



Report of the Auditor General

on the Work of the

Office of the Auditor General for the years
ended

March 31, 2011 to March 31, 2017

August 31, 2018



OUR MISSION

**The mission of the Office of the Auditor General,
derived from its legislative mandate, is
to add credibility to the Government's financial reporting and
to promote improvement in the financial administration
of all Government Ministries, Departments and all other entities
for which the Government is accountable to Parliament.**



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The Honorable Dennis P. Lister, JP, MP
The Speaker of the House of Assembly
Sessions House
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Honourable Speaker:

In accordance with Section 101(3) of the Bermuda Constitution Order 1968 and Section 10 of the Audit Act 1990, I have the honour to submit herewith my Report on the Work of the Office of the Auditor General for the years ended March 31, 2011 to March 31, 2017.

Respectfully submitted

Heather Thomas, CPA, CFE, CGMA
Auditor General

Hamilton, Bermuda
August 31, 2018

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1. AUDITOR GENERAL'S COMMENTS

1.1 Introduction

I commenced my position as the third Auditor General of Bermuda on June 6, 2016. This appointment is a great honour and I intend to apply my professional capabilities and personal commitment to carrying out the role to the very best of my abilities.

I had two priorities when I started my term: to bring the work of the Office up to date and to ensure the best infrastructure for our work was in place. I believe that we are making good progress on both.

The Office should produce two primary reports to the House of Assembly each year:

- a report on the results of the Auditor General's audit of the financial statements of the Government's Consolidated Fund; and
- a report on the work of the Office for the preceding year ended March 31 (this would include the results of our audits of Government organizations, other than the Consolidated Fund, as well as an overview of the administration of the Office of the Auditor General).

When I started my term as Auditor General, the Office had not completed an Annual Report since the report completed in December 2010 (*Report of the Auditor General on the Work of the Office of the Auditor General and on the Accounts of the Government of Bermuda for the Financial Years April 1, 2008, to March 31, 2009, and April 1, 2009, to March 31, 2010*). This was due to the significant challenges that my predecessor faced in her tenure and special investigations that were reported on.

In addition, the last report issued with respect to our audits of the Consolidated Fund's financial statements was completed in December 2014 (*Report of the Auditor General on the Consolidated Fund of the Government of Bermuda for the Financial Years March 31, 2010, March 31, 2011 and March 31, 2012*).

My report on the audits of the Government's Consolidated Fund's financial statements for the four years ended March 31, 2016, was completed on February 28, 2018, and was tabled in the House of Assembly August 10 2018. (*Report of the Auditor General on the Audits of the Financial Statements of the Consolidated Fund of the Government of Bermuda for the years ended March 31, 2013, March 31, 2014, March 31, 2015, and March 31, 2016*). Now, we are working on a report covering the audit of the Consolidated Fund financial statements for the year ended March 31, 2017. I intend for that report to be ready for submission to the Speaker of the House of Assembly, the Governor and the President of the Senate (as required by the Audit Act 1990) within the next few months.

For the Annual Report(s), it is simply not feasible nor a good use of public money to endeavor to produce seven separate reports covering the seven years from April 1, 2010 to March 31, 2017. In addition, I have been the Auditor General since June 2016 and this has been my earliest opportunity to address this matter. Consequently, this report covers the work of the Office for the seven years between April 1, 2010, and March 31, 2017.

The report does include details of work completed (by Government organizations) during the seven-year period along with other significant achievements. It also includes a summary of expenses compared to budgets for the seven years, along with analysis of human resources available to the Office over that time. But, of necessity, this report is focused primarily on the year ended March 31, 2017.

I commit to being fully accountable to stakeholders on a timely basis in the future.

With respect to ensuring the best infrastructure for our work is in place, there are a few critical success factors that, collectively, will allow us to complete our work efficiently and effectively. I believe that we are well positioned with the success factors, although there are matters that need increased attention such as regularizing performance audits, modernizing the Audit Act 1990 and attracting more Bermudian audit staff.

1.2 My Strategic Focus

Since assuming my responsibilities as Auditor General, I have given much thought as to where I wish to focus my efforts over the coming years. I concluded that I can best serve the people of Bermuda and the officials they elect to represent them in Parliament by focusing on three broad areas:

- promoting accurate, timely and comprehensive financial information to support decision making;
- examining the extent to which Government programs are designed and carried out with due regard to value-for-money (i.e., economy, efficiency and effectiveness) and in accordance with legislation and regulations governing Government activities, making recommendations for improvement where necessary, and
- reviewing the extent to which Government ministries and departments are measuring and reporting on the effectiveness of their programs (i.e., is it clear what the programs are supposed to achieve and what they are actually achieving?).

These areas of focus are essentially the same as those adopted by my predecessor; I believe they continue to make sense. And, they are consistent with the approach taken by legislative audit offices across Canada and the Commonwealth.

These three areas of focus are discussed further in section 2 of this report.

1.3 Resourcing the Office

I believe that over the period covered by this report (the seven years ended March 31, 2017), the Office has been resourced adequately.

The challenge for my predecessor was, and now for me is, to fill the posts for which we have been funded. For example, at the end of March 31, 2017, we had four vacancies. In the context of the size of the Government, that may not sound too significant. However, in the context of our ever-increasing work load together with the fact that we have only fourteen funded posts for professional audit staff and students, it is very significant.

If we can keep vacant posts to a minimum, my belief is that the resources allocated to the Office are reasonable for the present. However, we need to be organized differently. We need more senior staff auditor posts and at least two posts dedicated exclusively to performance auditing.

1.4 Audit Work Done During the Reporting Period

1.4.1 Financial statement audits

As discussed in more detail in Section 3, during the seven years ended March 31, 2017, my Office completed 298 audits and provided audit opinions on the annual financial statements of Government-controlled organizations, funds, parish councils and aided schools' capitation grant accounts, of which 133 were qualified opinions or disclaimers of opinion (see Appendix 1 for a full list of organizations audited by the Auditor General as at March 31, 2017). In addition, at March 31, 2017, there were 45 more audits at various stages of completion and the resultant audited financial statements were issued between April 1 and December 31, 2017.

The significance of qualified opinions and disclaimers of opinion is explained in section 3.1 of this report. But, in a general sense, they mean that all is not well and that, typically, sufficient, appropriate documentary support for amounts recorded in the financial statements is not available.

This is not surprising, given the time that has passed between transactions taking place and the financial statements being prepared for audit. In the short term, even with significant effort to bring financial statements up-to-date, there are likely to be many more modified opinions-qualified and disclaimed.

In my view, getting rid of the backlog is most important. I do not intend to devote a significant amount of my scarce resources searching for information that is five or six years old or waiting months for organizations to try to find documentation that should be readily available. Instead, I will issue a qualified opinion or a disclaimer of opinion, if necessary.

My priority has been to clear as much of the backlog of financial statements as possible. To do that is much dependent on the organizations being audited to produce good quality information on a timely basis. Over the seven years covered by this report, there have been pockets of improvement, but significant arrears exist across the Office's audit universe.

There were 34 organizations falling under my mandate that were at least one year behind with their financial statements as at March 31, 2017. In total, the organizations had arrears of 139 sets of financial statements. This is unacceptable, and I urge Government to take all necessary steps to correct this situation.

Recommendation No. 1:

The Ministers responsible for organizations in arrears with their financial statements and the respective Boards of Governance should take all possible steps to bring financial statement preparation up to date as soon as possible.

The Auditor General's Reports on the Results of the Audit of the Consolidated Fund financial statements for the years ended March 31, 2010 to 2016

During the period covered by this report, the Auditor General issued one separate report to the House of Assembly regarding the results of the audits of the Consolidated Fund financial statements (*Report of the Auditor General on the Consolidated Fund of the Government of Bermuda for the financial years ended March 31, 2010, March 31, 2011 and March 31, 2012; December 2014*).

The report included instances of serious non-compliance with Financial Instructions and related rules. This led to the then-Premier establishing a Commission of Inquiry, under section 1A of the Commissions of Inquiry Act 1935, to investigate the matters arising under section 3 (Audit Observations and Recommendations) of the Auditor General's Report. For details, refer to Appendix 4, section 2.8. My staff and I spent a significant amount of time from April 2016 to December 2016 assisting the work of the Commission.

After the period covered by this report (the seven years ended March 31, 2017), I issued another report to the House of Assembly regarding the audits of the Consolidated Fund financial statements for the years ended March 31, 2013 to 2016 (*Report of the Auditor General on the Results of the Audits of the financial statements of the Consolidated Fund of the Government of Bermuda for the years ended March 31, 2013, March 31, 2014, March 31, 2015 and March 31, 2016; February 2018*).

The Auditor General's reports referred to above may be found at:

<http://www.oagbermuda.bm/organisation-reports.php>

The report of the Commission of Inquiry may be accessed at:

<https://www.gov.bm/commission-inquiry-report-commission>

In Section 2 of my August 10, 2018 report on the Consolidated Fund audits, I highlighted seven matters of special importance which are relevant to all four years of audits:

- Summary financial statements for whole of Government;
- Borrowing and the plan to reduce the deficit and public debt;
- Pension and other employee future benefits;
- Taxpayer indebtedness to Government;
- Spending within Parliamentary limits;
- Complying with Financial Instructions and related rules, and
- Other relevant reports on Government administration.

For the sake of completeness, I have included as Appendix 4 to this report my commentary on these important matters along with the seven recommendations and the Ministry of Finance's responses thereto.

1.4.2 Special Reports

During the period from April 1, 2010, to March 31, 2017, the Auditor General issued four Special Reports that provided the results of various audits and investigations carried out by the Office:

- 2010: Motor Vehicle Safety and Emissions Testing Programme
- 2011: Misuse of Public Funds
- 2014: Port Royal Golf Course Improvements Capital Development Project
- 2015: Royal Naval Dockyard Cruise Ship Pier – Heritage Wharf

These reports are discussed in more detail in Section 4 of this report.

1.5 Working with the Public Accounts Committee

The Parliamentary Standing Committee on the Public Accounts (Public Accounts Committee or PAC) is a committee of seven members of the House of Assembly and is chaired by a member of the Opposition. According to the Standing Orders of the House of Assembly, the Committee is to examine, consider and report on:

- the accounts showing the appropriation of the sums granted by the Legislature to meet the public expenditure of Bermuda;
- such accounts as may be referred to the Committee by the House; and
- the report of the Auditor General for any such accounts.

After the audited financial statements of the Consolidated Fund and the Auditor General's Report are tabled, the PAC reviews them and issues a report to the House of Assembly. Those reports ask the Minister of Finance to respond to recommendations contained in the Committee's reports. The Speaker of the House had ruled the House cannot take up matters in my public reports until the Public Accounts Committee has issued its report thereon. The Public Accounts Committee has the duty of examining considering and reporting on the public report of the Auditor General. Unfortunately, this means that, unless the Committee's reports to the House are timely, discussion in the House on matters in my reports can be delayed until they are no longer relevant. It also means that any timely discussion of Auditor General Reports is forced into the media.

During the period covered by this report, the PAC issued four reports as follows:

- July 2011: Report of the Parliamentary Standing Committee on the Public Accounts on the Special Report of the Auditor General on the Motor Vehicle Safety and Emissions Testing Programme
- July 2012: Report of the Parliamentary Standing Committee on the Public Accounts for the Financial Years Ended 31st March 2009 and 31st March 2010, and on the Special Report of the Auditor General on the Misuse of Public Funds
- June 2014: Report of the Parliamentary Standing Committee on the Public Accounts on the Special Report of the Auditor General on the Misuse of Public Funds
- July 2015: Report of the Parliamentary Standing Committee on the Public Accounts on the Annual Report of the Auditor General on the Work of the Office of the Auditor General and on the Accounts of the Government of Bermuda for the Financial Years April 1, 2008 to March 31, 2009 and April 1, 2009 to March 31, 2010

Also issued in July 2015 was a response from the Minister of Finance:

- Minister of Finance Response on the Report of the Parliamentary Standing Committee on the Public Accounts: on the Annual Report of the Auditor General on the Work of the Office of the Auditor General and on the Accounts of the Government of Bermuda for the Financial Years April 1, 2008 to March 31, 2009 and April 1, 2009 to March 31, 2010

These reports are included in this report in their entirety as Appendices 5 to 9.

The PAC has not yet been able to examine my predecessor's report of the Consolidated Fund financial statements for the years ending March 2010 to 2012 (*Report of the Auditor General on the Consolidated Fund of the Government of Bermuda for the financial years ended March 31, 2010, March 31, 2011 and March 31, 2012; December 2014*).

An effective PAC is an important factor in the work of an Auditor General. If the Committee and the Auditor General work together, ensuring timely, public discussion of the Auditor General's reports and effective follow-up of the Auditor General's recommendations, the positive impact of the Auditor General's work is enhanced significantly.

In the introduction to my comments, I committed to being fully accountable to stakeholders on a timely basis in the future. To increase the effectiveness of parliamentary oversight, I will be encouraging and supporting the PAC to meet on a regular basis.

1.6 Audit Committee

The Government's Audit Committee was established under Section 5 of the Audit Act 1990. Their role includes reviewing and discussing with me drafts of my public reports, and communicating to Cabinet any matters the Committee believes should be brought to Cabinet's attention. This Committee is appointed by the Governor on the advice of the Minister of Finance who is an ex-officio member. In my opinion, this Committee has not been useful in the recent past and the process of meeting with the Audit Committee actually delays the release of the report to the House of Assembly, the public and the Public Accounts Committee. Moreover, the Committee, which consists of external businessmen and women can, under the Act ask the Auditor General to make any changes to her draft report. But the Auditor General need not, carry out any recommendations made by the Audit Committee.

1.7 Acknowledgement

I want to express my sincere appreciation for the work and professionalism of my staff, who have supported with enthusiasm my quest to bring the work of the Office up to date. I am confident that, working together, we can successfully meet the challenges of working in a demanding and increasingly complex environment to deliver a program of audits that is vital to the well-being of our parliamentary system.

Heather Thomas, CPA, CFE, CGMA

Auditor General

Hamilton, Bermuda

March 30, 2018

2. ABOUT THE OFFICE OF THE AUDITOR GENERAL

2.1 Legislative Mandate

The Auditor General serves the people of Bermuda and their elected representatives by providing independent, objective audit opinions and recommendations on the accountability and overall management performance of the Government. This work includes the audit of the financial statements of Government and its organizations, as well as examinations related to Government accountability and performance. The recommendations that result from our work are intended to help Government strengthen its management and accountability practices.

The Auditor General's legal mandate is provided by the Bermuda Constitution Order 1968 and the Audit Act 1990 (See Appendix 2). The Auditor General is empowered to audit all Government departments and Offices, plus the Senate, the House of Assembly, the Public Service Commission, and the Courts. The revenues and expenditures of these entities flow through the Consolidated Fund. The Auditor General also audits the Government's pension and other public funds, and all Government-controlled entities such as Bermuda College, Bermuda Land Development Company Limited and Bermuda Tourism Authority. As at March 31, 2017 there were 58 such entities (Appendix 1).

The Audit Act 1990 (the Act) defines control as being where the government has the power: (a) by virtue of rights conferred by the constitution of that entity or by some other document regulating that or some other entity; or (b) by means of possession of voting power or the holding of shares in or in relation to that first-mentioned entity; or (c) by some other means.

The Auditor General is empowered to carry out all relevant types of audit activity, including performance audits (although the wording in the Act is not as clear as it could be). She is able to report on all aspects of financial management "namely of the economy, efficiency and effectiveness with which the audited entity has used its resources in carrying out its responsibilities".

2.2 The Office of the Auditor General's Mission

The mission of the Office, which is derived from the legislated mandate, is:

to add credibility to the Government's financial reporting and to promote improvement in the financial administration of all Government ministries, departments and all other entities for which the Government is accountable to Parliament.

Financial statement audits address the first part of this mission - to add credibility to the Government's financial reporting. That credibility is provided by the Auditor General's report attached to each set of financial statements tabled in the House of Assembly.

The second part of the mission – promoting improvements in financial administration – is addressed primarily by the financial statement audits which generate recommendations for improved financial reporting and control. Performance audits may also promote improvements in financial administration and performance.

2.3 The Importance of Oversight by the House of Assembly

The oversight role of Members of the House of Assembly is critical. They carry out an important role in our governance by holding Government to account for the economical, efficient and effective use and management of public money. To support them in holding Government to account, Members need access to relevant and accurate information and independent assurance that the information is reliable.

The Audit Act 1990 provides Parliament with strong support for holding Government to account for the annual delivery of over \$1 billion in programs and services to and for the people of Bermuda and how well it manages billions of dollars in revenues, assets and liabilities. Unlike any other organization in the country, the Auditor General can provide independent and objective reports on the accountability and overall administrative performance of Government. The Auditor General's role is key to Government transparency and accountability and vital to the process of democratic Government.

Public appetite for an accountable and transparent Government continues to increase around the world. In Bermuda, as elsewhere, elected officials and the public want to be informed about the short- and long-term financial health of the country. They are also concerned about whether public business is being conducted fairly and ethically and whether the operations of Government are being carried out efficiently and effectively.

We believe there are some key questions about Government performance in which the public and elected officials have an interest:

- Is Government achieving its financial objectives and managing its financial affairs according to sound financial and management controls?
- To what extent are Government programs achieving their planned results and taxpayers receiving good value for their money?

- Is Government carrying out its business in accordance with appropriate standards of conduct and in compliance with legislation and regulations governing its activities?

A strong system of accountability with meaningful public performance reporting by Government in answer to all these questions is critical if Government is to be held to account as our system requires.

2.4 Our Strategic Focus

As explained in the Auditor General's Comments, and to respond to the key questions of interest set out above, we intend to focus on three main areas:

- promoting accurate, timely and comprehensive financial information;
- examining how well Government programs are managed, and
- reviewing Government measurement and reporting of program performance.

These three areas are explained below.

Promoting accurate, timely and comprehensive financial information

Having an accurate and comprehensive picture of Government finances is essential for those making key decisions about Government activity and for the public in order that it might better understand the financial impact of Government activity. It is also something that is required under public sector accounting standards.

The Auditor General's work of auditing the financial statements of the Government's Consolidated Fund and other Government organizations, and the recommendations to Government that arise from those audits, represent the Auditor General's role in promoting accurate and comprehensive financial information. This important work has been and will continue to be the primary focus of the Office. In addition to the specific financial statement audits, which help ensure that Government financial reporting is done in accordance with accounting standards, we will also be encouraging Government financial reporting to be complete, meaningful and timely. As discussed elsewhere in this report and in the Auditor General's reports of the results of the audits of the Consolidated Fund financial statements, the Government is not yet producing annual summary financial statements that cover the whole of Government. Although there is legislation that allows Government to produce such statements and for the Auditor General to audit them (the Public Treasury (Administration and Payments) Amendment Act 2014), the legislation has not yet been activated.

