exceed €200,000 over any period of three consecutive fiscal years. Since the scheme was implemented in line with European Union Regulations, each beneficiary was required to sign a declaration, stating the aggregate state aid received during the last three years.

Information gathered from the applicants' self-declarations are forwarded by the Regulator to the State Aid Monitoring Board on an annual basis. The online system used by REWS has inbuilt controls to ascertain that stipulated threshold is not exceeded through grants disbursed by the foregoing; however, no further corroboration is carried out with external parties to determine if the limit was surpassed through other financial assistance granted by other entities.

Planning Authority Guidelines – The scheme's guidelines state that it is the applicant's responsibility to ensure that the installation of renewable energy equipment complies with guidelines issued by the Planning Authority. A PV System Planning Form is completed by the beneficiary and then submitted by REWS to the Planning Authority. However, the Regulator does not follow up to ensure that the installation of the equipment is in line with the requirements imposed.

Onsite Checks not carried out

REWS does not perform random visits at the retailers' premises as a mystery shopper to confirm that the price registered with the Regulator[6] tallies with the actual selling price.

Recommendations

REWS is not to rely solely on applicants' self-declaration. Apart from verifying the amount of actual grants approved by the foregoing entity to beneficiaries, Management is to establish a mechanism to ascertain that the €200,000 threshold is not exceeded, by identifying all the schemes falling under the de minimis state aid regime and perform the necessary checking on a risk assessment basis.

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[4] Amongst others, State Aid include grants from public bodies, loans or loan guarantees at favourable rates, tax benefits, as well as waiving or deferral of fees or interest normally due.

[5] Once a household installs a PV system that is connected to the grid, it starts to export electricity and receive refunds. Hence, that household will be considered as an undertaking.

[6] Latest market prices.

Furthermore, in order to ensure that PV panels are installed in line with the required regulations, before disbursement of funds, it is recommended that REWS obtains written confirmation from the Planning Authority that the installation was in line with the permit obtained.

Random checks are also to be made on suppliers to eliminate possible collusion between the retailer and the beneficiary.

Management Comments

State aid is governed by Commission Regulation 1407/2013. Article 6[7] *of the foregoing states that before granting the aid, the Member State shall obtain a declaration from the undertaking concerned, in written or electronic form, about any other de minimis aid received to which this Regulation or other de minimis regulations apply during the last three fiscal years.*

Thus, the only two requirements imposed were the request of a written declaration from the beneficiary and the submission to the State Aid Monitoring Board of an annual inventory of aid granted by REWS.

In view that the aid being granted is aimed at households, and the maximum grant amount being granted can never exceed €6,600, there is a very low probability that the €200,000 threshold over a period of three fiscal years will be exceeded. Furthermore, there is no public register available to check against all possible instances of state aid that have been granted, nor is this information made available to public authorities to serve as a countercheck to each state aid declaration which is made.

The draft De Minimis regulations, that will replace the existing regulations[8]*, propose the raising of the €200,000 threshold, as well as the setting up of a mandatory public register at national or European Union level.*

Furthermore, if one had to take the approach to obtain confirmation from the Planning Authority, the duration between part B submission and the payment of the grant will be substantially increased resulting in disproportionate hardship to the successful applicant.

As regard to onsite checks, Management disagrees with this recommendation. In our opinion, this will not provide any additional safeguards as during the processing of applications, REWS requests quotations, invoices, and fiscal receipts, which in all instances these will have to match the registered price of the equipment. Furthermore, the grant is only financing 50% of the eligible cost capped at a certain level. In real terms this will only translate into around 40% of the total investment by applicant. Considering that the market is liberalised and very fluid at the same time, the retailer has every right to change the price of equipment from one day to another.

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[7] Regarding monitoring.

[8] Regulation 1407/2013 covered until December 2023.

Control Issues

Lack of Inspections post installation of Photovoltaic Systems

One of the conditions of the grant was that the PV system had to remain in operation during the five-year durability period[9], without any significant modification that would degrade its performance.

Between 2010 and 2023[10], an aggregate of around €10.3 million was paid out of local funds with respect to 3,354 applications. However, although according to REWS, onsite inspections are performed on a sample basis before the elapse of the durability period, around four years after payment, none of these were as yet inspected.

It transpired that inspections were only carried out on an average of 9% of the PV schemes that were reimbursed out of European Union funds from 2011 to 2020.

Recommendations

In view of the Regulator's right to take legal action if the PV system is no longer installed or operating as designed during the durability period, as well as the materiality of funds involved, REWS is expected to establish an adequate percentage of risk based inspections to be carried out each year and draw up a standard operating procedure to this effect in order to be followed up judiciously to ensure compliance with legal and regulatory requirements.

Management Comments

An applicant requires around six years to be able to get the return on investment made. Hence, it is in the interest of the applicant to have the system in place until such time. Also, prior to payment of grant, REWS requests a certificate from a warranted electrical engineer that the system has been commissioned and is up and running. Inspecting systems during the first three years of the durability period will not result in enhanced materiality. Furthermore, inspections are selected according to ISO 2859-1[11].

Payments for the 2019 scheme onwards were mostly made in 2020 and after. Hence the five-year period during which REWS has the right to inspect has not elapsed yet, rendering the systems involved still subject to being inspected by REWS after their fourth year of operation. In fact, in the data provided for audit purposes, it was highlighted that the Regulator was inspecting applications under the 2016 PV European Regional Development Fund (ERDF) scheme that were paid in 2018 and also highlighted the fact that inspections for succeeding schemes were still to be conducted.

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[9] According to the Grant Scheme Guidelines definitions, durability period refers to a duration of five years after the grant rebate has been deposited into the applicant's account.

[10] Information provided on 26 January 2023.

[11] Sampling procedures for inspection by attributes.

Two Recommendations of Systems Review not implemented

In May 2016, a review of the software application used by REWS to manage the PV rebate system was commissioned by the Regulator to a private firm, wherein six findings of medium-to-low risk relating to the web-based system were highlighted. Independent external penetration testing, as well as a mechanism where audit trails were reviewed on periodic basis, was also recommended. However, no action to this effect was taken by the Regulator.

Recommendations

Management is encouraged to adopt the recommendations highlighted in the Systems Review Report and to ascertain that any suspicious activity is escalated to the appropriate officials in a timely manner, in order to ensure any possible security breaches are acted upon. Eventually, a follow-up audit on the system is also suggested to ascertain the effectiveness of the implemented changes.

Management Comments

It is not the intention of REWS to monitor audit trails to pick up any suspicious activity. REWS has other, more effective means to deal with such instances, which can lead to the withdrawal of the grant. Mainly, these include the separation of powers within the entity and the four eyes principle in application processing. Furthermore, the database is based on a user account system with different access levels for different functions and each employee working on schemes management is aware that any changes made on the database are being logged in an audit trail.