In section 1.4.1 of this report, the Auditor General raises concerns about the timeliness and the reliability of many of the financial statements being produced by Government organizations, funds and parish councils. We will continue to encourage the organizations concerned and their Boards of Governance and the Ministers responsible to improve both the timeliness and the quality of the financial accounts and supporting documents submitted to audit.

Examining how well Government programs are managed

Examinations of how well Government programs are being managed are known as performance audits. They can be investigations into areas where poor management is suspected or systematic audits covering key areas of Government. Performance audits provide assessments of how well Government and its organizations are managing the key risks associated with delivering programmes and services.

As discussed in more detail below, because of time spent working with Government organizations encouraging them to bring their financial statements up to date, because the Consolidated Fund continues to get larger and more complex to audit and because we haven't managed to fill our permitted staffing complement, the Office has not been able to establish a continuing programme of performance audits.

It is the Auditor General's objective to develop the performance audit programme to the stage where the Office is producing two or three performance audit reports each year. To do this will require us to review and update our performance audit methodology.

Reviewing Government measurement and reporting of programme performance

Having clear, measurable objectives and then measuring and reporting on the extent to which those objectives have been met are critical components of the effective management of Government programmes. If ministries and departments do not have clear plans and objectives and/or measure the extent to which their objectives are being achieved, it is difficult to imagine that they can truly be managing public money wisely.

This issue was considered by the Spending and Government Efficiency ("SAGE") Commission ("Commission"), which was established by an act of parliament (SAGE Commission Act 2013). It was the view of the Commission, as expressed in its final report (submitted to the then-Minister of Finance on October 31, 2013), that:

- *Reporting to the public on a regular and transparent basis is central to the concept of Government accountability.*

- *It is critical that the people of Bermuda – the taxpayers – receive regular reporting on what the Government (and its Ministries and Departments) are trying to achieve and whether they are doing so.*

We agree and, when time and resources permit, the Auditor General intends to carry out general reviews of what organizations, ministries and departments are doing to plan, measure and report on their performance and then recommend a way forward. In the short term however, we intend to continue our focus on reducing the financial audit back log and auditing the statements on a timely basis, in preparation of “whole of Government” summary financial statements.

2.5 Critical Success Factors

To support the strategic focus described above, we need to pay attention to the factors that are critical to our ability to carry out the desired work in the most efficient and effective manner:

- **Credibility:** We must do our work in an efficient, effective and professional manner.
- **Independence and Objectivity:** Our Office must be independent from political parties and from the civil service, and we must carry out our work with an objective state of mind.
- **Relevance:** Our work programme must be relevant to the needs and interests of the public and its elected representatives.
- **Capacity:** We must have the human and other resources required to complete our work effectively.
- **Working environment:** Our workplace environment must support our audit processes and help make the Office an attractive place to work.

These critical success factors are interlinked. For example, our credibility is affected by our capacity (i.e., having the right resources to do our job and to do it well), our independence (perceived and actual), our objectivity and the relevance of our work to legislators and the public.

Since assuming office, the Auditor General has reviewed where the Office stands in relation to these factors and, as a result, has introduced initiatives such as seeking an update to our governing legislation (the Audit Act 1990), modernizing the way we document our audit work, focusing on risk-based auditing and improving communication with our key stakeholders.

Credibility

To maintain our credibility, it is essential that our reports and audit opinions are accurate and reliable. We achieve this by ensuring that our work is conducted in accordance with the auditing standards promoted by the Chartered Professional Accountants of Bermuda (CPA Bermuda), as prescribed by CPA Canada. *Note: CPA Bermuda (formerly the Institute of Chartered Accountants of Bermuda) has been affiliated with CPA Canada (formerly the Institute of Chartered Accountants of Canada) since 1973.*

CPA Canada's Auditing and Assurance Standards Board develops and issues authoritative pronouncements and non-authoritative material that enable the public accounting profession to provide effective auditing and other assurance and related services.

The Canadian Auditing Standards (CAS) are aligned with international standards on auditing issued by the International Auditing and Assurance Standards Board, an independent standard setting body under the auspices of the International Federation of Accountants.

The Canadian (and therefore the Bermudian) auditing standards are divided into three sections: Quality Control, Auditing Standards and Other Standards.

Canadian Standards on Quality Control.

The Canadian Standards on Quality Control deals with an audit organization's responsibilities for its system of quality control for audits and reviews of financial statements, and other assurance engagements.

Canadian Auditing Standards (CAS)

The CAS are written in the context of an audit of financial statements. According to CAS 200 (Overall objectives of the independent auditor and the conduct of an audit in accordance with CAS), the purpose of a financial statement audit is:

to enhance the degree of confidence of intended users in the financial statements. This is achieved by the expression of an opinion by the auditor on whether the financial statements are prepared, in all material respects, in accordance with an applicable financial reporting framework. In the case of most general purpose frameworks, that opinion is on whether the financial statements are presented fairly, in all material respects, or give a true and fair view in accordance with the framework.

We use the CAS to help ensure the appropriateness of auditing procedures in relation to the audit objectives to be attained, the quality and extent of their application, and the suitability of the resulting auditor's report.

CAS require us to plan and perform audits to obtain reasonable assurance whether financial statements are free of material misstatement. They require an examination, on a test basis, of the evidence supporting the amounts and disclosures in the financial statements, and an assessment of the risks, any significant estimates made by management, and the overall financial statement presentation. CAS recognize that management is responsible for preparing financial statements, and that auditors are responsible for expressing opinions on those statements based on their audits.

Other Canadian Standards

This section on other Canadian Standards deals with assurance engagements other than audits or reviews of historical financial information, which are dealt with in CAS, as described above.

Assurance engagements include both attestation engagements, in which a party other than the practitioner measures or evaluates the underlying subject matter against the criteria, and direct engagements, in which the practitioner measures or evaluates the underlying subject matter against the criteria.

So, these "Other Standards" apply to work that we might do on attesting to the reasonableness of measurements of results carried out by Government organizations; and performance audits and compliance audits (for example, assessing the extent to which a Government organization has complied with relevant legislation in delivering its programmes).

This means that we must have in place appropriate and robust audit methodologies designed to help us be sure that our work is meeting the demanding requirements of Canadian Auditing Standards.

Since much of our work consists of audits of financial statements, we also must have detailed knowledge and understanding of Canadian Public Sector Accounting Standards issued by CPA Canada's Public Sector Accounting Board (PSAB).

The Office uses the Practice Engagement Guide issued and maintained by CPA Canada and CaseWare, a Canadian document management software package. The Office retains on SharePoint (its document management and storage system) all aspects of financial statement auditing including guidance on planning, testing, sampling and reporting.

Independence and objectivity

The value of what we do relates directly to the public's confidence that when we undertake our audit work, we are free from the influence of others (notably the entities that are the subject of our audits). So, a significant challenge for us is to ensure that our independence and objectivity remain intact.

Independence is vital to the effectiveness of the Auditor General. Unless she is, and is seen to be, completely independent of those whose affairs are being audited, her credibility and effectiveness would be compromised.

Also critical is that the Auditor General and her staff carry out their work with an objective mindset.

The Bermuda Constitution Order (the Constitution) and the Audit Act 1990 (the Audit Act) together provide the legislated framework to ensure our independence.

Section 88 of the Constitution addresses the appointment, term, dismissal and independence of the Auditor General. A Regulation under the Constitution delegates responsibility to the Auditor General for hiring, employing and disciplining staff. Further, Section 34 (4) of the Standing Orders of the House of Assembly (see Appendix 3) creates a Select Standing Committee of five members of the House of Assembly responsible for reviewing the Office's annual budgets, staffing needs and salaries, thereby reducing the risk that those we audit can impair our effectiveness by withholding needed resources.

Section 18 of the Audit Act states clearly that, in the exercise of her functions, the Auditor General is not subject to the direction or control of any other person or authority. However, through a number of administrative connections to Government, the fact is that the Government is in a position if it so chooses to significantly constrain and compromise our operations through the budget process by limiting our resources including staff, funding and accommodations. This issue may be described as a lack of structural independence.

However, this lack of structural independence has not presented any practical problems for the Office in recent years. Its financial needs are being met through the Government's systems. Having Office staff being required to administer separate payroll and payments systems would not provide any added value and therefore would not be the best use of tax payers' money.

And, should any problems arise in the future, the Auditor General has access to the House of Assembly Select Standing Committee as described above.

The objectivity of the Office is preserved by many checks and balances we have instituted to guide how we carry out our work. We monitor closely the state of our objectivity to safeguard the value of the Office's audits. These steps are time consuming to apply but absolutely necessary if we are to maintain the quality of the Office's work and continue to instill public confidence in our audit findings and recommendations. Not only is such objectivity required by the standards of the auditing profession, it is also fundamental to the Auditor General's role.

In 2011, the Office was able to move away from the Government's IT infrastructure and developed its own. This was a significant step that reduced the likelihood of private information regarding the work of the Office to be intercepted by Government employees.

As part of the modernization of the Audit Act, the Auditor General is seeking immunity for prosecution of the Auditor General and staff because of anything done or omitted in:

- (a) the exercise or intended exercise of any power of the Auditor General, or
- (b) the performance or intended performance of any duty of the Auditor General, providing the actions were taken or not taken in good faith.

Another aspect of the Audit Act that needs to be changed is that it refers to the Auditor General as the Auditor. A 2001 amendment to the Bermuda Constitution (The Bermuda Constitution [Amendment] Order 2001) changed the title of the Auditor to Auditor General. There has been no subsequent amendment to the Audit Act.

Relevance

By creating the Audit Act 1990, legislators signaled that the independent audit of Government's financial statements is of paramount importance. In addition to our audits of financial statements, it is important that the subject matter of other work that we may do is of the highest relevance to Members of the House of Assembly and the public by focusing on issues that matter to them.

The breadth of public sector activities far exceeds the Office's capacity to undertake an investigation and/or performance audit of every significant area within Government, even over many years. So, a challenge for us is to provide as much coverage as possible across Government to keep the public and Members informed, within our financial constraints, while maintaining our high standards.

The focus of the Office's work in recent years has been to clear the backlog of financial statement audits and to ensure that we have adequate staff numbers to complete the annual audit of the Government's Consolidated Fund financial statements, an audit that is becoming increasingly complex. Consequently, our investigation/performance audit work had to be fitted in around the financial statement audit work or, as was the case in the last few years, deferred to some future time.

The amount of time devoted by the Public Accounts Committee to reviewing our special investigations in the past indicates that this type of work is of great interest to elected officials.

Capacity

An ongoing challenge for our Office (as it is for most organizations) is to develop and maintain our capacity. Fundamental to our capacity to carry out audit work that is relevant and credible is the number of audit professionals on staff and their collective knowledge, skills and abilities. Also important are the audit methodologies we employ, the quality of staff training and professional development we provide, and the efficiency and effectiveness of our management processes and administration systems.

Therefore, in addition to appropriate audit methodologies, our credibility depends on our ability to hire suitably qualified and experienced audit staff and to provide training to ensure that their knowledge and competencies are maximized.

Auditing is a knowledge-based business. The Office needs experienced staff skilled in audit and accounting practice as well as having expertise in the subject matter of our audits. Given the broad range of audits we expect to undertake, it will be very challenging for us to develop and maintain this technical capacity from year to year.

An area of improvement is that because the Office is still reliant on overseas contract audit professionals. It is critical that the senior leadership team and the Office infrastructure support team members by more effectively orientating new recruits on both the working of the Government of Bermuda and the country's system of governance and the way that the Office implements the requirements of Canadian Auditing Standards.

For the long-term sustainability of the Office, it is critical that the senior audit professional team be exposed to best in class and cutting-edge audit practices and trends. This may be partially satisfied as the top position - Auditor General - is moving from being a lifetime appointment to an appointment with a term limit, thereby injecting “new blood” at the top of the organization every few years. It is equally important that the Assistant Auditor General position be exposed via interactive training and seminars and round-table discussions to emerging auditing trends and techniques. This is achieved by the Office taking an active role in the Canadian Council of Legislative Auditors.

Almost all staff members engaged in financial statement auditing have at least one professional qualification. The Office provides a minimum of 20 hours mandatory professional development annually for all professional staff. In addition, if a project-based or annual performance appraisal identifies a need for additional specific training, the Office will fund the training.

For many years, the Office has been reliant on recruiting its professionally qualified staff from overseas on a contract basis. These professionals have served the Office well and will continue to do so. However, we believe it vital to try to provide as much opportunity as possible to people having a vested interest in the island. If the Office was able to increase the supply of trained Bermudian accountants it would bode well, not only for the Office but also for the Government and, ultimately, the citizens of Bermuda.

At March 31, 2017, the Office had on staff three Bermudian audit practitioners, two of whom had accounting designations. We will seek to maximize employment opportunities for suitably qualified Bermudians but recognize this will be a challenge because we are competing with the private sector accounting firms that can provide better benefits than my Office.

Working environment

A positive working environment is important for attracting and maintaining staff and to help ensure good productivity. Key elements of our working environment include the physical office accommodation and adequate IT equipment and other tools to support effective job performance. Effective human resource management through current job descriptions, regular performance appraisals, availability of adequate training and reasonable levels of remuneration are also key contributors.

The Auditor General believes that the Office’s accommodation is good, staff has access to required IT equipment and the other tools necessary to carry out audits to the standard required.

There are adequate funds available for appropriate training for all levels of staff. However, the actual amount of training declined significantly in 2014-15 and 2015-16, although it did pick up in 2016-17. This decline was due to the Office's heavy work load and the lack of suitable course instructors.

Pay levels are reasonably comparative with other organizations across the public sector but, because we compete with the private sector qualified accounting staff, we believe that our pay scale is a hindrance in attracting and retaining staff.

3. FINANCIAL STATEMENT AUDIT WORK COMPLETED DURING THE REPORTING PERIOD

3.1 Modified Opinions

Section 9(2)(a) of the Audit Act 1990 (see Appendix 2) requires the Auditor General to provide details in annual reports of any modified opinions in auditor's reports on financial statements.

3.1.1 What is a modified opinion?

A modified opinion is expressed when the auditor concludes either of the following based on the audit evidence obtained:

- The financial statements as a whole are not free from material misstatement.
- Sufficient appropriate audit evidence is unable to be obtained to conclude that the financial statements as a whole are free from material misstatement.

There are three types of modified opinions:

1. Qualified opinion
2. Adverse opinion
3. Disclaimer of opinion

Qualified opinion – applies in either of the following situations:

- Sufficient appropriate audit evidence is obtained, but the auditor concludes that misstatements exist, individually or in the aggregate, that are material but *not pervasive* to the financial statements.
- The auditor is unable to obtain sufficient appropriate audit evidence on which to base the opinion. The auditor concludes that the possible effects of undetected misstatements (if any) on the financial statements could be material but not pervasive.

Example of Wording – “Except for the effects (or the possible effects) of the matter described in the Basis for Qualified Opinion paragraph...”

Adverse opinion – applies where sufficient appropriate audit evidence is obtained but the auditor concludes that misstatements, individually or in the aggregate, are both material and pervasive to the financial statements.

Example of Wording – “In my opinion, because of the significance of the matter discussed in the Basis for Adverse Opinion paragraph ... the financial statements do not present fairly ...”

Disclaimer of opinion – applies where the auditor is unable to obtain sufficient appropriate audit evidence on which to base the opinion and concludes that the possible effects of undetected misstatements (if any) could be both material and pervasive. This also applies in rare circumstances where it is not possible to form an opinion due to the potential interaction of multiple uncertainties and their possible cumulative effect on the financial statements.

Example of Wording – “Because of the significance of the matters described in the Basis for Disclaimer of Opinion paragraph, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on the financial statements.

Modified opinions between April 1, 2010 and March 31, 2017

During the period covered by this report, the Auditor General issued 36 qualified audit opinions and 100 disclaimers of opinion. The details are set out in the rest of section 3 that follows.

3.2 Audit of the Consolidated Fund Financial Statements

The Consolidated Fund accounts for the financial affairs of Bermuda’s ministries, departments, Legislature and other offices.

The Public Treasury (Administration and Payments) Act 1969 requires the Accountant-General to sign and deliver to the Minister and the Auditor by July 31 of each year the accounts of the Consolidated Fund. The Minister may approve an extension of the statutory deadline to September 30.

Our annual audit of the Consolidated Fund financial statements is the biggest audit that we carry out. The Office spends approximately 5,000 hours each year to complete this audit.

3.2.1 The Auditor General’s Audit Opinions on the Consolidated Fund financial statements for the years ended March 31, 2010 to 2016

During the period covered by this report, we completed the audits of the financial statements of the Consolidated Fund of the Government of Bermuda for the years ended March 31, 2010 to 2016.

The audit opinions on the financial statements for the years ended March 31, 2010 to 2012 were qualified as shown below. The audit opinions for the four years ended March 31, 2013 to 2016 were unqualified.

The audit opinion for the year ended March 31, 2010 stated:

Basis for Qualified Opinion

I qualified my auditor's opinion on the financial statements of the Consolidated Fund for the year ended March 31, 2009, on the basis of serious deficiencies in internal control over the management of various capital development projects. These deficiencies led me to question the appropriateness of certain transactions and the underlying value of assets at March 31, 2009. As a consequence of last year's qualification, and without the benefit of an independent professional valuation, I am still unable to determine whether adjustments might be necessary to tangible capital assets, assets under construction and accumulated deficit as at March 31, 2010.

Qualified Opinion

In my opinion, except for the effect of adjustments which I might have determined necessary had I been able to satisfy myself with respect to the balances of tangible capital assets, assets under construction and accumulated deficit referred to in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of the Consolidated Fund of the Government of Bermuda as at March 31, 2010 and the results of its operations and its cash flows for the year then ended, in accordance with the stated accounting policies disclosed in Note 3 to the financial statements, which conform with generally accepted accounting principles in Bermuda and Canada. (October 15, 2010)

The audit opinion for the year ended March 31, 2011 stated:

Basis for Qualified Opinion

I qualified my auditor's opinion on the financial statements of the Consolidated Fund for the year ended March 31, 2010, on the basis of serious deficiencies in internal control over the management of various capital development projects. These deficiencies led me to question the appropriateness of certain transactions and the underlying value of assets at March 31, 2010. As a consequence of last year's qualification, and without the benefit of an independent professional valuation, I am still unable to determine whether adjustments might be necessary to tangible capital assets and accumulated deficit as at March 31, 2011.