Meanwhile, regarding penetration testing, it is to be noted that the online system was developed in line with the Government of Malta Information and Communication Technology policies. Past experience shows that REWS has never experienced a successful cyberattack. Nevertheless, REWS will consider performing penetration testing within the next 12 months[12].

Compliance Issue

Conflicting Information in Grant Scheme Guidelines

In section 3 of the Grant Scheme 2021 Guidelines for Applicants, it is stated that an applicant shall allow REWS to inspect the installed technology during the durability period. According to the definitions listed in the guidelines, the durability period refers to a five-year period after the grant rebate has been deposited into the applicant's account. However, section 13 in the same document states that "*the Applicant is required to ask the retailer to include a minimum warranty of 10 years on the system. The Regulator for Energy and Water Services or any other stakeholder involved in the management may, therefore, perform onsite inspections throughout this ten-year period to ensure that the equipment is still in operation*".

REWS confirmed that inspections were only carried out during the first five years. However, due to these conflicting statements, the exact period during which an inspection should be carried out was not clear.

[12] Management comments submitted on 3 March 2023.

Recommendation

REWS is to establish the durability period and amend the guidelines accordingly.

Management Comments

Section 13 of the guidelines has been updated with immediate effect to clarify that inspections can be performed during the duration of the durability period.

Ministry for Finance
and Employment

Office of the Commissioner for Revenue - Income Tax Enforcement

Revenue

*Over the years, **Income Tax Enforcement** was not performed in a timely manner, and the estimated uncollectable arrears were based on arbitrary percentages. Moreover, information technology systems being used at the **Office of the Commissioner for Revenue** were considered inadequate.*

Background

Besides other revenue, the Office of the Commissioner for Revenue (CfR)[1] within the Ministry for Finance and Employment, is responsible for the administration and collection of income taxes through the Income Tax Act (Cap. 123) and the Income Tax Management Act (Cap. 372).

Financial Information

The Arrears of Revenue Return (ARR) as reported by CfR for the year ended 2021 showed a gross closing balance of €1,654,231,178. This included the Pre '99 and Post (referred to as Year-by-Year) categories, as well as employees' Final Settlement System, Social Security Contributions of Class 1 employees and Class 2 self-employed taxpayers, duty on documents, death and donation duty.

Out of this gross closing balance, €925,233,067 was made up of income tax due from companies and self-employed individuals, pertaining to both the Pre '99 and Post categories, out of which a total of €759,276,604 was estimated as not collectable. Thus, CfR ended the year with a net collectable balance of €165,956,463 under these two categories. From this balance, only €2,546,583 was collected in January 2022, while an amount of €116,349,709 was under contestation.

[1] On 18 July 2023, the Commissioner for Revenue Act, (Cap. 517), was amended through Act No. XXVII of 2023. Through these amendments, the title of the principal Act was changed to the Commissioner for Tax and Customs Act, and all references to CfR were amended to read the Malta Tax and Customs Administration.

The ageing of the gross closing balance of income tax can be analysed as follows:

	€
Amount outstanding for less than one year (2021)	39,568,436
Amount outstanding for over one but less than two years (2020)	91,066,433
Amount outstanding for over two but less than five years (2017 – 2019)	197,125,794
Amount outstanding for over five but less than ten years (2012 – 2016)	164,113,014
Amount outstanding for over ten but less than twenty years (2002 – 2011)	208,003,738
Amount outstanding for over twenty years (prior to 2002)	225,355,652
Gross Closing Balance	**925,233,067**

Audit Scope and Methodology

The scope of the audit was to determine the level of existing internal controls over the collection of revenue due to Government from income tax, payable by companies and self-employed individuals, this being by far the largest category of outstanding income tax. This audit also aimed to ascertain that appropriate enforcement action was taken to ensure timely collection.

The National Audit Office (NAO) held an introductory meeting with the Director and Senior Manager within CfR Collection Section to obtain an overview of its operations. A document outlining the tax collection procedures, prepared by CfR, was also discussed in detail. Further meetings were held to understand the flow of operations.

Detailed lists of balances due from companies and individuals as at end December 2021 and their status (being live, dormant, dead or next return only required), as well as enforcement action taken, were obtained from the auditee. A report listing balances which were to become statute-barred unless immediate action was to be taken by CfR was also provided, together with a list of existing instalment plan agreements.

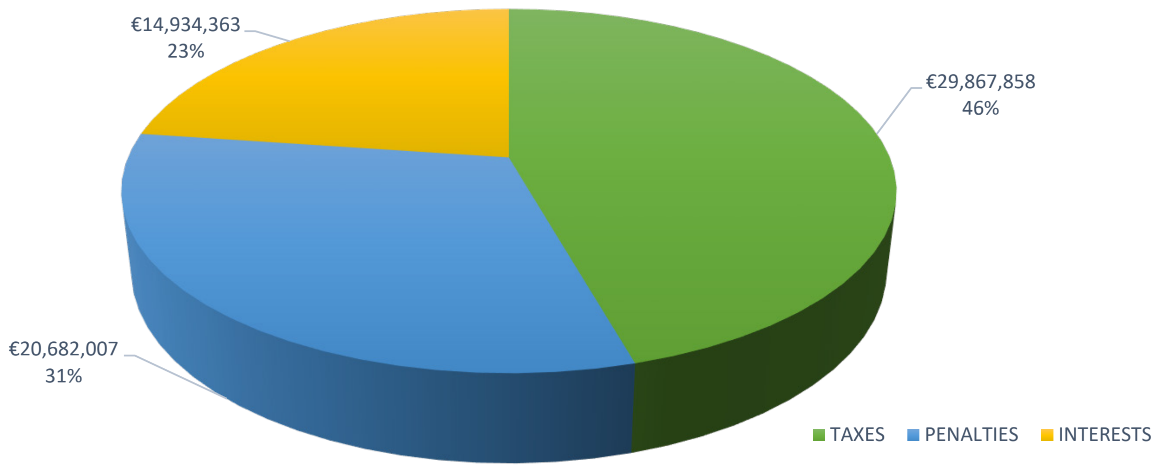
Year-by-Year Balances

The Pre '99 list, with a total of 30,240 companies and individual taxpayers totalling €157,183,509, and the Year-by-Year report, comprising 194,407 taxpayers, having a total of €1,410,023,006[2], were compared to the respective figures in ARR which was submitted to NAO as at end 2021.

A sample of twenty taxpayers, comprising thirteen companies and seven individuals, was then selected from the Year-by-Year report based on their material balances. The aggregate amount due to CfR as at 31 December 2021 was of €65.5 million; this included taxes, penalties and interests. Chart 1 refers. Out of this, €11.3 million was estimation. Three of these taxpayers were selected since they also had Pre '99 balances, totalling €1.1 million. Questions on these taxpayers were sent to CfR and their replies were then corroborated against the data available in their Information Technology (IT) systems[3].