Qualified Opinion

In my opinion, except for the effect of adjustments which I might have determined necessary had I been able to satisfy myself with respect to the balances of tangible capital assets, assets under construction and accumulated deficit referred to in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of the Consolidated Fund of the Government of Bermuda as at March 31, 2011 and the results of its operations, the changes in its net debt, and its cash flows for the year then ended in accordance with public sector accounting standards generally accepted in Bermuda and Canada. (February 7, 2012)

The audit opinion for the year ended March 31, 2012 stated:

Basis for Qualified Opinion

I qualified my auditor's opinion on the financial statements of the Consolidated Fund for the year ended March 31, 2011, on the basis of serious deficiencies in internal control over the management of various capital development projects. These deficiencies led me to question the appropriateness of certain transactions and the underlying value of assets at March 31, 2011. As a consequence of last year's qualification, and without the benefit of an independent professional valuation, I am still unable to determine whether adjustments might be necessary to tangible capital assets and accumulated deficit as at March 31, 2012.

Qualified Opinion

In my opinion, except for the effect of adjustments which I might have determined necessary had I been able to satisfy myself with respect to the balances of tangible capital assets and accumulated deficit referred to in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of the Consolidated Fund of the Government of Bermuda as at March 31, 2012 and the results of its operations, the changes in its net debt, and its cash flows for the year then ended in accordance with public sector accounting standards generally accepted in Bermuda and Canada. (November 7, 2012)

3.3 Audits of Government-controlled and other Organizations

The Auditor General audits the annual financial statements of Government-controlled organizations pursuant to Section 6 of the Audit Act 1990, and the statutes under which the organizations operate. An organization is deemed to be Government-controlled if Government has, by whatever means, the power to require its affairs to be conducted in accordance with its wishes.

At the conclusion of each audit, we provide to the person, governing board or council with responsibility for overseeing the strategic direction of the organization and obligations related to the accountability of the organization, a management letter. The management letter containing our observations and recommendations on matters in the opinion of the Auditor General are significant to the oversight of the financial reporting process.

The 27 Government-controlled organizations operating at March 31, 2017, were:

- ACBDA Limited
- African Diaspora Heritage Trail Bermuda Foundation
- Bermuda Airport Authority
- Bermuda Arts Council
- Bermuda Casino Gaming Commission
- Bermuda Civil Aviation Authority
- Bermuda College
- Bermuda Deposit Insurance Corporation
- Bermuda Economic Development Corporation
- Bermuda Educators Council
- Bermuda Health Council
- Bermuda Hospitals Board
- Bermuda Housing Corporation
- Bermuda Housing Trust
- Bermuda Land Development Company Limited
- Bermuda Shipping and Maritime Authority
- Bermuda Sport Anti-Doping Authority
- Bermuda Tourism Authority
- Board of Trustees of the Golf Courses
- CedarBridge Academy
- Financial Intelligence Agency
- Pension Commission
- Regulatory Authority
- Spending and Government Efficiency (SAGE) Commission
- South Basin Development Ltd – Note: not operating at March 31, 2017
- Trustees of the National Sports Centre
- West End Development Corporation

In the period from April 1, 2010, (the date of the Auditor General's last annual report) to March 31, 2017, we completed 110 audits of Government-controlled organizations and audited financial statements were then issued by the organizations concerned. The audit opinions for 27 of the financial statements were either qualified or disclaimed. Details of the auditor opinions are shown in the material that immediately follows.

As of March 31, 2017, all the above organizations should have issued audited financial statements for the year ended March 31, 2016 (or December 31, 2015 in the case of the Bermuda Tourism Authority and Pension Commission). The list below shows that sixteen organizations between them had 47 years of financial statements outstanding. It should be noted though that, in the list below, the years marked with an asterisk (*) indicate that, at March 31, 2017, our audit was substantially complete and ten sets of financial statements were issued during the first few months of the 2017-2018 fiscal year.

- African Diaspora Heritage Trail Bermuda Foundation (2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016)
- Bermuda College (2016)
- Bermuda Economic Development Corporation (2016*)
- Bermuda Educators Council (2010*, 2011*, 2012*, 2013, 2014, 2015 and 2016)
- Bermuda Hospitals Board (2014, 2015 and 2016)
- Bermuda Housing Corporation (2015 and 2016)
- Bermuda Land Development Company Limited (2012, 2013, 2014, 2015 and 2016)
- Bermuda Sport Anti-Doping Authority (2016*)
- Bermuda Tourism Authority (2016*)
- Board of Trustees of the Golf Courses (2012, 2013, 2014, 2015 and 2016)
- CedarBridge Academy (2015* and 2016)
- Financial Intelligence Agency (2016*)
- Pension Commission (2015*)
- Regulatory Authority (2016*)
- Trustees of the National Sports Centre (2012, 2013, 2014, 2015 and 2016)
- West End Development Corporation (2016)

3.3.1 ACBDA Limited

ACBDA Limited (ACBDA) is the organization responsible for delivering the Government of Bermuda's responsibilities as outlined in the Host Venue Agreement between the Government of Bermuda and the America's Cup Event Authority.

During the period covered by this report, ACBDA issued its audited financial statements covering the period from December 24, 2014 to March 31, 2016. The audit opinion on the statements was unqualified.

3.3.2 African Diaspora Heritage Trail Bermuda Foundation

The African Diaspora Heritage Trail ('ADHT') Bermuda Foundation was incorporated as a local company limited by guarantee on July 27, 2006.

Its principal objectives are to promote, advance and develop the concept of an African Diaspora Heritage Trail; to conserve and promote historic sites and venues throughout the African Diaspora; to promote and develop relationships between countries of the African Diaspora; to promote and advance the education of visitors to Bermuda and other countries of the African Diaspora; to provide for the expression and exchange of views and to engage in research of all kinds.

As at March 31, 2017, the ADHT annual financial statements from inception to March 31, 2016 had yet to be finalized.

3.3.3 Bermuda Airport Authority

The Bermuda Airport Authority (the 'Authority') was established on March 2, 2017, by the Bermuda Airport Authority Act 2017. A principal responsibility of the Authority is to protect Bermuda's interests in the Public Private Partnership with Bermuda Skyport Corporation Limited and ensure that contractual value is delivered on budget, on time and within the quality specifications contained in the Project Agreement.

The Authority is the owner of the L.F. Wade International Airport and, in addition to overseeing the management, operations and redevelopment of the airport, the Authority has direct responsibility for delivery of Air Traffic Control, Bermuda Weather Services, Ground Electronics Services and Airport Rescue and Firefighting services. The Authority is also responsible for regulating passenger fees.

The Authority's first financial statements will be for the period ending March 31, 2018.

3.3.4 Bermuda Arts Council

The principal objectives of the Bermuda Arts Council (the 'Council') are to develop and improve the knowledge, understanding and practice of the arts; to increase the accessibility of the arts whether by means of Festivals of the Arts, or otherwise, to the public throughout Bermuda; and advise and cooperate with Government departments, art groups and societies in Bermuda and other bodies on any matters concerned whether directly or indirectly with the foregoing objectives.

During the period covered by this report, the Council issued nine sets of audited financial statements covering the years ended March 31, 2008 to 2016.

The audit opinions on the financial statements for the two years ended March 31, 2008 and 2009 were qualified.

The qualified opinion for the 2007-08 statements was as follows:

In common with many charitable organizations, the Council derives a portion of its revenues from donations, the completeness of which is not susceptible of satisfactory audit verification. Accordingly, my verification of these revenues was limited to the amounts recorded in the records of the Council and I was not able to determine whether any adjustments might be necessary to donations, excess of revenues over expenses, current assets and net assets. (September 26, 2011)

The qualified opinion for the 2008-09 statements read:

I was unable to obtain sufficient appropriate audit evidence to support the validity of certain expenses totaling \$6,705. As a result, I was unable to determine whether adjustments might be necessary to assets, liabilities, expenses, deficiency of revenues over expenses and net assets. (March 8, 2013)

The audit opinions for the financial statements for the years ended March 31, 2010 to 2016 were unqualified.

3.3.5 Bermuda Casino Gaming Commission

The Bermuda Casino Gaming Commission (the 'Commission') commenced operations September 1, 2015 based on the enactment of the Casino Gaming Act 2014. The organization is responsible for regulating the casino gaming industry in Bermuda.

The Commission's first financial statements will be for the period ended March 31, 2017.

3.3.6 Bermuda Civil Aviation Authority

The Bermuda Civil Aviation Authority (the 'BCAA') was established on October 1, 2016. It is responsible for the regulation and safety oversight of aviation in Bermuda and all aircraft on the Bermuda Aircraft Registry.

The BCAA's first financial statements will be for the period ended March 31, 2017.

3.3.7 Bermuda College

Bermuda College (the 'College') provides full- and part-time education and training for persons over the compulsory school age.

During the period covered by this report, the College issued eleven sets of audited financial statements covering the years ended March 31, 2005 to 2015. The audit opinions on the financial statements for the years ended March 31, 2005, 2006, 2007 and 2011 were qualified. The financial statements for the year ended 2010 received a disclaimer of opinion.

The audit opinion on the fiscal 2005 statements was:

In common with many not-for-profit organizations, the Bermuda College derives a portion of its revenues from donations, the completeness of which is not susceptible to satisfactory audit verification. Accordingly, verification of these revenues was limited to the amounts recorded in the records of the Bermuda College and I was not able to determine whether any adjustments might be necessary to revenues, excess of revenues over expenses, assets, deferred contributions, deferred capital contributions, restricted contributions and net asset balances.

As more fully described in note 13(b) to the financial statements, the Bermuda College has not obtained an actuarial valuation to determine the obligation associated with continued pay after retirement for long-serving employees. Accordingly, I was unable to determine the adjustment necessary to accrued liabilities, expenses and net assets for the year.

I was unable to obtain sufficient appropriate audit evidence to support the accuracy and validity of expenses totaling \$4,670,719. As a result, I am unable to determine whether adjustments might be necessary to expenses, excess of revenues over expenses, liabilities and net assets. (November 1, 2012)

The audit opinion on the fiscal 2006 statements was:

As with many not-for-profit organisations, the Bermuda College derives a portion of its revenues from donations received, the completeness of which is not susceptible to satisfactory audit verification. Accordingly, my verification of these revenues was limited to the amounts recorded in the records of the Bermuda College and I was not able to determine whether any adjustments might be necessary to donation revenues, deficiency of revenues over expenses, assets, deferred contributions, deferred capital contributions, restricted contributions and net assets.

The Bermuda College had an accounting system migration, from the Positive Retail Manager System to the Booklog Inventory and Point of Sale System, wherein some information on the inventory details were not fully migrated to Booklog Inventory and Point of Sale System. Due to the system migration and missing source documents, I was unable to obtain sufficient appropriate audit evidence to complete the valuation testing of the Bermuda College's inventory amounting to \$196,901 as at March 31, 2006. Consequently, I was unable to determine whether any adjustments might be necessary to inventory and excess of revenues over expenses. (April 30, 2013)

The audit opinion on the fiscal 2007 statements was:

As with many not-for-profit organisations, the Bermuda College derives a portion of its revenues from donations received, the completeness of which is not susceptible to satisfactory audit verification. Accordingly, my verification of these revenues was limited to the amounts recorded in the records of the Bermuda College and I was not able to determine whether any adjustments might be necessary to donation revenues, deficiency of revenues over expenses, assets, deferred contributions, deferred capital contributions, restricted contributions and net assets.

I was unable to obtain sufficient appropriate audit evidence to complete the valuation testing of the Bermuda College's inventory amounting to \$207,702 (2006 - \$196,901). Consequently, I was unable to determine whether any adjustments might be necessary to inventory and excess of revenues over expenses for the years ended March 31, 2007 and 2006. (April 30, 2013)

The audit opinion on the fiscal 2011 statements was:

With respect to the year ended March 31, 2010, I did not express an opinion on the financial statements due to serious deficiencies in the accounting records. Since opening balances enter into the determination of the results of operations, I was unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2010. (March 23, 2015)

The College's financial statements for the year ended March 31, 2010, received a disclaimer of opinion as follows:

Due to serious deficiencies in the accounting records of the Bermuda College and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Bermuda College had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Bermuda College for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities, and the components making up the statement of financial position and the statements of operations, changes in net assets and cash flows. (September 30, 2014)

The audit opinions on the financial statements for the six years ended March 31, 2008, 2009 and 2012 to 2015 were unqualified.

3.3.8 Bermuda Deposit Insurance Corporation

The Bermuda Deposit Insurance Corporation (the 'BDIC') was established as an independent body to administer and enforce the deposit insurance scheme, as well as to manage the deposit insurance fund. BDIC commenced operations August 20, 2016. The Authority's first financial statements will be for the period ended March 31, 2017.

3.3.9 Bermuda Economic Development Corporation

The Bermuda Economic Development Corporation (the 'BEDC') oversees the development of a strong, well-managed, and prosperous business sector in Bermuda.

During the period covered by this report, the BEDC issued eight sets of audited financial statements covering the years ended March 31, 2008 to 2015. The audit opinions on all these financial statements were unqualified.

After the period covered by this report, BEDC issued its financial statements for the year ended March 31, 2016. The audit opinion thereon was unqualified.

3.3.10 Bermuda Educators Council

The principal objectives of the Bermuda Educators Council (the 'Council') are to improve standards of teaching so as to enhance the quality of learning and to maintain and improve standards of professional conduct of educators in the public interest. The Council commenced operations on April 10, 2003.

During the period covered by this report, the Council issued five sets of audited financial statements covering the period from April 10, 2003 to March 31, 2005 and the years ended March 31, 2006 to 2009. The audit opinions on the financial statements for the period from April 10, 2003 to March 31, 2005 and years ended March 31, 2006 and 2008, were qualified as follows:

2005:

Due to a lack of sufficient appropriate audit evidence, expenses totalling \$22,401 was not susceptible to satisfactory audit verification. As a result, I am unable to determine whether any adjustments might be necessary to expenses, excess of revenues over expenses, liabilities and net assets. (December 7, 2010)

2006:

Due to a lack of sufficient appropriate audit evidence, expenses totalling \$17,946 were not susceptible to satisfactory audit verification. As a result, I was unable to determine whether any adjustments might be necessary to expenses, deficiency of revenues over expenses, liabilities and net assets. In addition, in respect to the year ended March 31, 2005, I qualified an opinion due to a lack of sufficient appropriate audit evidence for expenses, excess of revenues over expenses, liabilities and net assets. As a consequence, I am unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2005. (December 7, 2010)

2008:

Due to a lack of sufficient appropriate audit evidence, expenses totalling \$35,798 were not susceptible to satisfactory audit verification. As a result, I was unable to determine whether adjustments might be necessary to expenses, excess of revenues over expenses, liabilities and net assets. In addition, in respect to the year ended March 31, 2007, I denied an opinion due to a lack of sufficient appropriate audit evidence for revenues, expenses, excess of revenues over expenses, receivables, liabilities and net assets. As a consequence, I am unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2007. (December 7, 2010)

The financial statements for the years ended March 31, 2007 and March 31, 2009 received a disclaimer of opinion as follows:

2007:

Due to a lack of sufficient appropriate audit evidence, revenues totalling \$29,500 and expenses totalling \$32,297 were not susceptible to satisfactory audit verification. As a result, I was unable to determine whether adjustments might be necessary to revenues, expenses, excess of revenues over expenses, receivables, liabilities and net assets. In addition, in respect to the year ended March 31, 2006, I qualified an opinion due to a lack of sufficient appropriate audit evidence for expenses, excess of revenues over expenses, liabilities and net assets. As a consequence, I am unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2006. (December 7, 2010)

2009:

Due to a lack of sufficient appropriate audit evidence, registration fees totalling \$118,423 and expenses totalling \$57,719 were not susceptible to satisfactory audit verification. As a result, I was unable to determine whether adjustments might be necessary to revenues, expenses, and deficiency of revenues over expenses, receivables, liabilities and net assets. In addition, with respect to the year ended March 31, 2008, I qualified my opinion due to a lack of sufficient appropriate audit evidence for expenses, excess of revenues over expenses, liabilities and net assets. As a consequence, I am unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2008. (December 7, 2010).

After the period covered by this report, the Council issued three sets of financial statements for the years ended March 31, 2010 to 2012. All the financial statements received a disclaimer of opinion as follows:

2010:

Due to serious deficiencies in the accounting records of the Bermuda Educators Council and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Bermuda Educators Council had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Bermuda Educators Council for the year then ended. As a

result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position, the statement of operations and changes in net assets and the statement of cash flows (August 23, 2017).

2011:

Due to serious deficiencies in the accounting records of the Bermuda Educators Council and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Bermuda Educators Council had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Bermuda Educators Council for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position, the statement of operations and changes in net assets and the statement of cash flows (August 23, 2017).

2012:

Due to serious deficiencies in the accounting records of the Bermuda Educators Council and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Bermuda Educators Council had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Bermuda Educators Council for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position, the statement of operations and changes in net assets and the statement of cash flows (August 23, 2017).

3.3.11 Bermuda Health Council

The Bermuda Health Council (the ‘Council’) is mandated to regulate, coordinate and enhance health services.

During the period covered by this report, the Council issued eight sets of audited financial statements covering the years ended March 31, 2009 to 2016. The audit opinions on all these financial statements were unqualified.

3.3.12 Bermuda Hospitals Board

The Bermuda Hospitals Board (the ‘Board’) is responsible for operating the King Edward VII Memorial Hospital (‘KEMH’), Mid-Atlantic Wellness Institute (the ‘MWI’) and Healthcare Partners Ltd., (‘HPL’). KEMH is an inpatient acute and extended care hospital and the MWI is a psychiatric facility. HPL is a holding company created to

provide a vehicle for the Board to participate in partnerships and/or joint venture businesses.

During the period covered by this report, the Council issued five sets of audited financial statements covering the years ended March 31, 2009 to 2013. The audit opinions on all these financial statements were unqualified.

3.3.13 Bermuda Housing Corporation

The primary functions of the Bermuda Housing Corporation (the 'Corporation') are to provide housing in Bermuda, to promote home ownership, to undertake and carry out housing schemes, and to undertake such other functions in connection with housing as the Minister responsible for housing may require.

During the period covered by this report, the Corporation issued six sets of audited financial statements covering the years ended March 31, 2009 to 2014. The audit opinions on all of these financial statements were unqualified.

After the period covered by this report the Corporation issued its financial statements for the year ended March 31, 2015. The opinion thereon was unqualified.

3.3.14 Bermuda Housing Trust

The Bermuda Housing Trust (the 'Trust') initiates and administers programmes for the relief of poverty, suffering and misfortune among elderly persons in Bermuda by providing accommodation for such persons on favourable terms.

During the period covered by this report, the Trust issued eight sets of audited financial statements covering the years ended March 31, 2009 to 2016. The audit opinions on the financial statements for the years ended March 31, 2011 to 2016 were unqualified.

The audits opinions on the financial statements for the two years ended March 31, 2009 and 2010 were qualified. For both years, the opinion read as follows:

As described in Note 5, the Trust decided that a portion of monies which had been received from the tenants in the past should be returned to them. The estimate of such amounts due to tenants is not fully supported at this time and I am not able to determine whether any adjustments might be necessary to amounts due to tenants, excess of revenues over expenses and net assets (October 21, 2010 and December 5, 2011, respectively).

3.3.15 Bermuda Land Development Company Limited

The general purpose of the Bermuda Land Development Company Limited (the 'Company') is to manage and develop the land entrusted to it in a manner that will integrate the land into the economic and social fabric of Bermuda and create opportunities for increased employment now and in the future.

During the period covered by this report, the Company issued three sets of audited financial statements covering the years ended March 31, 2009 to 2011. The audit opinions on all of these financial statements were unqualified.

3.3.16 Bermuda Shipping and Maritime Authority

The Bermuda Shipping and Maritime Authority (the 'Authority') was established by the Bermuda Shipping and Maritime Authority Act 2016 in July 2016. It commenced its statutory operations on October 1, 2016. It is responsible for maritime safety, prevention of pollution from ships, maritime security and standards of seafarers on Bermuda registered ships, under the oversight of the Minister responsible for Shipping, under the provisions of the Merchant Shipping Act 2002.

The Authority's first financial statements will be for the period ended March 31, 2018.

3.3.17 Bermuda Sport Anti-Doping Authority

The Bermuda Sport Anti-Doping Authority (the 'Authority') is responsible for ensuring sports bodies in Bermuda are compliant with the World Anti-Doping Code and the Illicit Policy through the implementation and management of the Bermuda Government Policy Paper on Anti-Doping. The Authority provides education and information programmes; athlete testing; intelligence management and exclusive results management for anti-doping rule violations.

During the period covered by this report, the Authority issued four sets of audited financial statements for the years ended March 31, 2012 to 2015. The audit opinion on all the financial statements was unqualified.

After the period covered by this report, the Board issued its financial statements for the years ended March 31, 2016 and 2017. The audit opinion thereon was unqualified.

3.3.18 Bermuda Tourism Authority

The Bermuda Tourism Authority (the 'Authority') was established on December 16, 2013 under the Bermuda Tourism Authority Act 2013, following the repeal of the Tourism Board Act 2012. The main functions of the Authority are to develop and promote Bermuda as a tourist destination; to advise the Government on matters relating to travel and tourism; to enhance the travel and tourism sector's contribution to the Bermuda economy; to provide appropriate tourism education and training; and to implement the National Tourism Plan.

During the period covered by this report, the Authority issued two sets of audited financial statements for the years ended December 31, 2014 and 2015. The audit opinion on both financial statements was unqualified.

After the period covered by this report, the Board issued its financial statements for the year ended December 31, 2016. The audit opinion thereon was unqualified.

3.3.19 Board of Trustees of the Golf Courses

The functions of the Board of Trustees of the Golf Courses (the 'Board') are to have general control, management and administration over the Port Royal, Ocean View and St. George's Golf Courses, and to maintain the golf courses in good and proper condition. Effective September 2008, the Board no longer had control of the St. George's Golf Courses.

During the period covered by this report, the Authority issued six sets of audited financial statements for the years ended March 31, 2006 to 2011. All the financial statements received a disclaimer of opinion due to serious deficiencies in the system of internal controls and the overall control environment of the Board of Trustees of the Golf Courses.

For example, the audit opinion for the year ended March 31, 2011 financial statements stated:

There were serious deficiencies in the system of internal controls and the overall control environment of the Board of Trustees of the Golf Courses. I was not able to perform audit procedures on the accounting records I considered necessary to satisfy myself that all the assets, liabilities, revenues and expenses of the Board of Trustees of the Golf Courses nor was I able to obtain sufficient appropriate audit evidence that recorded transactions represented valid transactions of the Board of Trustees of the Golf Courses for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the elements making up the balance sheet and the statement of operations and retained earnings (February 26, 2014).

3.3.20 CedarBridge Academy

CedarBridge Academy (the 'Academy') is a public senior school, which provides education in accordance with the provisions of the Education Act 1996 and subsequent amendments.

During the period covered by this report, the Academy issued six sets of audited financial statements for the years ended March 31, 2009 to 2014. The financial statements for the years ended 2009 to 2011 and 2014 received a disclaimer of opinion due to serious deficiencies in the system of internal controls and the Academy's accounting records.

For example, the audit opinion for the 2013-2014 financial statements read:

There were serious deficiencies in the system of internal controls and accounting records of CedarBridge Academy. I was not able to perform audit procedures on the accounting records I considered necessary to satisfy myself that all assets, liabilities, revenues and expenses of the CedarBridge Academy has been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of CedarBridge Academy for the year ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position, the statement of operations and changes in fund balances and the statement of cash flows. (February 7, 2017)

The Academy's financial statements for the year ended March 31, 2012 and 2013, received a qualified opinion.

The qualified opinion for the 2011-12 statements was as follows:

I was unable to obtain sufficient appropriate audit evidence with respect to cafeteria revenue and certain expenses. As a result, I was unable to determine whether adjustments to revenues, expenses, deficiency or revenues over expenses and net assets might be necessary. In addition, with respect to the year ended March 31, 2011, I did not express an opinion on the financial statements due to serious deficiencies in the accounting records. Since opening balances enter into the determination of the results of operations, I was unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2011. (March 16, 2015)

The qualified opinion for the 2012-13 statements read:

I was unable to obtain sufficient appropriate audit evidence with respect to cafeteria revenue and certain expenses. As a result, I was unable to determine whether adjustments to revenues, expenses, deficiency or revenues over expenses and net assets might be necessary. In addition, with respect to the year ended March 31, 2012, I was unable to obtain sufficient appropriate audit evidence with respect to cafeteria revenue and certain expenses. With respect to the year ended March 31, 2011, I did not express an opinion on the financial statements due to serious deficiencies in the accounting records. Since opening balances enter into the

determination of the results of operations, I was unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2011 (May 3, 2016).

After the period covered by this report, the Academy issued its financial statements for the year ended March 31, 2015. The statements received a disclaimer of opinion.

3.3.21 Financial Intelligence Agency

The Financial Intelligence Agency (the 'FIA') was established by the Financial Intelligence Agency Act 2007 to act as an independent agency authorized to receive, gather, store, analyze and disseminate information relating to suspected proceeds of crime and potential financing of terrorism. The FIA may also disseminate such information to the Bermuda Police Service and foreign financial intelligence authorities.

During the period covered by this report, the FIA issued six sets of audited financial statements for the years ended March 31, 2010 to 2015. The audit opinions on all of the financial statements were unqualified.

After the period covered by this report, the FIA issued its financial statement for the year ended March 31, 2016. The audit opinion thereon was unqualified.

3.3.22 Pension Commission

The primary functions of the Pension Commission (the 'Commission') are to administer the National Pension Scheme (Occupational Pensions) Act 1998 and the related regulations, to consider and determine applications for the registration of pension plans and to promote and ensure compliance with the provisions of the Act and the regulations.

During the period covered by this report, the Commission issued eight sets of audited financial statements for the years ended December 31, 2007 to 2014.

The audit opinion on the financial statements for the year ended December 31, 2007 was qualified as follows:

In 2007, there was a decrease in Annual Information Returns (AIR) fees of \$63,410. AIR fees are charged at a rate of \$5 per individual in the plan. This decrease in fees would indicate a reduction in Bermuda's work force by 12,682 people. Management was unable to provide sufficient audit evidence to explain this significant decrease in AIR fees. As a result, I was unable to determine whether any adjustments might be necessary to AIR fees revenue, excess of revenues over expenses, accounts receivable, assets and unrestricted net assets (September 15, 2010).

The audit opinions on the financial statements for the years ended December 31, 2008 to 2014 were unqualified.

After the period covered by this report, the Commission issued its financial statement for the year ended December 31, 2015. The audit opinion thereon was unqualified.

3.3.23 Regulatory Authority

The Regulatory Authority (the 'Authority') was established under the Regulatory Authority Act 2011. The Authority commenced operations on January 28, 2013 and currently operates as a telecommunications regulator under the Electronic Communications Act 2011.

During the period covered by this report, the Authority issued two sets of audited financial statements for the period from January 28, 2013 to March 31, 2014, and the year ended March 31, 2015. The audit opinion on both the financial statements was unqualified.

After the period covered by this report, the Authority issued its financial statement for the year ended March 31, 2016. The audit opinion thereon was unqualified.

3.3.24 South Basin Development Ltd.

South Basin Development Ltd. (the 'Company') is a limited liability company incorporated and domiciled in Bermuda as a special-purpose vehicle, specifically to develop on behalf of the West End Development Corporation (WEDCo), certain areas within its vested area. It was jointly owned by WEDCo and Cross Island Development, Ltd on a 60% and 40% share split, respectively. Effective May 18, 2015, WEDCo retains 100% ownership of the Company.

During the period covered by this report, the Company issued three sets of audited financial statements for the years ended March 31, 2013 to 2015. The audit opinions on all the financial statements were unqualified. Operational transactions of the Company for the year ended March 31, 2015, and after are included in WEDCo's consolidated financial statements.

3.3.25 Trustees of the National Sports Centre

The Trustees of the National Sports Centre (the 'Trustees') are to maintain the Centre's facilities and make the facilities available for sporting and other events.

During the period covered by this report, the Trustees issued three sets of audited financial statements for the years ended March 31, 2009 to 2011. The audit opinion on all the financial statements was unqualified.

3.3.26 West End Development Corporation

The general function of the West End Development Corporation (the 'Corporation') is to manage and develop all designated land in the western end of the Island with a view to the progressive improvement of the social and economic conditions.

During the period covered by this report, the Corporation issued six sets of audited financial statements for the years ended March 31, 2010 to 2015. The audit opinion on all the financial statements was unqualified.

3.4 Audits of Public Funds

The Auditor General audits the Government of Bermuda's Public Funds pursuant to Section 6 of the Audit Act 1990, and the statutes under which the funds operate.

At the conclusion of each audit, we provide to the person, governing board or council with responsibility for overseeing the strategic direction of the organization and obligations related to the accountability of the organization observations and recommendations regarding areas we believe are significant to the oversight of the financial reporting process.

We also report on other significant matters we believe should be brought to the attention of the person charged with governance.

Matters arising from the audit of the Consolidated Fund financial statements for the years ended March 31, 2010 to 2016 are dealt with in section 3.2 of this report.

The 13 Public Funds operating at March 31, 2017, were:

- Bermuda Department of Tourism Overseas Retirement Plan
- Confiscated Assets Fund
- Consolidated Fund
- Contributory Pension Fund
- FutureCare Fund
- Government Borrowing Sinking Fund
- Government Employees Health Insurance Fund
- Government Reserves Fund
- Health Insurance Fund
- Ministers and Members of the Legislature Pensions Fund
- Mutual Re-insurance Fund
- Public Service Superannuation Fund
- Unemployment Insurance Fund

In the period from April 1, 2010, to March 31, 2017, we completed 72 audits of Public Funds and audited financial statements were then issued by the Funds concerned. This number does not include the Consolidated Fund which is discussed above under Section 3.2. The audit opinions for 52 of the financial statements were either qualified or disclaimed. Details are shown in the material that follows in the section.

As of March 31, 2017, all the above Funds should have issued audited financial statements up to and including the year ended March 31, 2016. The list below shows twelve Funds between them had 53 years of financial statements outstanding. It should be noted though that, in the list below, the years marked with an asterisk (*) indicate that, at March 31, 2017, our audit was substantially complete and nineteen sets of financial statements were issued during the first few months of the 2017-2018 fiscal year. A large backlog remains, however:

- Bermuda Department of Tourism Overseas Retirement Plan (2013, 2014, 2015 and 2016)
- Confiscated Assets Fund (2010, 2011, 2012, 2013, 2014, 2015 and 2016)
- Contributory Pension Fund (2013, 2014, 2015 and 2016)
- FutureCare Fund (2015* and 2016)
- Government Borrowing Sinking Fund (2015 and 2016)
- Government Employees Health Insurance Fund (2013, 2014, 2015 and 2016)
- Government Reserves Fund (2015* and 2016*)
- Health Insurance Fund (2015* and 2016)
- Ministers and Members of the Legislature Pensions Fund (2012, 2013, 2014, 2015 and 2016)
- Mutual Re-insurance Fund (2015* and 2016)
- Public Service Superannuation Fund (2012, 2013, 2014, 2015 and 2016)
- Unemployment Insurance Fund (2003*, 2004*, 2005*, 2006*, 2007*, 2008*, 2009*, 2010*, 2011*, 2012*, 2013*, 2014*, 2015* and 2016*)

3.4.1 Bermuda Department of Tourism Overseas Retirement Plan

The Bermuda Department of Tourism Overseas Retirement Plan (the 'Plan') is a pension plan that provides retirement benefits for the employees of the Department of Tourism's North American offices.

During the period covered by this report, the Plan issued six sets of audited financial statements for the years ended March 31, 2007 to 2012.

The audit opinion on the financial statements for the year ended March 31, 2007 was qualified as follows:

I have been unable to obtain adequate assurance as to whether the Plan is in compliance with United States pension and income tax legislation. I was, therefore, not able to obtain knowledge of actual, potential or contingent liabilities which may exist in relation to this legislation, nor was I able to assess their impact on the financial statements. (November 18, 2010)

The financial statements for the years March 31, 2008 to 2012 all received disclaimers of opinion due to serious deficiencies in the accounting records of the Plan and in its system of internal controls.

For example, the audit opinion for the 2011-2012 financial statements stated:

Due to serious deficiencies in the accounting records of the Bermuda Department of Tourism Overseas Retirement Plan and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Bermuda Department of Tourism Overseas Retirement Plan had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Bermuda Department of Tourism Overseas Retirement Plan for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement financial position and the statements of changes in net assets available for benefits and changes in pension obligations. (February 1, 2016)

3.4.2 Confiscated Assets Fund

The Confiscated Assets Fund (the 'Fund') holds monies detained and forfeited by Court Orders under the Proceeds of Crime Act 1997, the Misuse of Drugs Act 1972 and monies paid to the Government of Bermuda by a foreign jurisdiction in respect of confiscated assets. Forfeited monies are expended for purposes authorized in legislation.

During the period covered by this report, the Fund issued three sets of audited financial statements for the years ended March 31, 2007 to 2009. The audit opinions on all three sets of financial statements were unqualified.

3.4.3 Contributory Pension Fund

The Contributory Pension Fund (the 'Pension Fund') receives pension contributions from persons employed in Bermuda, the self-employed and the employers, and pays retirement benefits.

During the period covered by this report, the Pension Fund issued eight sets of audited financial statements for the years ended July 31, 2005 to 2012. All the financial statements received disclaimers of opinion due to serious deficiencies in the accounting records of the Pension Fund and in its system of internal controls.

For example, the audit opinion for the financial statements for the year ended July 31, 2012 stated:

Due to serious deficiencies in the accounting records of the Contributory Pension Fund and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Contributory Pension Fund had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Contributory Pension Fund for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position and the statements of changes in net assets available for benefits and changes in pension obligations. (February 1, 2016)

3.4.4 FutureCare Fund

The FutureCare Fund (the 'Fund') was established to provide hospital and medical insurance for residents of Bermuda, who are over the age of 65 years. The Fund and the Health Insurance Committee (the "Committee"), which administers and manages the Fund, were established under the Health Insurance Act 1970 and subsequent amendments.

During the period covered by this report, the Fund issued five sets of audited financial statements for the years ended March 31, 2010 to 2014. All the financial statements received disclaimers of opinion due to serious deficiencies in the accounting records of the Fund and in its system of internal controls.

For example, the audit opinion for the financial statements for the year ended March 31, 2014 stated:

Due to serious deficiencies in the accounting records of the FutureCare Fund and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the FutureCare Fund had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the FutureCare Fund for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position, the statement of operations and net assets and the statement of cash flows. (May 7, 2015)

After the period covered by this report, the Fund issued its financial statements for the year ended March 31, 2015 which received a qualified opinion as follows:

I was unable to obtain sufficient appropriate audit evidence with respect to premiums receivable totalling \$280,719. As a result, I was unable to determine whether adjustments to revenues, expenses, and annual operating surplus and net financial assets might be necessary. In addition, with respect to the year ended March 31, 2014, I did not express an opinion on the financial statements due to serious deficiencies in the accounting records. Since opening balances enter in the determination of the results of operations, I was unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2014. (September 13, 2017)

3.4.5 Government Borrowing Sinking Fund

The Government Borrowing Sinking Fund (the ‘Sinking Fund’) receives and holds monies that may be used in future to reduce or cancel public debt.

During the period covered by this report, the Sinking Fund issued six sets of audited financial statements for the years ended March 31, 2009 to 2014. The audit opinions for the years ended March 31, 2009 to 2013 financial statements were unqualified.

The audit opinion on the financial statements for the Sinking Fund for the year ended March 31, 2014 was qualified as follows:

Due to serious deficiencies in the accounting records of the Government Borrowing Sinking Fund and in the system of internal controls over the investments held with Payten & Rigel, I was not able to satisfy myself as to the completeness, valuation, accuracy and presentation of these investments amounting to \$296,891,522 as at March 31, 2014 and for the transactions incurred during the year. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position and the statement of changes in accumulated surplus. (January 3, 2017)

3.4.6 Government Employees Health Insurance Fund

The Government Employees Health Insurance Fund (the ‘Fund’) provides health insurance benefits for Government employees, Ministers and Members of the Legislature, and their enrolled dependents and covers medical expenses, such as hospital stays, doctor's visits and prescription drugs.

During the period covered by this report, the Fund issued seven sets of audited financial statements for the years ended March 31, 2006 to 2012. All the financial statements received disclaimers of opinion due to serious deficiencies in the accounting records of the Fund and in its system of internal controls.

For example, the audit opinion for the financial statements for the year ended March 31, 2012 stated:

Due to serious deficiencies in the accounting records of the Government Employees Health Insurance Fund and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Government Employees Health Insurance Fund had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Government Employees Health Insurance Fund for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the balance sheet and the statement of revenues and expenses and fund deficit. (February 1, 2016)

3.4.7 Government Reserves Fund

The Government Reserves Fund (the 'Fund') holds monies received under the United States Bases (Termination of Agreements) Act 2002, less amounts paid from those monies as directed by the Minister of Finance.