[2] Out of this total, an amount of €464,971,421 related to estimation balances.
[3] IT systems used included the Accounting Receivable System, the Taxpayer System and the Return Capture software.

Chart 1: Sampled Year-by-Year Balances



Instalment Plan Agreements

The list of pending income tax obtained by NAO included 52,386 agreements entered into between CfR and 34,915 taxpayers during the period 1995 to 2022. NAO sorted this list by financial materiality and preliminary testing in the Taxpayer System (TPS) and Accounting Receivable System (ARS) was performed on 79 instalment plan agreements. Out of these, 55 agreements were excluded from further detailed testing since these were either being honoured by regular monthly payments, or else legal action was duly being taken by CfR. The remaining 24 instalment plan agreements, totalling €7,645,346, were selected for detailed testing, whereby the related monthly payments were traced in TPS and ARS respectively.

Balances at risk of becoming Statute-barred at Year-end

The list of balances which were to become statute-barred unless enforcement action was taken by CfR by end of year 2021 was provided. This included 2,748 taxpayers from the two categories under review, having an aggregate tax balance of €70,760,101.

From this list, NAO initially queried about 55 different taxpayers and detailed testing was performed on another sample of 10 taxpayers who had an aggregate tax balance due as at end 2021 of €6,992,991. This comprised four companies and six individuals, which were selected based on their material outstanding balances, as well as their different income tax return status during year of assessment 2022. Queries on these taxpayers were sent to CfR and the respective replies were then corroborated against the data and documentation traced in CfR IT systems.

Key Issues

Inadequate Information Technology Systems

Background

CfR makes use of a number of IT systems in its day-to-day operations. All documentation issued and received by CfR is kept in TPS, which is an electronic filing system to replace the physical files. ARS is then used as an automated accounting system to record all balances due and related payments.

The Office uses the Return Capture software to acknowledge submission of returns, to retain a copy of the returns, as well as to save any adjustment forms, assessments, objections and revised assessments.

Business Objects is another automated system used by CfR for reporting purposes, which shows all balances due in ARS for income tax and final settlement system, as well as balances related to the value added tax.

Outdated Systems

The IT systems used by CfR as at the date of testing, being November 2022, were considered out-dated. Considering that all the country's tax records were kept therein, a failure in the systems could have dire economic and financial consequences, besides others, effecting both the Government's income tax collection process and also taxpayers who are awaiting tax refunds.

Inefficiencies in Business Objects System

When a statement of pending balances is issued, this only portrays the current year's balance and totally excludes balances brought forward from prior years. This deficiency in the statement issued to the taxpayers limits the completeness of information for the perusal of the foregoing.

Moreover, when information for the annual ARR is compiled, balances due from Government departments and entities are classified arbitrarily within the individuals and private companies category since this system does not cater for such categorisation. This lack of information makes it impossible for users, including NAO, to establish the extent of amounts due that actually originate from intra-Government activities, a process which will eventually be necessary for consolidation of Government accounts' purposes.

Manual Intervention not kept to a Minimum

Following the issuing of system-generated reports, a lot of manual intervention is necessary to sort the data available for one's perusal.

When executing an enforcement exercise on a number of recent balances due to target new defaulters without a repayment plan in place, the relative report has to be manually checked to identify those taxpayers who already entered into an instalment plan agreement so that these are eliminated.

Another example where manual intervention is required is in the case of seafarers[4]. According to CfR, a manual time-consuming exercise[5] has to be undertaken so that such taxpayers are excluded from the recent balances enforcement exercise since, the respective individuals are not required to submit a tax return in Malta[6]. Thus, related amounts, which are automatically created by the system based on their actual income, have to be reversed.

Recommendations

Early intervention is required to upgrade the infrastructure platform which will help address the needs of all sections within CfR. Together with a complete document management system, new emerging technology and the necessary training have also to be taken into account to address the needs of CfR.

As far as possible, manual intervention is to be kept to a minimum, otherwise human errors, intentional or unintentional, can occur and certain taxpayers might remain untargeted. Automated systems also allow for reduced processing time, thus enhancing operational efficiency.

Management Comments

CfR acknowledges that the systems being used are legacy systems that need to be replaced. In this regard, following internal consultation and also through the advice of the International Monetary Fund, CfR launched its three-year strategy Delivering Transformation, Strategic Plan 2023 – 2025: A new strategy for Malta Tax and Customs Administration, on 9 May 2023, wherein it committed itself to modernise its organisational design structure and its legacy systems by investing in robotic process automation, that includes a case management system, the procurement of a new integrated tax information system and the procurement of an integrated artificial intelligence single platform. This transformational programme is to bring about a change in the use of digitisation in providing better service to the public, enhancing voluntary compliance and enforcement, and addressing tax avoidance and evasion through a compliance risk management approach.

When a taxpayer is identified as a seafarer, CfR is inserting a flag in the index of the person so that they are identifiable. The issue is that there are cases where the employer fails to inform CfR that such person is a seafarer and hence the flag mentioned is not inserted.

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[4] A seafarer is someone who is employed to serve aboard any type of marine vessel.

[5] The onus of identifying the tax status of seafarers lies with their employers; however, a good number of them are not highlighted by the employers, making it difficult for CfR to manually identify them.

[6] They are only obliged to pay social security contributions in Malta, but not income taxes.

Lack of Timely Enforcement Action

As stipulated in Article 47(2) of the Income Tax Management Act, action for the payment of tax, interest or any penalty may be taken by CfR during any time from the date on which the amount becomes due and payable, up to eight years from that date or, where an assessment in respect thereof has been made, from the date on which that assessment becomes final and conclusive. Following such initial enforcement, CfR then has a maximum of six years to take legal action before it becomes statute-barred; this, in line with Article 1078(a) of the Civil Code (Cap. 16).

The standard operating procedure provided by CfR showed that the process for the collection of overdue debts starts with a demand notice that is sent to defaulting taxpayers. When such notices are returned undelivered, taxpayers are notified by means of publications in the Government Gazette and local newspapers. Taxpayers are given two options; either to come forward and settle the amount due within 30 days of receipt of the demand notice or to enter into an instalment plan agreement thereby binding themselves to settle their dues according to a proposed payment schedule that usually does not exceed 60 months. If none of these are taken up, then CfR issues a judicial letter which is served through the Civil Law Court. Where such action still does not result in settlement of the amount due, further legal steps are taken by the filing of a garnishee order.

Except for the recent balance enforcement exercise[7] that CfR started carrying out as from 2020 on a yearly basis, no immediate enforcement action was taken by the Collection Section on the numerous remaining defaulters. CfR confirmed that a demand notice is issued just before the lapse of eight years from when the balance becomes due, to stop it from becoming statute-barred. Audit testing confirmed that during 2021, CfR issued demand notices for outstanding balances relating to year of assessment 2013[8].