During the period covered by this report, the Fund issued seven sets of audited financial statements for the years ended March 31, 2008 to 2014. The audit opinions on all seven sets of financial statements were unqualified.

After the period covered by this report, the Fund issued financial statements for the two years ended March 31, 2015 and 2016. The audit opinions on the statements were unqualified.

3.4.8 Health Insurance Fund

The Health Insurance Fund (the 'Fund') – formerly the Hospital Insurance Fund - was established to provide hospital and medical insurance for all residents of Bermuda, irrespective of age and state of health.

During the period covered by this report, the Fund issued ten sets of audited financial statements for the years ended March 31, 2005 to 2014. All the financial statements received disclaimers of opinion due to serious deficiencies in the accounting records of the Fund and in its system of internal controls.

For example, the audit opinion for the financial statements for the year ended March 31, 2014 stated:

Due to serious deficiencies in the accounting records of the Health Insurance Fund and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Health Insurance Fund had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Health Insurance Fund for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position, the statement of operations and deficit and the statement of cash flows. (May 7, 2015)

After the period covered by this report, the Fund issued its financial statements for the year ended March 31, 2015 received a qualified opinion as follows:

I was unable to obtain sufficient appropriate audit evidence with respect to premiums receivable totalling \$232,633 and bad debt recovery of \$279,035. As a result, I was unable to determine whether adjustments to revenues, expenses, annual operating deficit and net debt might be necessary. In addition, with respect to the year ended March 31, 2014, I did not express an opinion on the financial statements due to serious deficiencies in the accounting records. Since opening balances enter in the determination of the results of operations, I was unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2014. (September 13, 2017)

3.4.9 Ministers and Members of the Legislature Pensions Fund

The purpose of the Ministers and Members of the Legislature Pensions Fund (the 'Fund') is to provide retirement pensions for the ministers, members and officers of the Legislature of Bermuda.

During the period covered by this report, the Fund issued five sets of audited financial statements for the years ended March 31, 2007 to 2011. The audit opinions on all five sets of financial statements were unqualified.

3.4.10 Mutual Re-insurance Fund

The Mutual Re-insurance Fund (the 'Fund') was authorized for the purpose of spreading the cost of certain claims amongst all licensed insurers and approved schemes. The following risks are covered: hemodialysis treatment, long-stay hospital care, home health care, kidney transplants and the required anti-rejection drugs, and MRI.

During the period covered by this report, the Fund issued ten sets of audited financial statements for the years ended March 31, 2005 to 2014. All the financial statements received a disclaimer of opinion due to serious deficiencies in the accounting records of the Fund and in its system of internal controls.

For example, the audit opinion for the financial statements for the year ended March 31, 2014 stated:

Due to serious deficiencies in the accounting records of the Mutual Re-insurance Fund and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Mutual Re-insurance Fund had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Mutual Re-insurance Fund for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position, the statement of operations and deficit and the statement of cash flows. (May 7, 2015)

After the period covered by this report, the Fund issued its financial statements for the year ended March 31, 2015 received a qualified opinion as follows:

I was unable to obtain sufficient appropriate audit evidence with respect to the completeness of the recorded re-insurance fees from the Government Employees Health Insurance Fund totalling \$2,755,176 and related receivable totalling \$701,837. As a result, I was unable to determine whether adjustments to revenues, annual operating deficit and net financial assets might be necessary. In addition, with respect to the year ended March 31, 2014, I did not express an opinion on the financial statements due to serious deficiencies in the accounting records. Since opening balances enter in the determination of the results of operations, I was unable to satisfy myself over the accuracy of the operations, I was unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2014. (September 13, 2017)

3.4.11 Public Service Superannuation Fund

The purpose of the Public Service Superannuation Fund (the 'Fund') is to provide retirement pensions for retired employees of the Government of Bermuda and the employees of various quasi-autonomous non-governmental organizations.

During the period covered by this report, the Fund issued five sets of audited financial statements for the years ended March 31, 2007 to 2011. All the financial statements received a disclaimer of opinion due to serious deficiencies in the accounting records of the Fund and in its system of internal controls.

For example, the audit opinion for the financial statements for the year ended March 31, 2011 stated:

Due to serious deficiencies in the accounting records of the Public Service Superannuation Fund and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Public Service Superannuation Fund had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Public Service Superannuation Fund for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of net assets available for benefits and the statement of changes in net assets available for benefits. (February 1, 2016)

3.4.12 Unemployment Insurance Fund

The Unemployment Insurance Fund (the ‘Insurance Fund’) was established March 18, 2002 by amendment to the Public Treasury (Administration and Payments) Act 1969, under the provisions of Section 10B and its related amendments (the “Act”). The Legislature authorized \$1 million to be set aside in the Consolidated Fund to set up the Insurance Fund.

As at the end of the period covered by this report, the Fund had not issued any financial statements since its inception. However, after the period covered by this report, the Insurance Fund issued fourteen sets of financial statements for the years March 31, 2003 to 2016.

The financial statements for the years ended March 31, 2003 to 2010 received disclaimers of opinion. The statements for the years ended March 31, 2011, and 2014 to 2016 had qualified audit opinions and the statements for the two years ended March 31, 2012 and 2013 had unqualified audit opinions.

3.5 Audits of Parish Councils

The Auditor General audits Bermuda’s nine parish councils pursuant to the Parish Councils Act 1971, as well as Section 6 of the Audit Act.

During the seven years covered by this report, the parish councils were able to issue 82 sets of audited financial statements. Although 41 of the financial statements had audit opinions that were qualified or disclaimed/denied, dealing with a significant portion of the previous backlog of financial statements represents progress.

As of March 31, 2017, all the parish councils should have issued audited financial statements up to and including the year ended March 31, 2016. The list below shows three councils between them had thirteen years of financial statements outstanding. It should be noted though that, in the list below, the years marked with an asterisk (*) indicate that, at March 31, 2017, our audit was substantially complete and five sets of audited or reviewed financial statements were issued during the first few months of the 2017-2018 fiscal year. A large backlog remains, however.

As at March 31, 2017, the following parish councils had not issued audited financial statements for the years ended March 31:

- Devonshire Parish (2015* and 2016*)
- Pembroke Parish (2013, 2014, 2015 and 2016)
- Warwick Parish (2011*, 2012*, 2013, 2014, 2015 and 2016)
- Paget (2016*)

3.5.1 Devonshire Parish Council

During the period covered by this report (the seven years ended March 31, 2017), the Devonshire Parish Council issued eight sets of audited financial statements covering the years ended March 31, 2007 to 2014. The related audit opinions were all unqualified, apart from the opinion for the financial statements for the year ended March 31, 2007, which read:

The financial statements for the year ended March 31, 2006 were denied an opinion. Since opening balances enter into the determination of the results of operations, I was unable to determine whether adjustments to revenues, expenses, excess of revenues over expenses and opening deficit might be necessary. (January 22, 2013)

After the period covered by this report, the Parish Council issued financial statements for the years ended March 31, 2015 and 2016. These statements were reviewed but not audited by the Auditor General. For both sets of financial statements, the review opinion contained a qualified conclusion as follows:

Management did not provide minutes of the Devonshire Parish Council meetings. As a consequence, I was unable to complete my review. Had I been able to complete my review, I might have determined adjustments to be necessary to these financial statements. (May 22, 2017)

3.5.2 Hamilton Parish Council

During the period covered by this report, the Hamilton Parish Council issued eleven sets of audited financial statements covering the years ended March 31, 2006 to 2016. The related audit opinions were all unqualified.

3.5.3 Paget Parish Council

During the period covered by this report, the Paget Parish Council issued seven sets of audited financial statements covering the years ended March 31, 2009 to 2015. The related audit opinions were all unqualified.

After the period covered by this report, the Parish Council issued financial statements for the year ended March 31, 2016. These statements were reviewed but not audited by the Auditor General. The review opinion was unqualified.

3.5.4 Pembroke Parish Council

During the period covered by this report, the Pembroke Parish Council issued ten sets of audited financial statements covering the years ended March 31, 2003 to 2012. All the financial statements received a disclaimer of opinion because of inadequate accounting records because of serious deficiencies in the accounting records and in the system of internal controls.

For example, the Auditor General's audit report for the financial statements ended March 31, 2008, read as follows:

Due to the inability of management to provide us with audit evidence about the amounts and disclosures in the financial statements, I was not able to perform audit procedures to verify the amounts of all assets, liabilities, revenues and expenses of the Council nor was I able to obtain sufficient appropriate audit evidence that recorded transactions represented valid transactions of the Council for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the elements making up the statement of financial position, statement of operations, statement of changes in net assets and statement of cash flows. (January 22, 2014)

And the Auditor General's audit report for the financial statements for the year ended March 31, 2012, stated:

Due to serious deficiencies in the accounting records of the Pembroke Parish Council and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Pembroke Parish Council had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Pembroke Parish Council for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the elements making up the statement of financial position, statement of operations and statement of changes in deficit. (January 22, 2014)

3.5.5 Sandys Parish Council

During the period covered by this report, the Sandys Parish Council issued ten sets of audited financial statements covering the years ended March 31, 2007 to 2016. The financial statements for the seven years ended March 31, 2007 to 2013 received a disclaimer of opinion because of inadequate accounting records because of serious deficiencies in the Council's accounting records and in its system of internal controls.

For example, the Auditor General's audit report for the financial statements for the year ended March 31, 2009, stated:

My examination indicated serious deficiencies in the accounting records and the overall control environment of the Sandys Parish Council. As a consequence, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Sandys Parish Council had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Sandys Parish Council for the year then ended. Due to a lack of sufficient appropriate audit evidence, assets, liabilities, revenues and expenses are not susceptible to satisfactory audit verification. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of operations and changes in net assets. (July 1, 2013)

The financial statements for the three years ended March 31, 2014 to 2016 received qualified audit opinions because of the difficulty in verifying the completeness of its revenue from donations.

For example, the Auditor General's audit report for the financial statements for the year ended March 31, 2015, stated that:

As is common with many not-for-profit organizations, the Sandys Parish Council derives a portion of its revenues from donations, the completeness of which is not susceptible to satisfactory audit verification. Accordingly, my verification of these revenues was limited to the amounts recorded in the records of the Sandys Parish Council and I was not able to determine whether any adjustments might be necessary to revenues, operating surplus, assets and accumulated surplus. (November 14, 2016)

3.5.6 Smith's Parish Council

During the period covered by this report, the Smith's Parish Council issued ten sets of audited financial statements covering the years ended March 31, 2007 to 2016. The financial statements for the four years ended March 31, 2007 to 2010 each received a disclaimer of opinion because of serious deficiencies in its accounting records and in its system of internal controls.

For example, the audit opinion for the financial statements for the year ended March 31, 2010 was disclaimed because:

Due to serious deficiencies in the accounting records of the Smith's Parish Council and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Smith's Parish Council had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Smith's Parish Council for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the elements making up the statement of financial position and the statement of operations and changes in net assets. (September 4, 2014)

The audit opinion on the financial statements for the year ended March 31, 2011, was qualified as follows:

Due to lack of sufficient appropriate evidence, scholarship award expenses totalling \$7,500 were not susceptible to satisfactory audit verification. As a result, I was unable to determine whether adjustments to expenses, deficiency of revenues over expenses and net assets might be necessary. In addition, with respect to the year ended March 31, 2010, I did not express an opinion on the financial statements due to serious deficiencies in the accounting records. Since opening balances enter into the determination of the results of operations, I was unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2010. (May 10, 2016)

The audit opinions on the financial statements for the years ended March 31, 2015 and 2016 were qualified due to revenues from donations not being susceptible to satisfactory audit verification.

The audit opinion on the financial statements for the year ended March 31, 2016 stated:

As is common with many not-for-profit organizations, the Smith's Parish Council derives a portion of its revenues from donations, the completeness of which is not susceptible to satisfactory audit verification. Accordingly, my verification of these revenues was limited to the amounts recorded in the records of the Smith's Parish Council and I was not able to determine whether any adjustments might be necessary to revenues, operating deficit, assets and accumulated deficit. (December 6, 2016)

The financial statements for the three years ended March 31, 2012, 2013 and 2014 had unqualified audit opinions.

3.5.7 Southampton Parish Council

During the period covered by this report, the Southampton Parish Council issued eleven sets of audited financial statements covering the years ended March 31, 2006 to 2016. The financial statements for the six years ended March 31, 2006 to 2008 received a disclaimer of audit opinion because of serious deficiencies in its accounting records and in its system of internal controls.

For example, the audit opinion on the financial statements for the year ended March 31, 2008, read:

Due to serious deficiencies in the accounting records of the Southampton Parish Council and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Southampton Parish Council had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Southampton Parish Council for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position and the statement of operations and changes in net assets. (March 28, 2016)

The qualified audit opinion on the financial statements for the year ended March 31, 2009 stated:

I was unable to obtain sufficient appropriate audit evidence to support the accuracy and completeness of rental income. As a result, I was unable to determine whether adjustments might be necessary to rental income, deficiency of revenues over expenses, accounts receivable and net assets. In addition, with respect to the year ended March 31, 2008, I did not express an opinion on the financial statements due to serious deficiencies in the accounting records. Since opening balances enter into the determination of the results of operations, I was unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2008. (March 28, 2016)

The audit opinions on the financial statements for the seven years ended March 31, 2010 to 2016 were unqualified.

3.5.8 St. George's Parish Council

During the period covered by this report, the St. George's Parish Council issued eleven sets of audited and reviewed financial statements covering the years ended March 31, 2006 to 2016. The financial statements for the five years ended March 31, 2006 to 2010 each received a disclaimer of opinion because of serious deficiencies in its accounting records and in the overall control environment of the Council.

For example, the audit opinion on the financial statements for the year ended March 31, 2010, read:

My examination indicated serious deficiencies in the accounting records and the overall control environment of the St. George's Parish Council. As a consequence, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the St. George's Parish Council had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the St. George's Parish Council for the year then ended. Due to a lack of sufficient appropriate audit evidence, assets, liabilities, revenues and expenses are not susceptible to satisfactory audit verification. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of operations and changes in net assets. In addition, management has refused to furnish written representation or approve the audited financial statements. (September 3, 2013)

The financial statements for the year ended March 31, 2011, had a qualified opinion:

With respect to the year ended March 31, 2010, I did not express an opinion on the financial statements due to serious deficiencies in the accounting records. Since opening balances enter into the determination of the results of operations, I was unable to satisfy myself over the accuracy of the opening net assets as at April 1, 2010.

The audit opinions on the financial statements for the two years ended March 31, 2012 and 2013 were unqualified. The financial statements for the three years ended March 31, 2014 to 2016 were reviewed by the Auditor General but not audited. The reviews were unqualified for all three years.

3.5.9 Warwick Parish Council

During the period covered by this report, the Warwick Parish Council (the Council) issued four sets of audited financial statements covering the years ended March 31, 2007 to 2010.

The financial statements for the year ended March 31, 2007 received a disclaimer of opinion that stated:

My examination indicated serious deficiencies in the accounting records of the Council and in the system of internal controls for the year ended March 31, 2007. As a consequence, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Council had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Council for the year ended. Due to a lack of sufficient appropriate audit evidence, assets, liabilities, net assets, revenues and expenses are not susceptible to satisfactory audit verification. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the

components making up the statement of financial position and statement of operations. (March 18, 2011)

The financial statements for the two years ended March 31, 2008 and 2009 had qualified audit opinions because the Auditor General was not provided with minutes of the Council meetings for the period April 2007 to December 2007. Therefore, she was unable to examine these minutes to determine if there was information pertaining to events that would have a material effect on the financial statements and would have required adjustments to/or disclosure in these financial statements.

The actual audit opinion for the year ended March 31, 2008 read as follows:

I was not provided with minutes of the Council meetings for the period April 2007 to December 2007. Therefore, I was unable to examine these minutes to determine if there was information pertaining to events that would have a material effect on the financial statements and would have required adjustments to/or disclosure in these financial statements. The financial statements for the year ended March 31, 2007 were denied an opinion. Since opening balances enter into the determination of the results of operations, I was unable to determine whether adjustments to revenues, expenses, excess of revenues over expenses and opening net assets might be necessary. (March 18, 2010)

The audit opinion on the financial statements for the year ended March 31, 2010, was unqualified.

After the period covered by this report, the Council issued financial statements for the two years ended March 31, 2011 and 2012. The audit opinions thereon were qualified.

3.5.10 Other pervasive problems

Despite the progress described in the introduction to this section, councils are still not up to date with fulfilling their accountability responsibilities. In addition, virtually all parish councils continue to contravene various requirements of the Parish Councils Act 1971. For example, many councils do not satisfy legislative requirements regarding the minimum number of council members, frequency of meetings, quorums, and minuting of meetings. Parish councils have been contravening the statutory requirement that financial statements be submitted promptly for audit each year. The councils are not complying with the statutory requirement to report to the Minister on the exercise and performance of their functions during that year, and on their policies and proposals for the following year.

3.6 Audits of Aided Schools' Capitation Grant Accounts

Capitation grant accounts record grants provided to aided schools by the Ministry of Education, expenditures paid from those grants, and the capitation grant accounts' financial assets and liabilities. Capitation grant accounts do not record most donations and other income of schools, payments from that income, or the schools' capital assets.

The Auditor General audits the capitation grant accounts of Bermuda's four aided schools as required by the Education Act 1996.

During the seven years covered by this report, the Aided Schools' Capitation Grant Accounts were able to issue 17 sets of audited financial statements, of which 16 were qualified or had a disclaimer of opinion. The backlog is getting worse.

As of March 31, 2017, all the schools' capitation grants should have issued audited financial statements up to and including the year ended March 31, 2016. The list below shows the four schools between them had 23 years of financial statements outstanding. It should be noted though that, in the list below, the years marked with an asterisk (*) indicate that, at March 31, 2017, our audit was substantially complete, and six sets of financial statements were issued during the first few months of the 2017-2018 fiscal year. A large backlog remains, however.

As at March 31, 2017, the Aided Schools' Capitation Grant Accounts had not issued audited financial statements for the years ended March 31:

- Berkeley Institute Capitation Grant Account (2013, 2014, 2015, 2016)
- Sandys Secondary Middle School Capitation Grant Account (2011, 2012, 2013, 2014, 2015 and 2016)
- St. George's Preparatory School Capitation Grant Account (2010*, 2011*, 2012*, 2013*, 2014*, 2015* and 2016)
- Whitney Institute Middle School Capitation Grant Account (2011, 2012, 2013, 2014, 2015 and 2016)

As well as failing in their responsibility to provide timely financial accountability to the Minister, all four aided schools are contravening the Education Act 1996 which requires them to submit their accounting records and financial statements for audit within three months of fiscal year-ends.

3.6.1 Berkeley Institute Capitation Grant Account

During the period covered by this report, Berkeley Institute Capitation Grant Account (the 'Account') issued five sets of financial statements for the years ended March 31, 2008 to 2012. All the statements were given a qualified audit opinion for the same reason: management expensed physical assets such as inventories of supplies, textbooks, furniture and equipment on acquisition rather than recording these

capital assets at cost when acquired and amortizing them over their estimated useful lives.

For example, the auditor's report for the year ended March 31, 2012 stated:

As described in note 6, The Governors of the Berkeley Institute Capitation Grant Account expenses physical assets such as inventories of supplies, textbooks, furniture and equipment on acquisition. Generally accepted accounting principles require that capital assets be recorded at cost when acquired and amortized over their estimated useful lives. As a result, I am unable to determine whether adjustments might be necessary to assets, liabilities, expenses, excess of revenues over expenses and net assets. (May 11, 2016)

3.6.2 Sandys Secondary Middle School Capitation Grant Account

During the period covered by this report, Sandys Secondary Middle School Capitation Grant Account (the 'School') issued five sets of financial statements for the years ended March 31, 2006 to 2010.

The financial statements for the year ended March 31, 2006, contained a disclaimer of opinion because the audit indicated serious deficiencies in the accounting records of the Capitation Grant Account and in its system of internal controls. Therefore, the Auditor General was not able to satisfy herself that all assets, liabilities, revenues and expenses of the Capitation Grant Account had been reflected, nor was she able to satisfy herself that recorded transactions represented valid transactions of the Capitation Grant Account for the year then ended. As a result, she was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position and statement of operations and net assets.

The financial statements for the year ended March 31, 2007, issued in November 2012, included a qualified auditor's opinion that read:

I was unable to obtain sufficient appropriate audit evidence to support the accuracy and completeness of capital assets of \$54,284 and the validity of salary and expense reimbursements totalling \$17,409. As a result, I was unable to determine whether adjustments might be necessary to assets, liabilities, expenses, excess of revenues over expenses and net assets. The financial statements for the year ended March 31, 2006 were denied an opinion. Since opening balances enter into the determination of the results of operations, I was unable to determine whether adjustments to revenues, expenses, excess of revenues over expenses and opening net assets might be necessary. (November 15, 2012)

The financial statements for the years ending March 31, 2008, 2009 and 2010 contained a qualified audit opinion because the Auditor General was unable to obtain sufficient appropriate audit evidence to support the accuracy and completeness of

capital assets. The financial statements for the year ended March 31, 2010, issued March 15, 2017 included a qualified auditor's opinion that read:

I was unable to obtain sufficient appropriate audit evidence to support the accuracy and completeness of capital assets with a net book value of \$61,183. I was also unable to obtain sufficient appropriate audit evidence with respect to the validity of expenses with an extrapolated error of \$47,459. As a result, I was unable to determine whether adjustments to assets, liabilities, expenses, deficiency of revenues over expenses and net assets might be necessary.

3.6.3 St. George's Preparatory School Capitation Grant Account

During the period covered by this report, St. George's Preparatory School Capitation Grant Account (the 'Account') issued its financial statements for the year ended March 31, 2009. After the period covered by this report, however, six sets of audited financial statements covering the years ended March 31, 2010 to 2015, were issued. All the auditor's reports were unqualified.

3.6.4 Whitney Institute Middle School Capitation Grant Account

During the period covered by this report, Whitney Institute Middle School Capitation Grant Account (the 'School') issued six sets of financial statements for the years ended March 31, 2005 to 2010.

All the financial statements received a disclaimer of opinion for the same reason: the inability of management to provide sufficient appropriate audit evidence about the amounts and disclosures in the financial statements. For example, the auditor's report for the year ended March 31, 2010 stated that:

Due to the inability of management to provide us with sufficient appropriate audit evidence about the amounts and disclosures in the financial statements, I was not able to perform audit procedures to verify the amounts of all assets, liabilities, revenues and expenses of The Whitney Institute Middle School Capitation Grant Account nor was I able to obtain sufficient appropriate audit evidence that recorded transactions represented valid transactions of The Whitney Institute Middle School Capitation Grant Account for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the elements making up the statement of financial position, the statement of operations and changes in net assets and the statement of cash flows. (September 11, 2014).

3.7 Other Audits

3.7.1 Barristers and Accountants AML/ATF Board

The Barristers and Accountants AML/ATF Board (the "Board") is a statutory board established jointly by the Chartered Professional Accountants of Bermuda ("CPA Bermuda") and the Bermuda Bar Association (the "Bermuda Bar"), pursuant to Section 5 and part 4A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 to be the supervisory authority for regulated professional firms (barristers and accountants) as defined by Regulation 2 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

The Board commenced operations on January 20, 2011.

During the period covered by this report, the Board issued five sets of audited financial statements covering the years ended March 31, 2012 to 2016. The related audit opinions were all unqualified.

3.7.2 Bermuda Monetary Authority

The Bermuda Monetary Authority (the 'Authority') established in Bermuda by an Act of the Legislature with initial capital provided by the Bermuda Government. Its objectives and powers are set out in the Bermuda Monetary Authority Act 1969, as amended. Amendment Act 2001 allows the Minister of Finance to approve an auditor for the Authority other than the Auditor General. The legislative amendment recognizes that the manner in which board members hold office renders the Authority independent of Government. On the recommendation of the Authority's Board, the Minister of Finance has continued to approve the Auditor General as auditor of the Authority.

During the period covered by this report, the Authority issued four sets of audited financial statements covering the years ended December 31, 2012 to 2015. The related audit opinions were all unqualified.

3.7.3 Bermuda Public Accountability Board

The Bermuda Public Accountability Board (the 'Board') established to provide for the effective oversight of public accountants that audit Public Interest Entities. It is a statutory corporation with power to carry out independent public supervision by means of developing and implementing quality assurance systems and enforcement systems with adequate processes for investigations and enforcement.

During the period covered by this report, the Board issued one set of audited financial statements for the period from August 1, 2012 (commencement of operations) to March 31, 2016. The audit opinion on the financial statements was unqualified.

3.7.4 Office of Information Commissioner

The Auditor General is the auditor of the Office of Information Commissioner ('ICO') pursuant to the legislation under which the Commissioner operates. The Information Commissioner is independent of Government and reports directly to the Speaker and to the House of Assembly.

The Office commenced its operations on April 1, 2015.

After the period covered by this report, the ICO issued financial statements for the year ended March 31, 2016. The audit opinion for these financial statements was unqualified.

3.7.5 Office of Ombudsman for Bermuda

The Auditor General is the auditor of the Office of the Ombudsman (the 'Office') pursuant to the legislation under which the Ombudsman operates. The Ombudsman is independent of Government and reports directly to the Speaker and to the House of Assembly.

During the period covered by this report, the Office issued seven sets of audited financial statements covering the years ended March 31, 2007 to 2013. The audit opinions on all these financial statements were unqualified.

After the period covered by this report, the Office issued financial statements for the years ended March 31, 2014 to 2016. These audit opinions for all these financial statements were unqualified.

3.7.6 Spending and Government Efficiency Commission

The Spending and Government Efficiency ("SAGE") Commission ("Commission") was established by an Act of Parliament (SAGE Commission Act 2013). The objective of the SAGE Commission was to advise the Bermuda Government on the most efficient and cost effective government organizational structure and governing processes in accordance with the functions set out in section 5 of the Act.

During the period covered by this report, the Commission did not issue a set of audited financial statements. After the period covered by this report, SAGE issued financial statements for the year ended March 31, 2013. The audit opinion on these financial statements was qualified because the Auditor General was unable to obtain sufficient appropriate audit evidence to support the accuracy and completeness of contributions revenue. The qualified opinion read:

I was unable to obtain sufficient appropriate audit evidence to support the accuracy and completeness of contributions revenue amounting to \$145,000. As a result, I was unable to determine whether adjustments might be necessary to assets, liabilities, revenues, operating surplus and accumulated surplus. (June 2, 2017)

4. Other Audit Work Completed During the Reporting period

During the period from April 1, 2010, to March 31, 2017, the Auditor General issued four Special Reports that provided the results of various audits and investigations carried out by the Office:

- 2010: Motor Vehicle Safety and Emissions Testing Programme
- 2011: Misuse of Public Funds
- 2014: Port Royal Golf Course Improvements Capital Development Project
- 2015: Royal Naval Dockyard Cruise Ship Pier – Heritage Wharf

What follows is a high-level summary of the reports. The full reports may be accessed at: <http://www.oagbermuda.bm/organisation-special-reports.php>

4.1 Motor Vehicle Safety and Emissions Testing Programme

4.1.1 Background

The Motor Vehicle Safety and Emissions Testing Programme had been contemplated since the latter part of the 1990s and received Cabinet approval to proceed in June 2003. The programme included the construction of a new Transport Control Department (TCD) Administration Building with testing facilities in Hamilton, and two satellite testing facilities - one in St. George's and the other in Southampton.

Responsibility for the successful completion of the project was vested in TCD (a department within the Ministry of Transport). TCD then contracted with the consultant firm, Bermuda Emissions Control Ltd. (BECL), to manage the project.

4.1.2 Audit Purpose and Scope

The overall purpose of our audit was to determine if the development of the Motor Vehicle Safety and Emissions Testing Programme was properly managed by Government to provide value for money to the taxpayer.

To do this, we assessed the appropriateness of the processes used by Government to:

- Select the contractors
- Review and approve the contracts
- Review and approve changes to the contracts
- Monitor the contracts

Our audit focused on the work of Government ministries and departments. It was not an audit of the private companies involved in the project. Neither did we assess the need, nature or scope of the project or the decision to outsource the construction and operation of the testing facilities.

We completed our audit in September 2010. Our work covered the period 1997 to 2010 and included discussions with and documentation provided by BECL and senior civil servants from the Ministries of Tourism and Transport, Finance and Works and Engineering.

4.1.3 Summary of Findings

Our findings included the following:

- Ministerial directive that compromised civil servants' ability to comply with Financial Instructions;
- Non-compliance with Government's tendering policies and payment procedures;
- Contract signed-off for construction of new TCD building before acquiring a complete set of drawings;
- An inherent conflict of interest between BECL, the consultant, and Correia Construction Company Limited, the contractor, as both were 30% owned by the same individual;
- Cabinet approval not obtained prior to the signing of any of the contracts relating to either construction or operation of the testing facilities;
- Cabinet's request that the construction of the satellite facilities should follow the open tender process was disregarded by civil servants;
- Insufficient documentation to support increases in the Capital Budget from \$8.6 million to \$14.25 million; and
- No vetting of the operating agreement or of the projected annual operating expenses which formed the basis for the annual fee paid to BECL.

4.1.4 Audit Conclusions

We concluded that the processes used by Government to oversee the development of the Motor Vehicle Safety and Emissions Testing Programme did not provide assurance that value for money was achieved.

By not following its established procedures for the management of capital development projects, Government retained the financial risks of developing the Motor Vehicle Safety and Emissions Testing Programme whilst effectively relinquishing control over the development costs to a consultant company (that was to become the operator of the programme) and a construction company (that had common ownership with the consultant company).

4.2 Misuse of Public Funds

The report provided the results of an investigation of two specific issues that had been brought to the attention of the then Auditor General:

- Inappropriate conduct of the Chairman and Deputy Chairman of the Board of Directors of the Bermuda Land Development Company Limited, and
- Inappropriate use of public funds to pay for personal legal expenses.

Because the form and content of this report was different to an audit report, and because the two issues are complex, it is not possible for the report to be summarized here. Therefore, interested readers are directed to our website (address provided above) to access the full report.

4.3 Port Royal Golf Course Improvements Capital Development Project

4.3.1 Background

Port Royal Golf Course is a government-owned public golf course. The Course is managed by the Board of Trustees of the Golf Courses (the “Board of Trustees”).

Between 2007 and 2011, the Government of Bermuda (the “Government”) approved a \$24.5 million refurbishment of the golf course, known as the Port Royal Golf Course Improvements Capital Development Project (the “Project”).

4.3.2 Audit Purpose and Scope

We conducted an audit of the Project for the period January 1, 2007 to March 31, 2011 to determine whether the Government and the Board of Trustees appropriately managed expenditures of the Project and followed legislation and Financial Instructions.

Specifically, we wanted to determine whether the Board of Trustees:

- used the funds it received for the Project for the intended purposes and properly spent them in accordance with its legislation and Financial Instructions;
- maintained essential records, and fully accounted for the money it received for the Project; and

- used proper oversight processes to manage the Project.

We also examined the processes used by the Government to oversee the Project to determine if it:

- monitored the progress and status of the Project;
- correctly accounted for the money spent in the Consolidated Fund; and
- approved all Project costs.

We limited our audit to the Board of Trustees' management and the Government's oversight of expenditures and processes related to the Project. We did not design the audit to determine whether the processes were adequate for all of management's purposes, nor would the audit likely reveal all opportunities for improvement or conditions requiring management's attention. We did not examine the expenditures related to the annual operations of the golf course nor audit its financial statements. We did not conduct a forensic audit to examine the legality of payments relating to the Project.

Our audit consisted of interviews with staff of various Ministries, past and present members and employees of the Board of Trustees and other persons. We also reviewed minutes of meetings of the Board of Trustees, and examined tenders, quotations, applicable contracts, accounting records and supporting documentation related to the Project.

4.3.3 Summary of Findings

We found that:

- The Board of Trustees did not follow processes to control the expenditure of public money
- The Board of Trustees did not adequately account for the Project;
- The Board of Trustees did not adequately monitor the Project;
- The Government did not adequately monitor the Project;
- The Government did not correctly account for the Project; and
- The Government did not follow its processes to approve all Project costs.

4.3.4 Audit Conclusions

We concluded that neither the Board of Trustees nor the Government appropriately managed expenditures for the Project.

We cannot conclude whether the Board of Trustees used all of the funds it received for the Project for the intended purpose. Further, we cannot conclude whether it has fully accounted for the money it received because the Board of Trustees has not provided accurate financial reporting including financial statements audited for reliability, completeness and accuracy.

However, we can conclude that the Government did not appropriately approve all Project costs and did not correctly account for capital spending in its accounting records.

4.4 Royal Naval Dockyard Cruise Ship Pier – Heritage Wharf

4.4.1 Background

During the period 2006-2009, the Government of Bermuda (the “Government”) undertook a \$60 million construction project (the “Project”) to build a cruise ship pier known as Heritage Wharf, located at the Royal Naval Dockyard (“Dockyard”).

4.4.2 Purpose and Scope

We conducted an investigation to determine whether:

- The Project was effectively assessed and selected based on a prioritized infrastructure needs analysis;
- Sufficient upfront planning was conducted;
- The tender process was properly executed in accordance with the Government’s rules and regulations for tendering; and
- Government departments involved in the Project complied with Financial Instructions with respect to the expenditure of public funds to protect the Government’s interests.

Our work was limited to an investigation of the processes and procedures the Government used to plan and manage the Project from 2006 to 2009. During this period, the Project was subject to Financial Instructions applicable to the period.

Our investigation consisted of interviews with various Ministries’ staff and persons involved in the design and construction of the Project and the examination of relevant documents. Documents examined included meeting minutes, Cabinet Conclusions, articles, estimates, procurement documents, tenders, quotations, contracts and supporting documentation related to the Project.

4.4.3 Summary of Findings

We found that:

- Government did not follow approved policies and procedures for tendering;
- Cabinet did not approve the construction contract;
- Government did not critically assess the priority and affordability of its major capital projects;
- Government did not conduct a comprehensive financial assessment of the Project before awarding the contract to the preferred contractor;
- Appropriate planning and design was not conducted before construction began resulting in significant cost overruns;
- The Ministry did not protect the financial interests of the Government when it accepted the preferred contractor as its own guarantor and failed to perform financial due diligence; and
- Appropriate oversight of construction or costs was not performed by the Ministry.

4.4.4 Conclusion

We concluded that the Government did not use effective practices in planning and managing the spending of public money to build Heritage Wharf and its related infrastructure. Inadequacies in the management of the Project did not protect the Government's interests or provide the Government with the ability to measure whether value for money was achieved in many areas.

The blatant disregard for the policies, rules and procedures designed to protect the public purse is unacceptable and violates principles of good governance, accountability and responsibility. Those guilty of such violations and neglect must be held to account and the appropriate sanctions should be applied including appearance before the Public Accounts Committee.

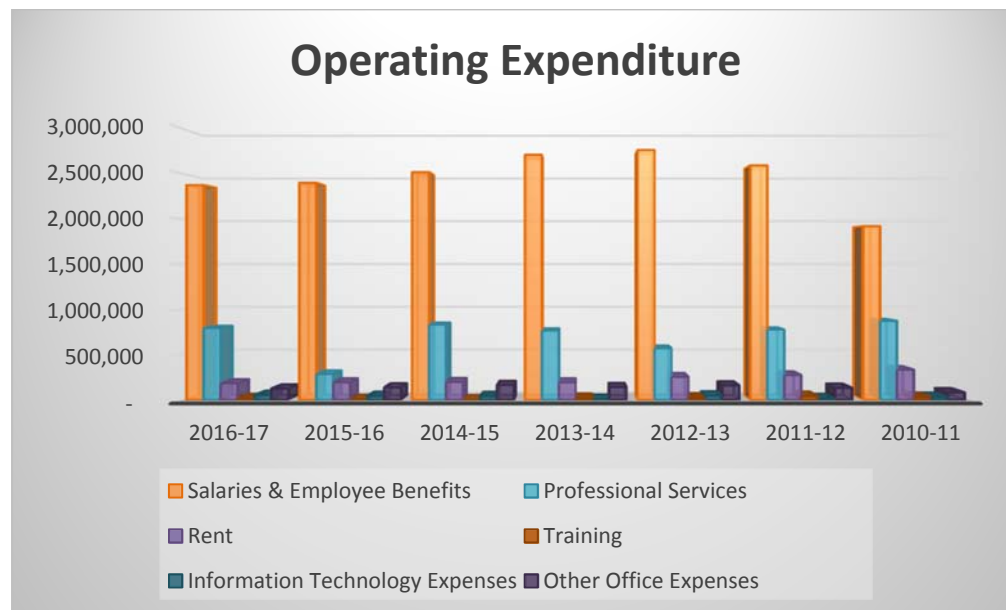
5. Office Administration

Funding for the Office is included in the Government of Bermuda's estimates as voted through the annual Appropriation Act by the House of Assembly. Prior to the Appropriation Act, under the Rules of the House of Assembly, the Auditor General must present annual and supplementary estimates to the Select Standing Committee on the Office of the Auditor General (the 'Committee'). The Committee then makes recommendations thereon to the Minister of Finance. Generally, the Committee has endorsed the Office's funding proposals and the Minister has not changed them.