Moreover, where necessary, the subsequent judicial letters were being sent to the respective defaulters only two or three years after the issue of the demand notices. According to CfR, such late action is solely due to the acute lack of human resources.

From detailed testing carried out on a total of 30 sampled taxpayers having outstanding balances as at end December 2021[9], lack of timely enforcement action taken by CfR was evident in 16 cases. This comprised eight individuals and eight companies, with an aggregate of €44,089,372 still outstanding. The amounts recorded as due from the companies in question were mainly based on assessments issued by CfR in the absence of tax returns submitted by the respective businesses. CfR officials confirmed that nothing was done from their end to cancel these assessments, most of which were amounts not recoverable. Details of the nature of the 16 observed cases are as follows:

a. Three demand notices issued eight years from when balances became due.
b. In five instances, further action was not taken following the serving of judicial letters.
c. Defaulters were not furnished with judicial letters in six cases tested.
d. A demand notice was not delivered.
e. An assessment was issued ten years following its due date.

[7] This exercise targets approximately 500 taxpayers with recent material outstanding balances.
[8] Being eight years since when such amounts became due.
[9] Selected from both the Year-by-Year report and the list of balances risking becoming statute-barred as at end of year 2021.

Recommendations

Timely action needs to be invariably taken in line with the established thirty-day policy from when the amounts actually fall due and not wait two years to start off with the legal proceedings. Otherwise, considering the lengthy process and the lack of human resources, risks of non-collection of older dues become very high.

CfR is also to hold the company directors liable to any pending taxes relating to those years when the company was still in operation, even though the respective entity has been liquidated. Furthermore, a provision for these liabilities is to be created for prudence's sake, whilst keeping the possibility of recovering the outstanding amounts.

Management Comments

CfR acknowledged that the policy of safeguarding against the time-barring of income tax dues needs to change. Thus, in order to reduce the accumulation of new arrears and to address the concerns about timely enforcement action, as from year 2023, a demand notice will be issued to all taxpayers who would not have settled their income tax for year of assessment 2022, both for individual and companies.

This exercise will be carried out each year for the previous year's year of assessment, thus changing from a policy of safeguarding against the time-barring of dues to enforcing the early payment of fresh arrears.

In principle CfR does not agree that a judicial letter should be issued immediately after the elapse of 30 days from notification of a demand notice. Allowing time for taxpayers to come forward for an agreement before continuing the enforcement process is necessary and prudent.

Also, the Income Tax Management Act allows for eight years for the issue of a demand notice that in turn interrupts the time-barring period for another eight years. Thus, CfR sees nothing wrong in using the provisions of the law in its favour. However, in recent years, an effort has been made to issue judicial letters after the elapse of two to three years from the notification of a demand notice. Indeed, this target has been achieved for the vast majority of the cases.

Unlike for the value added tax, when it comes to income tax, it is not possible to hold directors responsible for the dues of the companies` they represent, since for income tax the law allows for the corporate veil. A point to note is that as a tax administration, CfR have appointed a working group to review all legislation and to draw up a new consolidated legislative framework to be applied across all taxes.

Estimated Uncollectable Arrears based on Arbitrary Percentages

As mentioned under the Financial Information, from a gross arrears of €925,233,067 as reported in the ARR for the year ended 2021, a total of €759,276,604 was estimated as not collectable. The methodology used throughout the years to calculate the estimated uncollectable amounts was based on arbitrary percentages, according to the ageing of the receivables. It transpired that this has been in place for quite a number of years, presumably following an arrangement with the then Commissioner for Inland Revenue, whereby the older the debts, the higher the percentage deemed as uncollectable. However, the amount of provision taken for bad debts is not considered adequate.

CfR confirmed that no action was being taken on Pre '99 balances unless the same taxpayer had other recent pending balances and enters into an instalment plan agreement. It is only when such arrangement is in place that these old balances are included in the collection process. Therefore, these balances, which as per ARR for the year ended 2021 amounted to €152,989,314, were not taken into consideration for enforcement purposes. Considering the age of these debtors, the risk of non-collection is very high.

Moreover, a report featuring taxpayers whose amounts became statute-barred on a yearly basis could not be generated. According to CfR, such taxpayers could only be identified on a case-by-case basis since there were many variables that determined time-barring[10]. It was stated the figures reported as statute-barred in ARR were always the result of an extraction from ARS carried out by the Malta Information Technology Agency, through a structured query language. However, a breakdown of the reported figures was not provided to NAO.

Recommendations

CfR is to carry out a comprehensive exercise on the collectability of all its arrears and, as far as possible, try to identify the various reasons why such balances remained uncollected over the years as well as establishing a pragmatic way forward. Approval from the Ministry for Finance and Employment could then be sought for any appropriate action relating to uncollectable amounts. Moreover, an adequate provision for doubtful debts could also be established, rendering the reporting of arrears and amounts due more realistic.

The Collection Section will then be in a position to better identify and focus its efforts on all the collectable balances due.

Management Comments

CfR confirmed that no enforcement action was being taken for Pre '99 balances, however it was pointed out that if a taxpayer applies for a remission of interest and administrative penalties, in line with existing policy, any Pre '99 balances are to be included.

The methodology behind the estimated amount considered as not collectable that is reported in the ARR has indeed been in place for a number of years. With regard to the Pre '99 balances, that as at end 2021 amounted to €152,989,314, the existing methodology maintains that 90% of these are deemed uncollectable.

Whilst noting that a new methodology for the calculation of the estimated amount considered as not collectable needs to be carried out, it is debatable whether carrying out a comprehensive exercise on the collectability of all income tax arrears would be possible in the near future, as in practice this would mean having to check each and every year of assessment for each and every debtor.

CfR agrees that a more pragmatic and effective way forward would be for the Office, together with the Ministry for Finance and Employment and the NAO, to establish a write-off policy for those arrears that are uncollectable.

[10] For example, in general, the time-barring starts from the return submission date and not the return due date. This is also interrupted through the issue of a statement. Moreover, if at any point in time, a taxpayer somehow acknowledges the outstanding balance or makes even the smallest payment towards that balance due, then these amounts are no longer considered as statute-barred.

Control Issues

Instalment Plan Agreements

Background

Instalment plan agreements are entered into by taxpayers who bind themselves to settle their dues according to a proposed payment schedule. The process which is initiated by a request for such arrangement is made by the taxpayer. This is referred to a collection officer who reviews the case through a meeting with the debtor in which the terms of the plans are established, with the majority covering a period of not more than 24 months. Where the amount due is greater than €50,000, a 60-month plan is drawn up. Agreements for a longer period require the Commissioner's approval.