The annual appropriation provides separately for operating expenses and capital acquisitions. Any unused appropriation cannot be carried forward for use in subsequent years.

Revenues comprise audit fees charged to the organizations that legislation allows may be billed for audit services provided by the Office of the Auditor General during the year. Fees collected are retained by the Office and paid back into the Consolidated Fund at year end.

5.1 Office Operating Expenditure



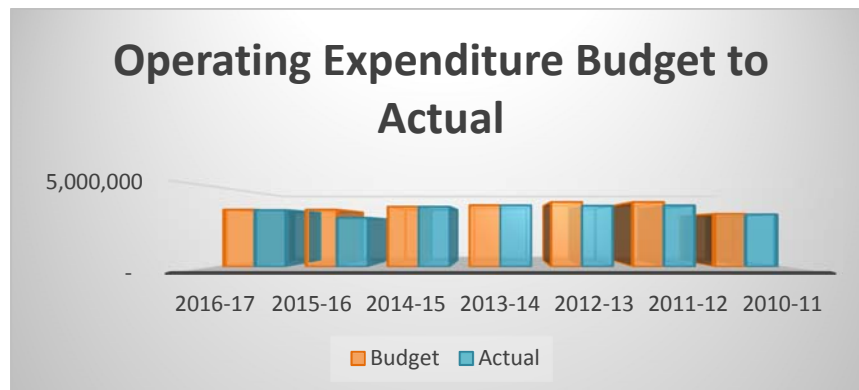
The above chart of Actual Operating Expenditures for the seven years ended March 31, 2017 shows that:

- The biggest determinants of expenditure are salaries and employee benefits and professional services
- Total expenditure has remained fairly constant over the seven-year period with two exceptions:

1. There was an increase of \$381,049 (approximately 20%) in 2010-11, compared to the previous year. This reflected in an uplift of the annual budget allocation to allow the then new Auditor General to reorganize the Office infrastructure and enhance the Office IT capabilities.

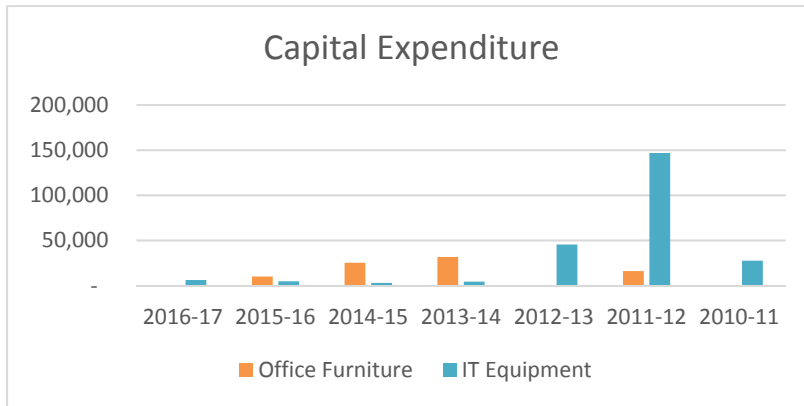
2. The expenditure for 2015-16 was \$693,730 (18.2%) less than the previous year. This decrease was primarily caused by professional services expenditure decreasing by \$545,218 and salaries and employee benefits decreasing by \$117,771. However, for the 2016-17 year, the total expenditure increased from the previous year by \$464,161 (14.9%), primarily because expenditures on professional services increased by \$508,195. These fluctuations in salaries and benefits and professional services expenditures was attributed to - 2015-16. The 2015-2016 recruitment process was not as successful as it had been in prior years so more posts were left unfilled thus decreasing expenditure in this area. In addition, less contracted audits were completed in 2015-16, thus decreasing the expenditure in that area. In 2016-17, there was an increase in the number of audits contracted out and completed which increased the professional services expenditure.

- Expenditure on rent fell from \$333,983 in 2010-11 to \$184,773 in 2016-17. This reflects a move to lower cost accommodation in 2011.
- The amount spent on training was much lower for 2014-15 (\$938) and 2015-16 (\$5,200) than the other five years covered by our reporting period (for which the average annual expenditure was \$28,041). This discrepancy was a reflection of the Office’s heavy work load (which was due in part to the Office’s inability to hire staff to the maximum funded through the Estimates process).



The above graph shows that, aside from amortizations, for all years under review, expenditure has been kept under budget.

5.2 Office Capital Expenditure

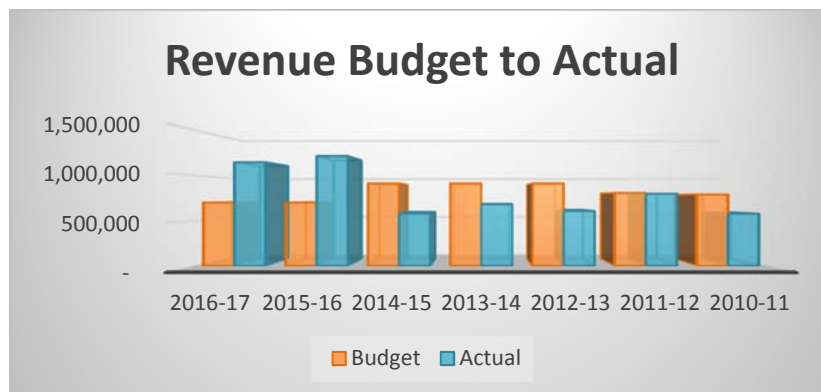


The Office categorizes its capital expenditure in two categories, information technology (IT) equipment and office furniture and equipment.

The Office has its own in-house IT staff who not only maintain and service the systems already in the Office but also research new and emerging technology and develop project plans with the aim of increasing the efficiency of the Office. During the three years ended March 31, 2013, the Office invested approximately \$220,000 in IT to help our staff to “work smarter not harder” and to move forward in efficiency and effectiveness. This initial investment established the development of our core IT infrastructure (server, data systems, photocopiers/scanners, telephone systems, computers, etc.) as well as investments in auditing and business software. Later years saw a decrease in this expenditure as the infrastructure was in place and funding was requested and used for regular maintenance and upgrades.

The Office’s investment in furniture and equipment has been minimal. Approximately \$57,000 was expended in the two years ended March 31, 2015 on new furniture and equipment needed for our new, lower rental cost accommodation.

5.3 Office Revenue



Fees are charged to select auditees based on the estimated resources the audit will consume. All auditees whose audits have been contracted out are charged in

accordance with the contracts in place with the agent auditors. The decision to charge any other auditee is at the discretion of the Auditor General.

The big increase in fees for the 2015-16 and the 2016-17 was the result of a large number of outstanding audits being completed.

5.4 Office Employees

At March 31, 2017, the Office's approved (i.e., funded) staff complement was 26. The actual staff number was 22, comprising three Executive, 14 audit practitioners and 5 support staff. The four vacancies are all in the audit practitioner category.

These figures are consistent with the annual averages for the seven years under review (average staff complement was 26, actual staff numbers were 22, with average number of vacancies being four).

Turnover in the year ended March 31, 2017, was higher than the average annual turnover of four, with seven people leaving – whether due to retirements or to pursue other interests.

The impact of high turnover (experienced staff being replaced by less experienced staff) and the four unfilled positions at a time when the Office has been trying to clear up a large backlog of audits and in which the number of audits and their complexity are increasing resulting in additional strain being put on audit staff and the Executive. This challenge was discussed earlier in this report (see Auditor General's Comments Section 1.3 Resourcing the Office).

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APPENDIX 1

Organizations Falling Within the Mandate of the Auditor General

<i>Funds</i>	
Bermuda Department of Tourism North America Retirement Plan	March 31
Confiscated Assets Fund	March 31
Consolidated Fund	March 31
Contributory Pension Fund	July 31
FutureCare Fund	March 31
Government Borrowing Sinking Fund	March 31
Government Employees Health Insurance Fund	March 31
Government Reserves Fund	March 31
Health Insurance Fund	March 31
Ministers and Members of the Legislature Pensions Fund	March 31
Mutual Re-insurance Fund	March 31
Public Service Superannuation Fund	March 31
Unemployment Insurance Fund	March 31
 <i>Government-Controlled Organizations & Other Organizations</i>	
African Diaspora Heritage Trail Bermuda Foundation	March 31
ACBDA Limited	December 31
Bermuda Airport Authority	March 31
Bermuda Arts Council	March 31
Bermuda Casino Gaming Commission	March 31
Bermuda Civil Aviation Authority	March 31
Bermuda College	March 31
Bermuda Deposit Insurance Corporation	March 31
Bermuda Economic Development Corporation	March 31
Bermuda Educators Council	March 31
Bermuda Health Council	March 31
Bermuda Hospitals Board	March 31
Bermuda Housing Corporation	March 31
Bermuda Housing Trust	March 31
Bermuda Land Development Company Limited	March 31
Bermuda Monetary Authority	December 31
Bermuda Public Accountability Board	March 31
Bermuda Shipping and Maritime Authority	December 31
Bermuda Sport Anti-Doping Authority	March 31
Bermuda Tourism Authority	December 31

Board of Trustees of the Golf Courses	March 31
CedarBridge Academy	March 31
Financial Intelligence Agency	March 31
Office of Information Commissioner	March 31
Office of Ombudsman	March 31
Pension Commission	December 31
Privacy Commissioner’s Office	March 31
Regulatory Authority	December 31
Spending and Government Efficiency (SAGE) Commission	March 31
South Basin Development Limited	March 31
Trustees of the National Sports Centre	March 31
West End Development Corporation	March 31
<i>Parish Councils</i>	
Devonshire Parish Council	March 31
Hamilton Parish Council	March 31
Paget Parish Council	March 31
Pembroke Parish Council	March 31
Sandys Parish Council	March 31
Smith’s Parish Council	March 31
Southampton Parish Council	March 31
St. George’s Parish Council	March 31
Warwick Parish Council	March 31
<i>Aided Schools</i>	
Berkeley Institute Capitation Grant Account	March 31
Sandys Secondary Middle School Capitation Grant Account	March 31
St. George’s Preparatory School Capitation Grant Account	March 31
Whitney Institute Middle School Capitation Grant Account	March 31

APPENDIX 2

Audit Act 1990

BERMUDA 1990: 56

[17 July 1990]

[preamble and words of enactment omitted]

Short title

1 This Act may be cited as the Audit Act 1990.

Interpretation

2 (1) In this Act—

"the Audit Committee" means the committee established by section 5;

"function", unless the context otherwise requires, means function whether under this Act or under some other provision of law; "Government-controlled", in relation to an entity, has the meaning set forth in subsection (2);

"member of the Auditor General's staff" means the Auditor General and any person appointed as mentioned in section 3(1) or engaged as mentioned in section 3(2);

"the Minister" means the Minister of Finance;

"the Parliamentary Standing Committee" means the Parliamentary Standing Committee on the Office of the Auditor General provided for by the Rules of the House of Assembly [title 2 item 1(b)] ;

"public officer" means the holder of an office in the civil service of the Government;

"record" includes any device by which information is recorded or stored.

(2) An entity is Government-controlled for the purposes of this Act if the Government has the power—

(a) by virtue of rights conferred by the constitution of that entity or by some other document regulating that or some other entity; or

(b) by means of possession of voting power or the holding of shares in or in relation to that first-mentioned entity; or

(c) by some other means, to secure that the affairs of that first-mentioned entity are conducted in accordance with the wishes of the Government.

Staff of the Auditor General

3 (1) Without prejudice to subsection (2), there shall be appointed to assist the Auditor General in the discharge of his functions such number of public officers as may be required.

(2) The Auditor General may, in addition, engage such further number of persons at such remuneration (deriving from funds provided for that purpose) and on such terms and conditions as he considers necessary for assisting him in the discharge of his functions.

(3) Every person appointed as mentioned in subsection (1) or engaged as mentioned in subsection (2) is subject to the Auditor General's direction and control.

(4) Subject to subsection (5), anything under which the authority of the Constitution or any statute is to be done by or to the Auditor General may be done by or to a duly authorised member of the Auditor General's staff.

(5) The delegation of the Auditor General's functions provided for by subsection (4) does not extend to the expression of an opinion on any accounts, or to the signing or submission of any report.

Remuneration of Auditor General

4 (1) The salary or other remuneration of the Auditor General shall not be less than that of a Puisne Judge.

(2) The expression "salary or other remuneration" in its reference in subsection (1) to a Puisne Judge does not extend to any allowances of a Puisne Judge or to any special treatment of a Puisne Judge's salary or remuneration for pension purposes.

Audit Committee

5 (1) There shall be established and maintained a committee, to be known as the "Audit Committee", for the purpose of performing the functions assigned to that committee by this Act.

(2) The Audit Committee ("the Committee") shall consist of —
(a) the Minister ex officio; and

- (b) such other members (not fewer than five in number) as the Governor, acting in accordance with the advice of the Premier, may appoint, but so that no such member may be a public officer or an officer or a member of either House of the Legislature or an employee of any Government-controlled entity.
- (3) The Governor, so acting, shall appoint a member to be the Committee's Chairman or, in case of need, acting Chairman, but the Minister may not be appointed, or act, as such.
- (4) The Committee shall meet when summoned by the Chairman or acting Chairman—
- (a) to consider any urgent matter proposed by the Minister or the Auditor General for the Committee's consideration; or
 - (b) otherwise for the discharge of the Committee's functions under this Act.
- (5) Subject to this section, the Committee may regulate their own procedure.

Audits of public accounts

- 6 (1) The Auditor General shall in every year—
- (a) audit—
 - (i) the accounts referred to in section 101(2) of the Constitution [title 2 item 1); and also
 - (ii) the accounts of every Government-controlled entity whose accounts are not referred to in section 101(2) of the Constitution; and
 - (b) include in every such audit a report setting forth the Auditor General's opinions in accordance with subsection (3).
- (2) The Auditor General's primary functions are those specified in subsection (1), and he is not to exercise his powers under section 16 or 17, or to perform any other function, if to do so would or might impair his ability to discharge his functions under subsection (1).
- (3) A report for the purposes of subsection (1)(b)—
- (a) shall include the matters specified in Part I of the Schedule;
 - (b) may, if the Auditor General thinks fit, include any or all of the matters specified in Part II of the Schedule.
- (4) Accounts that have been audited under subsection (1) shall not be published unless there is or are attached to them any report or reports that the Auditor General prepared in relation to those accounts under subsection (1)(b).

(5) The Auditor General shall prepare accounts in respect of the work of the Office of the Auditor General during each financial year, and those accounts shall be audited by such Auditor General as the Minister may select after consultation with the Parliamentary Standing Committee.

Procedure for audits

7 (1) The Auditor General shall as soon as may be deliver to the relevant Minister a report on every audit conducted by the Auditor General pursuant to section 6(1)(a)(ii), and that Minister shall lay the report before the House of Assembly as soon as may be thereafter.

(2) In subsection (1) the expression "the relevant Minister" means the Minister responsible for the Government-controlled entity to which the accounts in question relate or, if there is no such Minister, then the Minister of Finance.

(3) If any difficulty arises in determining for the purposes of subsection (2) of this section or section 11(1)(b) the Minister who is responsible for a Government-controlled entity, then that difficulty shall be resolved by the Premier after consultation with the Attorney-General.

(4) Every report delivered by the Auditor General to a Minister, or laid by a Minister before the House of Assembly, pursuant to subsection (1) shall have attached to it a copy of the accounts to which the report relates.

(5) Subsections (1) and (4) of this section apply mutatis mutandis in relation to audits conducted pursuant to section 6(5) as those subsections apply in relation to audits conducted by the Auditor General.

Ad hoc reports in connexion with audits

8 (1) Notwithstanding section 6, where it appears to the Auditor General at any time in the course of the discharge of his functions under section 6(1) and (3) that a matter to which this section applies requires some action in the public interest, the Auditor General shall report the matter to the entity in question and, if the circumstances in his judgment so warrant, also to the Minister; and, where the matter appears to the Auditor General to be one requiring immediate or urgent action, he shall report under this section immediately.

(2) This section applies to any matter affecting an entity whose accounts are referred to in section 6(1).

Annual reports of Auditor General

9 (1) The Auditor General shall in every financial year make a report under this section on the work done by the Office of the Auditor General during the next preceding financial year.

(2) A report under this section shall—

- (a) set forth details of every case in which the Auditor General has qualified or reserved his opinion on, or on anything in, accounts referred to in section 6(1); and
- (b) report on every case in which the Auditor General has observed that—
 - (i) a collection of public money, or a disbursement of public money—
 - (aa) has not been made, or has been made otherwise than, as required by any enactment, regulation, rule, order or directive applicable to that collection or disbursement; or
 - (bb) has not been accounted for, or has not been properly reflected, in any relevant accounts; or
 - (ii) property has not been adequately safeguarded or accounted for; or
 - (iii) any accounting or management control system (or any system designed to ensure economy and efficiency in the collection of public money or the making of disbursements, or in the preservation or use of assets, or in the determination of liabilities) was not in existence when it should have been, or was inadequate or had not been complied with; or
 - (iv) although appropriate and reasonable procedures could have been used to measure and report on the effectiveness of programmes, such procedures either had not been established or were not being complied with:

Provided that the Auditor General need not report on any matter which in his opinion is not significant, or on any error or deficiency which in his opinion has been, or is being, satisfactorily rectified; and

- (c) call attention to any other case that the Auditor General considers merits attention.

(3) A report under this section may include such comments as the Auditor General may think fit to make -

- (a) on the effect on the work of the Office of the Auditor General of any changes made in relation to staffing or money sought by the Auditor General for the operation of that Office; and
- (b) on whether in the carrying out of that work the Auditor General received all the information or assistance that he required.

(4) A report under this section may also include, in relation to the accounts of any entity whose accounts are referred to in section 6(1), such comments as the Auditor General may think fit to make

- (a) on the accounting policies employed by the entity;
- (b) on whether the substance of any significant matter that came to his attention was adequately disclosed; and
- (c) on the suitability of the form of any estimates prepared by the entity for controlling disbursements.

(5) Where a report under this section deals with any accounts, there may be included in, or attached to, the report copies or summaries of or extracts from those accounts if the Auditor General deems that necessary or convenient for the purposes of the report.

Time limit for annual reports of Auditor General

10 (1) An annual report under section 9 shall be addressed to the Speaker of the House of Assembly, and, subject to subsection (2) of this section and to section 11, it is the Auditor General's duty to deliver each such report to the Speaker, and send a copy of the report to the Governor and the President of the Senate, on or before 30th November in the financial year next following the financial year to which the report relates.