Related penalties and interest have to be settled as down payment. The actual tax element and the interest that would accrue during the duration of the instalment plan agreement are settled in monthly instalments over the agreed period.

The Collection Section is to make sure that agreements are being adhered to and consider proceeding with further action where payments are not honoured. Data relating to the existing agreements is held in ARS.

Instalment Plan Agreements not followed-up

In correspondence dated October 2022, CfR confirmed that with the workload and human resources available, it was not possible to follow up on the instalment plan agreements to identify defaulters. As already highlighted under the Key Issue, enforcement action was only being taken when the amount due was about to become statute-barred.

Detailed testing carried out on 10 taxpayers who had entered into an agreement showed that, in fact, not all of them were being honoured. Out of a total of 24 agreements, 11 entered into by 3 taxpayers, were not honouring their commitment. Moreover, in the case of 6 settlement arrangements out of these 11, the agreement period expired sometime during 2021 or 2022 but no action was taken by CfR in this regard.

Recommendation

CfR is to do its utmost to invest in additional capacity so that the necessary monitoring can be performed and timely action taken in respect of all instalment plan agreements in default.

Management Comments

It is envisaged that through the investment in new IT systems, such a process will be automated. In the interim, the process of obtaining a monthly ad hoc report through the IT Unit will be initiated so as to aid the chasing of agreement defaulters.

Defaulters not flagged

Testing carried out on 24 instalment plan agreements revealed that the ARS has no automated means or alerts embedded in it to flag taxpayers who missed monthly payments and thus, manual verification was required on each instalment plan agreement in order to confirm that the taxpayer was honouring the monthly payments. Where it was discovered that taxpayers were in default, the respective agreement was cancelled from ARS and a demand notice was issued with the pending balances as a reminder to the taxpayer. This proves to be a time-consuming exercise to cover outstanding balances comprehensively.

Recommendations

The systems need to be enhanced to be able to identify defaulting taxpayers through a monthly report which will help CfR to automatically identify the instances where immediate action is required. Furthermore, the automated system is expected to trigger a reminder to those defaulting taxpayers prompting them to settle pending dues as soon as possible, before further action is taken by CfR.

Management Comments

Defaulters will be flagged as part of the new automated system which was earlier referred to.

Inaccurate Instalment Plan List provided

The list of instalment plan arrangements provided by CfR included a number of cancelled agreements. However, the reason for such cancellations was not indicated. It transpired that when a defaulting taxpayer initially queries the calculation of future interest, as well as the amount of the monthly repayment should the taxpayer reach an agreement with CfR, a new agreement is created for this calculation to be as accurate as possible. All agreements are subsequently cancelled until a final one is reached with the taxpayer, if any. Yet, controls on who cancelled agreements and a full audit trail were lacking.

Another reason for cancellation could be when the agreement has to be withdrawn prior to the submission of a demand notice, or before a judicial letter is served.

Moreover, information extracted by CfR from ARS showed that in nine instances, the last repayment date for such agreements was not correct; by way of example, one case was dated 3017 rather than 2017. This further shows that ARS had no in-built validation function that identifies and flags the inputting of erroneous information. Such errors could result in certain taxpayers not being duly followed up.

Recommendations

ARS itself is expected to have an embedded field whereby the reason for the cancellation of an instalment plan agreement has to be given. This will enable full audit trail. Moreover, NAO recommends that an automated specimen template is created for the calculation of future possible agreements in order to avoid having to cancel the actual agreement created initially on the system with the respective taxpayer. This will provide CfR with a clearer picture of all agreements actually entered into with the foregoing and also eliminate the possibility of agreements being deleted without proper justification.

Management Comments

Interest on the unpaid tax element of the balance due by a taxpayer is independently generated by the system on a monthly basis, irrespective of whether an agreement exists on the system or not. Consequently, whether an agreement is active or cancelled only impacts the enforcement action that may be needed. Thus, any cancellation/s of previous agreements does not impact the balance due.

Furthermore, it is CfR's understanding that it is the actual agreement document, that needs to be signed and accompanied by the initial deposit, that makes the agreement valid and not the entry on the ARS system. The ARS system just facilitates the generation of the standard agreement document and future interest calculation of such agreements.

Commissioner's Approval for Long-term Agreements not traced

NAO identified 121 agreements exceeding a 60-month repayment plan, starting from 2004 to 2020. A total of 18 of such agreements was randomly selected to ensure that these were covered by the Commissioner's approval. Two of these were marked as cancelled and CfR could not identify whether these were actual agreements entered into or created for testing purposes. Only thirteen approvals were provided, while the remaining three, which were entered into between 2004 and 2006, were not made available.

Recommendation

CfR is to ensure that all agreements exceeding a 60-month plan are entered into following the Commissioner's written approval.

Management Comments

It is not clear whether CfR's approval was actually required for the agreements having 60-month repayment plan during the period 2004 to 2006. However, CfR is in full agreement with this recommendation.

Other Matters

Discrepancies between Reports provided and the Arrears of Revenue Return

Comparisons between the Year-by-Year report and the Pre '99 list that were provided for audit purposes, against the 2021 ARR as at 31 December 2021, showed that the ARR was in aggregate understated by €10.8 million in these two categories. Table 1 refers.

Table 1: Discrepancies between Reports

Category	Amounts as per respective Report €	Amounts as per Arrears of Revenue Return €	Differences €	%
Year-by-Year	778,820,053	772,243,753	6,576,300	1
Pre '99	157,183,509	152,989,314	4,194,195	3
Totals	**936,003,562**	**925,233,067**	**10,770,495**	

Recommendation

CfR is to identify the reasons behind the differences since, if material, inaccurate amounts will not give a true and fair view in the financial statements, which could also lead to a qualified audit opinion.

Management Comments

The results do not tally exactly with the ARR Report due to timing issues derived from when the two different reports were generated. There are two main reasons for this. One is due to when a payment is allocated. Some payments, typically received via a bank-to-bank payment transactions, are allocated backdated with the credit being recorded as per the payment received date. The other instance is when an assessment is revised after a successful objection or appeal.

Time Lapse between issuing of Demand Notices and upload in Virtual File System

Testing carried out as at end November 2022 showed that a number of demand notices, issued in November 2021, were not uploaded immediately in TPS by the IT Section; in certain cases, there was a time lapse of five to ten months, with uploads in the virtual file carried out in April or September 2022. This hindered CfR officials from proceeding with the submission of a judicial letter since, in order to show the taxpayer that a demand notice had already been issued, this is enclosed with every judicial letter and thus CfR was then proceeding with legal enforcement.

Recommendation

Documentation, including demand notices, is to be scanned and uploaded immediately in TPS to facilitate the work of the Collection Section and for audit trail purposes. Any delays will also hinder the necessary legal proceedings.

Management Comments

CfR is in full agreement with this recommendation and in collaboration with the IT Section, this issue has since been addressed.

Office of the Commissioner for Revenue - VAT Enforcement

Revenue

*An audit on **VAT Enforcement** within the **Office of the Commissioner for Revenue** showed that the gross arrears and amounts estimated as not collectable, included within the arrears of revenue return, were inflated and unrealistic. The Collection Section heavily relied on manual processes and interventions during enforcement activities. Moreover, an ageing analysis of net collectable arrears was not made available for auditing purposes, hindering the necessary testing.*

Background

Besides other revenue, the Office of the Commissioner for Revenue (CfR)[1], within the Ministry for Finance and Employment, is responsible for the administration and collection of Value Added Tax (VAT) through the VAT Act (Cap. 406).

Value Added Tax

In Malta, if a person performs an economic activity, whatever the result or scope of that activity, then that individual or business is considered as a taxable person. Under normal circumstances, one is required to register for VAT under Article 10. If the annual turnover does not exceed the established threshold, then one may opt to register under Article 11 as an exempt person. Persons based outside Malta may also be liable to register for VAT in Malta if they are themselves responsible for the payment of VAT in Malta, on a supply deemed to take place in Malta.

Financial Information

The Arrears of Revenue Return (ARR) as submitted by CfR for the year ended 2022 showed a gross closing balance of €4,689,806,688 due to Government. This comprised several categories as shown in Table 1.

[1] On 18 July 2023, the Commissioner for Revenue Act, (Cap. 517), was amended through Act No. XXVII of 2023. Through these amendments, the title of the principal Act was changed to the Commissioner for Tax and Customs Act, and all references to CfR were amended to read the Malta Tax and Customs Administration.

Table 1: Arrears of Revenue as at 31 December 2022

Category	Gross Closing Balance €	Amount Estimated as not Collectable €	Net Closing Balance €
VAT (post-1998)[2]	4,650,789,195	(4,267,705,180)	383,084,015
VAT (pre-1997)[3]	620,381	-	620,381
VAT (post-1995)[4]	14,271,465	(13,639,877)	631,588
Customs and Excise Tax[5]	6,435,765	(5,795,051)	640,714
Eco-contribution (Accommodation)	16,502,902	(14,673,263)	1,829,639
Eco-contribution (Environmental)	1,186,980	-	1,186,980
Totals	**4,689,806,688**	**(4,301,813,371)**	**387,993,317**

Out of this gross closing balance, €4,301,813,371 was estimated as not collectable; thus, ending the year with a net collectable balance of €387,993,317. From this latter balance, an amount of €135,743,558 was under contestation pending court action; however, no provision to this effect was accounted for. A negligible amount of €11 was written off during 2022.

According to the Financial Estimates, in 2022, €1,264,245,000 was forecasted to be collected from VAT while a net total of €1,231,381,880[6] was actually collected.

Audit Scope and Methodology

The scope of the audit was to determine the level of existing internal controls over the collection of revenue due to Government from VAT, payable by registered persons and businesses. This audit also aimed to ascertain that appropriate enforcement action was taken to ensure timely collection.

The National Audit Office (NAO) held an introductory meeting with the Commissioner for Revenue, the Director and other senior officials within CfR's Collection Section, in order to obtain an overview of its operations. Access to CfR's Information Technology (IT) systems[7] was obtained from the auditee, together with detailed lists of balances due as at end December 2022, as well as any repayment agreements.

Testing focused on VAT (post-1998) balances due as at end December 2022. In this regard, two separate lists were provided, namely the pre-2014 and the post-2013[8], comprising an aggregate outstanding balance of €4,670,168,349[9] and relating to 165,967 different VAT numbers. The balances were compared to the respective figures in ARR for year ended 2022.

[2] VAT was re-introduced with effect from 1 January 1999, known as VAT (post-1998).
[3] VAT (pre-1997) represents debts due to CfR, accruing from stock on which VAT was due, following the changeover to Customs and Excise Tax in 1997.
[4] VAT was introduced in Malta with effect from 1 January 1995.
[5] VAT was later replaced by a Customs and Excise Tax in July 1997 with the aim of making provision for the imposition of an excise tax on imports, products and services.
[6] After deducting refunds totalling €360,975,859.
[7] IT systems included VAT 99 and Account Enquiry.
[8] In 2014, Article 67 of the VAT Act (Cap. 406) which relates to the appropriation of payments was revised. Consequently, a change had to be made in the VAT 99 system to reflect this update and, from then onwards, arrears had to be reported separately from the system as pre-2014 and post-2013.
[9] This amount covers both VAT (post-1998) and VAT (post-1995) and a discrepancy of slightly more than €5 million as explained in the Disclaimer.

A total sample of 20 VAT outstanding balances and 15 existing repayment plans as at 31 December 2022, collectively amounting to €141,185,582, was selected for testing, as explained below.

A preliminary sample of five companies, whose aggregate balance as at end of December 2022 amounted to €75,783,028, was selected from the post-2013 list. The first debtor was chosen because of the significant outstanding accumulated balance as at December 2022. Another three taxpayers were chosen for having high amounts as shown in the audit assessments raised by the Tax Compliance Unit, as well as high estimated VAT[10] due, from the pre-2014 list. The final debtor was chosen randomly from the remaining taxpayers, independent of the amounts owed to CfR. Research was then conducted on the companies falling in the audit sample, using CfR's systems. Queries were also put forward to CfR, and the relevant documentation was obtained.

Subsequently, an additional 15 debtors were selected from the VAT records from 1998, specifically those post-2013. These were selected based on their material balances due as at December 2022 and the nature of such balances. The aggregate amount owed by the sampled debtors as at year-end 2022 was of €51,098,204; this included VAT and interest accrued. Questions on these taxpayers were sent to CfR and replies were then corroborated against the data available in the IT systems.

The list of repayment plans obtained by NAO included 500 agreements entered into between CfR and respective VAT account holders, and which were still effective by end of December 2022. Seven contract agreements were selected, mainly due to the materiality of the balance due, whilst the remaining eight agreements were chosen since their start and end date were relevant for the balances being audited.

Disclaimer

A discrepancy of over €5 million was found between the two lists provided by CfR, when compared to the figures reported in the ARR. This related to both the pre-2014 and the post-2013. In the circumstances, although the lists showed inaccurate figures, NAO still had to base its testing on them.

Limitations on Scope of Audit

The abovementioned variances also limited the scope of the audit since the necessary reconciliation could not be performed to ensure completeness of figures reported therein.

A report listing all enforcement action taken by the Collection Section was not available. The only list which was obtained from the VAT 99 system, did not capture any enforcement action taken for the collection of VAT. This also hindered the scope of the audit that was meant to ensure that adequate and timely enforcement action is taken where necessary.

Moreover, an ageing analysis of net collectable arrears was not made available for auditing purposes. This limitation, which is explained further on in this audit report, again hindered NAO's analysis and testing of the ageing of collectable arrears.

[10] Automatically calculated by the VAT 99 system in case when the VAT return is not submitted.

Key Issues

Unrealistic Gross Arrears and Amounts Estimated as not collectable

As mentioned under the Background, the ARR for 2022 showed that a total of €4,281,345,057 was estimated as not collectable, covering both VAT (post-1995) and VAT (post-1998) categories.

When a taxpayer does not submit a VAT return, CfR, through an automatic process inbuilt within the system, generates an amount of estimated tax due. This would be based on the amount that had been initially claimed upon registering for a VAT number[11]. This is done for every period that the VAT return is not submitted to CfR and topped up with interest accordingly. Initially, the estimated VAT was capped to €580,000; however, CfR confirmed that, with effect from financial year 2021, the capping for estimated tax had been reduced to €50,000, in order to avoid the large unrealistic amounts of taxes that were being generated, and which were artificially inflating the amount deemed uncollectable in the ARR.

Testing showed that several taxpayers had high accumulated balances of estimated outstanding taxes. In most cases, these taxpayers never submitted a return following such estimated amounts, nor made any payments to settle these dues.

Details of some of the observed cases follow:

a. The total VAT balance due by a company as at end December 2022 amounted to €32,896,950. This comprised estimations and related interest. The company had not submitted any VAT returns from 2014 to 2019. This led to its VAT number being placed in a forced blocked de-registration status. The company was issued with a demand note[12] in 2020, but it was unsuccessful since the directors of the company were foreigners and could not be traced. No further action was taken regarding this matter up till the date of the audit testing.

b. As at end December 2022, another company had a total VAT balance due of €30,881,367, comprising estimated VAT and related interest, since the company failed to submit the returns from January 2008 till April 2017. However, CfR subsequently discovered that this company stopped carrying out an economic activity in May 2005, and it submitted a nil return up till November 2007. The company was subsequently struck-off by the Malta Business Registry in 2020 but the amount in question was still showing as due.

c. The balance of €25,907,440 owed by another sampled company was almost entirely made up of estimated taxes and related interest, in view of the non-submission of 43 VAT returns covering tax periods from 2008 till 2019. Demand notes, which were issued against the director residing in another European state, were returned undelivered. The company was then struck-off by the Malta Business Registry in 2020.

[11] The amount is likely to fluctuate from the actual balances during the year.
[12] Demand note is the initial legal instrument permitting enforcement.

Recommendations

CfR is to carry out a comprehensive exercise on the collectability of all its revenue falling in arrears and, as far as possible, try to identify the various reasons why such balances remained uncollected. Subsequently, a pragmatic way forward is to be discussed with the Ministry for Finance and Employment for any action deemed necessary. The Collection Section will then be able to better identify and focus its efforts on all the collectable balances due.

Management Comments

Management acknowledged that the VAT gross arrears of revenue figure is unrealistic and grossly inflated. The main reason behind this is because a write-off policy has never been adopted since the establishment of an Indirect Taxation System in Malta (1995).

To this effect, the Malta Tax and Customs Administration (MTCA) has already carried out an exercise and prepared a proposal that is being presented to the Ministry for Finance and Employment, recommending the removal of a large amount of estimated taxes and related interest. This process will start by carrying out the cleaning exercise of the debtors, which is also being recommended by the International Monetary Fund.

Enforcement Limitations

The Collection Section does not have an automated risk analysis system at hand, and thus requires a considerable amount of manual intervention in order to execute enforcement on VAT defaulters. The IT Section periodically provided the Collection Section with the debtors' ledger from VAT 99 system. Afterwards, a manual process was used to select those debtors who were targeted for action following an analysis of their debt status. The manually compiled list included information about enforcement actions taken with regard to income tax; however, it did not include any such action for VAT, since the VAT 99 system does not capture enforcement actions in the debtors' ledger.

CfR confirmed that, due to the lack of human resources and given the large number of taxpayers involved, the Collection Section was not able to take proper action against all VAT defaulters simultaneously. An added burden was the fact that demand notes had to be processed manually one by one, rather than automatically issued through the system.

Enforcement actions related to VAT were kept in individual taxpayer collection case files, which were physical paper files until 2019. From then onwards, newly generated taxpayer files were created digitally, while the older ones were being scanned to retain a digitalised copy. This implies that for any necessary action on a specific older case that had not yet been scanned, one had to retrieve the physical file for review.

All these instances of manual intervention in the process were causing delays in enforcement actions. The following cases relate:

a. A private company had a VAT balance due of €4,667,838. Only two sets of demand notes were issued; one in 2017, covering €1,917,980, relating to tax periods up to 2016, and the other in 2021 covering another €2,383,324, relating to tax periods up to February 2021. No further action by CfR was traced as at end August 2023.

b. Another company had a balance amounting to €190,236 in unpaid VAT which pertained to 2021. No action had been taken to recover these dues as at end August 2023. According to CfR, new demand notes were in the process of being issued.

Recommendations

A collection enforcement process is expected to be in place. This should be based on a proper risk analysis that enables enforcement on all taxpayers over an established timeframe. This strategy would ensure swift action against defaulters and increase the likelihood of successfully recovering outstanding dues. Besides reducing the processing time, this automation would also reduce the possibility of human errors caused by manual intervention, thus enhancing the efficiency of the infrastructure platform.

Timely action has to be taken from when the amounts actually fall due, rather than waiting for years to start off with the legal proceedings. Delaying action can lead to a higher risk of non-collection of older outstanding balances due to resource constraints.

Management Comments

A manually operated cyclical system, where all VAT defaulters are covered with collection enforcement action, exists. However, in view of the lack of automation with regard to the issuing of VAT demand notes, it is not possible to tackle the whole list of debtors in a reasonable timeframe. To this effect, the Collection Section also concurrently works to address the fresh large defaulters.

Management acknowledged that the IT system for VAT is a legacy system that is almost 30 years old and needs to be replaced. Indeed, this course of action is included in MTCA's three-year strategy Delivering Transformation, Strategic Plan 2023 – 2025, wherein there is a commitment to modernise both the organisational design structure and such legacy systems by investing in robotic process automation. This includes a case management system, the procurement of a new Integrated Tax Administration System and the procurement of an integrated Artificial Intelligence Single Platform.

MTCA has already concluded the procurement of the Artificial Intelligence Single Platform through the purchase of the Statistical Analysis System that will be implemented in the course of the next three years[13]. Furthermore, the tender for the procurement of an Integrated Tax Administration System is in its very final preparations and will be issued in due course.

Such a way forward was also recommended by experts from the International Monetary Fund who have been involved and are supporting MTCA all along the process.

Ageing of Collectable Arrears not available

As reported in NAO's Annual Audit Report, an ageing analysis of net collectable arrears was never made available by CfR for auditing purposes. According to CfR officials, the calculation of these arrears is not aged based; the formula

[13] Management comments submitted on 23 October 2023.

subtracts the estimated tax, amounts as per audit assessments, penalties, and interest still due as at the year-end, irrespective of when the arrears were generated. The absence of this analysis also hinders the Collection Section from identifying and pursuing long outstanding amounts.

Recommendation

An aged debtors' report is a crucial tool to identify the longest outstanding debts, in order to focus on particular problematic debtors. This control is instrumental in helping the Collection Section monitor the status of its accounts receivable.

Management Comments

Management acknowledged that the system of calculating VAT arrears deemed not collectable has been in place for a long time, since 2009, and needs to be updated. To this effect, a working group within MTCA has been established in 2023 and is working to redesign this formula. The new methodology will incorporate an aged based analysis of VAT arrears.

Control Issues

Defaulters on Repayment Plan not flagged

CfR confirmed that, in those instances whereby a monthly VAT repayment plan was not being honoured, the system in place did not issue an automated notification to trigger a warning. Thus, all work in this regard was being carried out manually. To this effect, an ad hoc spreadsheet was kept by CfR as the only record of the repayment commitments effected.

According to CfR, when a taxpayer does not honour the monthly payments, in most cases, the taxpayer is encouraged to comply via a phone call before considering the repayment agreement as null and void. However, such follow-up was not logged anywhere, not even on the spreadsheet in use.

Recommendations

Debtors' collection is an important task for Government and cannot depend on the use of spreadsheets which are easily deleted or changed. Thus, an automated system, which keeps record of all enforcement action carried out, will ease pressure on the Collection Section.

The system needs to be able to flag defaulting taxpayers through a monthly report which will help CfR to automatically identify the instances where immediate action is required. The automated system is also expected to trigger a reminder to those defaulting taxpayers, prompting them to settle pending dues as soon as possible before further action is taken by CfR.

Management Comments

The VAT 99 system, which is the core VAT system, is an accounting system. It records all the debit and credit transactions but does not have any other features that would help in the collection of arrears.

At this stage, due to the lack of other deliverables, the only solution is to keep spreadsheets accordingly. It is however envisaged that through the investment of a new Integrated Tax Administration System, such a process will be part of the integrated and automated system.

In the interim, further emphasis will be placed on staff to ensure that repayment plans are followed. Moreover, MTCA will be working to develop and introduce an automated system that flags such cases that have an agreement which is not being honoured.

Repayment Plan Commitments not followed up

From a review of the 15 sampled repayment plans chosen for testing, it was noted that all the taxpayers in question, at some point, fell behind with their monthly payments. Seven out of these repayment plans should have been completely settled by end of July 2023, when the audit was in progress, but still had an aggregate outstanding balance of more than €552,000.

On the other hand, in the remaining eight instances, NAO computed the amount that should have been outstanding as at end of July 2023 and, in all instances, this amount was lower than that actually traced as due on CfR's system. This also implies that the repayment plans were not being honoured, with another amount of almost €1.3 million that should have been collected but remained outstanding.

Recommendation

CfR is encouraged to upgrade the infrastructure platform which will help in addressing the needs of the Collection Section and invest in additional capacity, so that the necessary monitoring can be performed and timely action taken in respect of all repayment commitments in default.

Management Comments

This recommendation is agreed to and should be addressed with the procurement of the off-the-shelf Integrated Tax Administration System for taxation.

Report for Recent Payments not available

According to CfR, a report that provides the taxpayers' last date of payment cannot be extracted from the VAT 99 system, and this was only possible by going through each particular VAT number on the system.

In such absence, NAO could not easily identify all those taxpayers who did not effect recent payments.

Recommendation

As part of the upgrade in the infrastructure platform, CfR is to ensure that such a report would be available and used as part of its collection procedures.

Management Comments

For repayment commitments, payments made can be extracted, case-by-case, from the VAT 99 system. However, all payments are recorded in the same way and those made against a repayment programme are indistinguishable from all the other payments made, for example to settle a return. Moreover, in view of the provisions of Article 67 of the VAT Act (Appropriation Rules), payments are allocated against the oldest dues, with interest settled first, followed by penalties and lastly VAT. Thus, establishing what recent payments are for, is indeed laborious.

This recommendation is agreed to and should be addressed with the procurement of an Integrated Tax Administration System.

Lack of Staff within the Collection Section

Besides the Director, staff working on the collection of VAT in 2022 was equivalent to four persons. This excludes those employees assigned back office work, comprising the related accounting aspect and the recording of all payments received in the VAT accounts of taxpayers.

Consequently, the Collection Section had to focus its attention on the largest pending balances, without giving its due importance to others where balances were not so material but, if chased, would possibly pay and settle their obligations to Government.

Recommendation

CfR is to be provided with sufficient human resources to better manage the Collection Section. An increased workforce would help CfR in targeting a larger population of taxpayers, aiming at increasing the collection of outstanding amounts in a timely manner.

Management Comments

The need for additional staff and its recruitment is a challenge and is critical across all functions within MTCA. In this regard, the business model that is being implemented through the three-year transformational strategy, is to build on the modernisation of the IT systems which should lead to balance the benefit of automation with that of the critical mass required to manage the business functions.

2022-2023 (to date) Reports issued by NAO

NAO Annual Report and Financial Statements

July 2023	National Audit Office Annual Report and Financial Statements 2022

NAO Audit Reports

December 2022	IT Audit: Online Malta Census of Population and Housing 2021
December 2022	Report by the Auditor General on the Public Accounts 2021
February 2023	IT Audit: Active Ageing and Community Care – Ministry for Active Ageing
April 2023	Performance Audit: An assessment of capital projects at the University of Malta
April 2023	Performance Audit: Ensuring fair Non-Contributory Social Benefits and safeguarding against related fraud
May 2023	An audit of matters relating to the concession awarded to Vitals Global Healthcare by Government Part 3 | Steward Health Care assumes control of the concession
May 2023	An audit of matters relating to the concession awarded to Vitals Global Healthcare by Government Part 3 | Steward Health Care assumes control of the concession [Abridged]
June 2023	Follow-up Audits Report by the National Audit Office Volume I 2023
June 2023	IT Audit: Malta Food Agency
July 2023	A review of the implementation of Sustainable Development Goal 2: Addressing pre-obesity and obesity
October 2023	Review by the Auditor General on Fixed Assets and Stocks
November 2023	Follow-up Audits Report by the National Audit Office Volume II 2023
November 2023	Report by the Auditor General on the Workings of Local Government for the year 2022
November 2023	A review of the employment agreement of the Consultant to the Chief Executive Officer, Institute of Tourism Studies
December 2023	IT Audit: A Follow-up on the 2020 IT Audit – ICT Across Local Councils