(2) Where in any case the Auditor General will be unable to fulfil his duty under subsection (1), he shall so inform the Speaker of the House of Assembly in writing beforehand, giving his reasons; and he shall then use his best endeavours to deliver the report to the Speaker as soon after 30th November as he is able.

Procedure for annual reports of Auditor General

11 (1) The Auditor General shall as soon as may be in every year complete the final draft of his proposed report under section 9 and—

- (a) send a copy of the draft report to—

- (i) the Chairman of the Audit Committee for circulation to the Committee; and
 - (ii) the Minister for his information; and
- (b) where any part or parts of the draft report deals or deal with any matter concerning a Government-controlled entity for which any other Minister is responsible, send copies of that part or those parts to that Minister for his information.
- (2) The Audit Committee shall study every draft report sent to them under subsection (1)(a); and the Auditor General shall make himself and his staff fully available to the Committee, and shall give to the Committee all the assistance that the Committee may reasonably require for the purpose of studying the draft report.
- (3) The Audit Committee—
- (a) shall consult the Auditor General and may make to him such observations and recommendations on the draft report as they may think appropriate; and
 - (b) shall inform the Cabinet of any matters in the draft report that in the Committee's opinion ought to be brought to the Cabinet's attention.
- (4) The Auditor General may, but need not, give effect to any recommendations made to him by the Audit Committee under subsection (3)(a).
- (5) The Audit Committee and the Auditor General shall use their best endeavours so that the process of scrutiny, study and consultation provided for by subsections (1) to (3) may be completed in time to enable section 10(1) to be complied with.

Special reports by Auditor General

- 12 (1) Notwithstanding sections 9 to 11, where at any time in the course of the performance of the Auditor General's functions a matter arises to which this section applies, the Auditor General shall make an immediate report under this section.
- (2) This section applies to any matter—
- (a) of a nature described in sections 9(2)(b)(i) to (iv); and also
 - (b) such, in the Auditor General's opinion, as to warrant his making in the public interest an immediate report under this section in accordance with section 13.

Procedure for special reports by Auditor General

- 13 (1) A special report under section 12 shall be addressed to the Speaker of the House of Assembly, and, subject to subsection (2) of this section, the Auditor General shall deliver any such report to the Speaker, and send a copy of the report to the Governor and the President of the Senate, as soon as may be.

(2) The provisions of section 11 apply mutatis mutandis in relation to a special report under section 12 as those provisions apply in relation to an Auditor General's annual report under section 9.

General powers of Auditor General

- 14 The Auditor General is entitled in the exercise and for the purpose of his functions—
- (a) to request that he be supplied with any explanation, information or assistance which he may reasonably require for the performance of his functions;
 - (b) to require access to all property of any entity whose accounts are referred to in section 6(1), and to all records relating to those accounts;
 - (c) to call for reasonable accommodation to be provided to any member of the Auditor General's staff; and
 - (d) to seek from the Attorney-General in writing an opinion on any question regarding the interpretation of any statutory provision; and any person to whom a reasonable demand by the Auditor General in that behalf is properly directed shall comply with the demand with all reasonable despatch.

Power to charge fees in certain cases

- 15 (1) Where the Auditor General acting under this Act audits the accounts of an entity whose accounts do not form part of the accounts of the Consolidated Fund, he may charge for the audit such reasonable fees as he thinks fit.
- (2) Fees charged pursuant to subsection (1) shall be paid to the Accountant General as public money.

Ad hoc investigations, etc.

- 16 (1) Where any public money has been paid by way of grant or contribution to any person, or been placed by way of investment with any person, being in either case a person who is not an entity whose accounts are referred to in section 6(1), then the Auditor General may direct to that person such enquiries, and in connexion with those enquiries make such investigations, as the Auditor General thinks necessary or expedient for determining to what extent the public money so paid or placed has been used for the purposes for which it was so paid or placed and not otherwise.
- (2) The Auditor General—
- (a) shall report the results of any enquiries or investigations that he makes under subsection (1) to the Minister; and
 - (b) may report those results, or any part of them, to any other person or authority (being a person of (sic) authority affected by the grant, contribution or investment) to whom or to which the Auditor General considers it necessary or expedient to make such a report.

Power to give advice

- 17 The Auditor General may, if requested to do so by an entity whose accounts are referred to in section 6(1), render to that entity any technical advice or assistance that he is competent to render by virtue of his professional qualifications and experience.

Independence of Auditor General

- 18 The Auditor General is not subject to the direction or control of any other person or authority in the exercise of his functions, but he shall take into account any proposals or recommendations made to him by the Parliamentary Standing Committee in relation to the expenditure of public money by the Office of the Auditor General.

Confidentiality

- 19 (1) Where any information is obtained—
- (a) by any member of the Auditor General's staff while acting as such; or
 - (b) by any person by reason of that information having been included in a draft report prepared pursuant to section 11 and conveyed (whether directly or indirectly) to him, that information is confidential and shall not be disclosed by him except—
 - (aa) to the Minister or a public officer or, but so far only as may be necessary or expedient for the proper discharge or any function to be performed under this Act, to other persons; or
 - (bb) for the purpose of any criminal or civil proceedings.
- (2) A person shall not make working papers of the Office of the Auditor General available to any person who is not a member of the Auditor General's staff.

Criminal offences

- 20 A person who—
- (a) contravenes section 6(4) or section 19(1) or (2); or
 - (b) fails or refuses to fulfil his duty under section 14 in relation to a demand properly directed to him under that section, commits an offence against this Act for which he may be prosecuted summarily; and, if convicted of such an offence, he is liable to a fine not exceeding \$3,000 or to imprisonment for a period not exceeding twelve months or to both.

Repeal of Act No. 343 of 1968

- 21 The Audit Act 1968 [former title 14 item 4] is repealed. Commencement and transitional

22 (1) The provisions of this Act commence on such day as the Minister may be notice published in the Gazette appoint; and different days may be so appointed for different provisions or for different purposes.

(2) The arrangements for auditing provided for by sections 6 and 7 ("the new arrangements") apply on and after commencement day in relation to any Government-controlled entity (whether or not constituted by or under any statutory provision) that was in being immediately before that day; and, if any arrangements in force in relation to any such entity immediately before commencement day are inconsistent with the new arrangements, the former arrangements cease to have effect to the extent of the inconsistency, and are superseded by the new arrangements, on commencement day.

(3) The expression "commencement day" in subsection (2) means the day appointed pursuant to subsection (1) for sections 6 and 7 to commence.

THE SCHEDULE (Section 6(3))

PART I Matters that an Auditor General's Report under Section 6(1)(b) Must Contain In relation to each entity whose accounts have been audited— (a) a statement that the audit was conducted in accordance with generally accepted auditing standards; (b) a statement whether in the Auditor General's opinion the accounts (i) were prepared in accordance with the accounting principles (if any) stated in the accounts, being principles appropriate to the case; (ii) were prepared on a basis consistent with that on which the last preceding accounts were prepared; (iii) present fairly the financial position, results of operation, and changes in the financial position since the preparation of the last preceding accounts, of the entity; (c) where the audit report contains a reservation of opinion by the Auditor General — (i) a statement of the Auditor General's reasons for that reservation; (ii) where the reservation has been made on account of some deficiency, a statement of the effect of the deficiency on the accounts; (d) where the Auditor General has been unable to form an opinion because of a limitation on the scope of the audit, a reservation by the Auditor General in the form of a denial of an opinion on the accounts. In paragraphs (b), (c) and (d) above and in Part II of this Schedule, "accounts", in relation to an entity, means the following statements (in so far as they exist), that is to say— (a) the balance sheet; (b) the statement of income and expenditure; (c) the statement of retained earnings; (d) the statement of changes in financial position; (e) the Auditor General's report; (f) any other statement that the accounting principles (if any) stated in the accounts call for if the entity's financial position is to be fairly presented, prepared for the entity in respect of the accounting period stated in the respective statement.

PART II Matters that an Auditor General's Report under Section (6)(1)(b) May Contain In relation to each such entity as aforesaid— (a) the Auditor General's comments on the

accounting policies employed in preparing the accounts; (b) any other comments arising out of the accounts that the Auditor General considers appropriate.

APPENDIX 3

Extract from the Standing Orders of the House of Assembly

Standing Order 34 (4): The Committee on the Office of the Auditor shall be appointed for the duration of the life of the Parliament. It shall consist of five members, inclusive of the Chairman thereof, appointed by the Speaker, who may discharge and replace any Member. The Committee shall have the duty:

(a) of reviewing annual and any supplementary estimates requested by the Auditor and of making recommendations thereon to the Minister of Finance;

(b) of reviewing the establishment, including both numbers and gradings of posts comprising the Office of the Auditor and any changes proposed by the Auditor and of making recommendations thereon to the Minister responsible for Management Services;

(c) of reporting to the House of Assembly the potential effects on the Auditor's ability to carry out his functions in a timely manner of any changes to either estimates, including supplementary estimates, or establishment of the Office of the Auditor from those recommended by the Committee;

(d) of reviewing General Orders, Financial Instructions or other directions so far as they may impinge on the independence of the Auditor and his ability to carry out his functions and of recommending how those directions might be amended in their application to the Auditor;

(e) of recommending to the Minister of Finance the basis and circumstances in which the Auditor should levy fees as income to the Consolidated Fund;

(f) where the Auditor is requested to carry out duties in addition to the function set out in the Audit Act, 1990 then of recommending to the Minister of Finance the additional resources required to undertake those duties;

(g) of establishing the dates by which the Auditor must present his reports to the Speaker of the House of Assembly if, in the opinion of the Committee, the submission times set by the Act cannot be met for good reason;

(h) of recommending to the Minister of Finance the auditor who will audit the revenues and expenses of the Office of the Auditor;

(i) of receiving and considering in consultation with the Auditor the reports of any practice reviews performed on the Office of the Auditor, such reports to remain confidential to the Auditor and Members of the Committee.

APPENDIX 4

Extract from Report of the Auditor General on the Audits of the Financial Statements of the Consolidated Fund of the Government of Bermuda for the years ended March 31, 2013, March 31, 2014, March 31, 2015 and March 31, 2016

2. Matters of Special Importance

2.1 Overview

The matters of special importance discussed in this section of the report remain very similar to those covered in our report on the Consolidated Fund of the Government of Bermuda for the Financial Years ended March 31, 2010, March 31, 2011 and March 31, 2012 (“our previous report regarding the Consolidated Fund”). This, along with the fact that the indicators of financial condition set out in section 4 of this report show that the financial condition of the Consolidated Fund continues to deteriorate, causes me concern.

The matters of special importance show that Government is making decisions without knowing the combined financial position of all the organizations that make up the Government. It is not providing the House of Assembly or the public the analytical information that would help them understand Government’s financial statements and its financial condition. There are no effective long-term plans for reducing the annual and accumulated deficits or the associated debt, the unfunded liabilities of its major pension plans or the size of taxpayer indebtedness, all of which continue to grow unsustainably.

Consequently, the resources available to carry out Government programmes effectively are predictably being impacted by increasing debt servicing costs. Government needs to be clear about how its goals and priorities will be affected by fewer resources and also needs to ensure that the reduced resources are aligned in a way that maximizes their effectiveness and has the least impact on the quality of its service delivery.

Each year of inaction exacerbates the problems. And the problems are serious. In my view, Government should make getting to grips with the debt and the deficit its highest priority.

I comment below (Section 2.9: Other relevant reports on Government administration) on the results of the work of the Spending and Government Efficiency (“SAGE”) Commission and the recent Commission of Inquiry into matters raised in our previous report regarding the Consolidated Fund. The Commissions’ reports contain many recommendations that speak to the above issues. I believe that Government should consider them carefully.

2.2 Summary financial statements for the whole of Government

In addition to the Consolidated Fund, Government business is transacted through other public funds and Government-controlled organizations such as the Bermuda Housing Corporation and the Bermuda Land Development Company Limited.

Government's financial statements do not currently consolidate the results of these organizations with the Consolidated Fund. Consolidating these funds and organizations with the Consolidated Fund would mean that each organization's assets, liabilities and operating results would be incorporated into a set of summary financial statements that show the operating results and the financial position of the whole of Government.

Canada's Public Sector Accounting Board establishes standards of disclosure, which should be followed by Governments. Those standards have been accepted by the Chartered Professional Accountants of Bermuda (formerly the Institute of Chartered Accountants of Bermuda) and are therefore generally accepted in Bermuda.

The Standard on Financial Statement Objectives (PS 1100) states that Government financial statements should: provide an accounting of the full nature and extent of the financial affairs and resources which the Government controls, including those related to the activities of its agencies and enterprises."

The standards also state that:

- Government financial statements should consolidate the financial statements of organizations comprising the Government reporting entity, except for Government business enterprises; and
- The Government reporting entity should comprise the organizations that are controlled by the Government.

The inclusion of various funds and organizations in the Government reporting entity is primarily based on the criterion of control. Control is defined as the power to govern the financial and operating policies of another organization with expected benefits or the risk of loss accruing to the Government from the other organization's activities. In essence, if Government can control an organization, whether actual or implied, the organization's results should be included in the Government reporting entity. Various Government funds and organizations (many of which will be included in the Government reporting entity) are listed in Appendix 1.

Until summary financial statements are presented, there is a risk that those reading and relying on the financial statements of the Consolidated Fund may mistakenly view them as the consolidated financial statements of the whole of Government. More importantly, the public is not provided with full disclosure regarding the accumulated deficit or surplus of its Government.

As a result of this failure to conform to the standards of disclosure generally accepted in Bermuda, the following explanatory paragraph was included in the Auditor's Report on the Consolidated Fund's financial statements for the years ended March 31, 2013, 2014, 2015 and 2016:

As described in Note 2, these financial statements represent the financial transactions of the Consolidated Fund and have been prepared primarily to provide accountability for the financial resources appropriated by the Legislature of Bermuda. These financial statements are not summary financial statements of the Government of Bermuda. Significant financial activities of the Government occur outside the Consolidated Fund. As such, the financial statements of the Consolidated Fund do not represent the full nature and extent of the overall financial affairs and resources of the Government of Bermuda.

In the absence of summary financial statements for the whole of the Government of Bermuda, I am of the opinion that the financial statements of the Consolidated Fund are intended and used to represent for all practical purposes the financial position of the Government of Bermuda and the results of its operations, its change in net debt and its cash flows. As such, in my opinion, the accounting policies used to prepare these financial statements are inappropriate to present fairly the financial position of the Government of Bermuda and the results of its operations, its changes in net debt and its cash flows.

In our previous report regarding the Consolidated Fund, we recommended that Government should prepare and issue summary financial statements for Government as a whole. To enable this, we recommended that the Accountant General should develop a concrete, achievable and resourced plan.

The Ministry of Finance response stated that it agreed and was "*working towards the preparation of consolidated summary financial statements*".

In 2014, the Public Treasury (Administration and Payments) Amendment Act 2014 ("Act") was enacted. The Act directs the Accountant General to prepare consolidated financial statements including the accounts of all Government departments and public authorities.

The Act states that the consolidated financial statements “shall be prepared in accordance with the reporting standards adopted by the Accountant General and based on the Public Sector Accounting Standards set by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada”. It also requires the Auditor General to examine and prepare a report in writing on the consolidated financial statements (i.e., to audit them).

This legislation could be an important step forward. However, the legislation also provides that the Minister shall decide the date or dates that the provisions of the Act come into operation. Three years after the enactment of the legislation, no such dates have been announced.

In his March, 2017, statement to the House of Assembly regarding the Government’s Consolidated Fund financial statements for the year ended March 31, 2016, the Minister of Finance stated: “progress is being made on [preparing summary financial statements for the Bermuda Government], but it should be emphasised that consideration must be given to resources, accounting systems, management roles and other factors that are critical in the accomplishment of this task”.

I understand and agree that moving to summary financial statements is a complex task. Government organizations are not homogeneous and dedicated resources will be required to complete the task in a reasonable time. However, in my view, it is absolutely essential that consolidated financial statements showing the results of operations and the financial position of the whole of government be available to support the hard decisions necessary to bring the debt and the deficit under control. Only if Government’s financial statements account for the full nature and extent of the financial affairs and resources which the government controls can the citizens of Bermuda begin to understand and assess the management of the public financial affairs and resources entrusted to the Government.

Consequently, I have given notice to the Minister of Finance that, unless during the financial year for the year ending March 31, 2018, (a) the Minister establishes the dates when the provisions of the Public Treasury (Administration and Payments) Amendment Act 2014 pertaining to the production and audit of full consolidated financial statements for the Government of Bermuda will come into operation and (b) I am provided with a concrete, achievable and resourced plan to produce summary financial statements for the Government of Bermuda for the year ending March 31, 2019, I will, starting with the Consolidated Fund financial statements for the year ending March 31, 2018, expand the paragraph in my Auditor’s Report to stress that the financial statements of the Consolidated Fund are deficient because they do not represent the full nature and extent of the overall financial affairs and resources of the Government of Bermuda.

Recommendation No. 1:

The Government should prepare and issue summary financial statements for the Government as a whole, starting with the year ending March 31, 2019. To enable this, (a) the Minister of Finance should establish the dates when the provisions of the Public Treasury (Administration and Payments) Amendment Act 2014 pertaining to the production and audit of full consolidated financial statements for the Government of Bermuda will come into operation, and (b) the Accountant General should develop a concrete, achievable and resourced plan.

Ministry of Finance Response

The Ministry agrees there are benefits to issuing consolidated financial statements and will provide the Auditor with an appropriate plan during the financial year for the year ending March 31, 2018.

2.3 Borrowing and the plan to reduce the deficit and public debt

In order to finance its annual operating deficits, replace maturing debt and acquire capital assets, Government has borrowed money from various lenders. The accumulated deficit and the related debt continue to grow.

The accumulated deficit as at March 31, 2016, has grown to \$2.74 billion, up by \$1.47 billion (116.8%) in the five years then ended. The borrowing and, more specifically, the public debt and net debt amounted to \$2.22 billion and \$3.48 billion respectively, at March 31, 2016. The legislated borrowing limit was last increased in the 2012/13 financial year and currently sits at \$2.5 billion. The interest bearing debt resulted in interest costs of \$116.2 million for the year ended March 31, 2016, close to 10% of the total expenses of the Consolidated Fund.

Reflecting an increasing level of debt and public concerns regarding its sustainability, in our previous report regarding the Consolidated Fund, we recommended that Government should establish and communicate a plan to reduce the deficit and level of public debt.

In its response, the Ministry of Finance stated that:

The Government has announced the implementation of a medium term expenditure framework (MTEF). The full implementation of a MTEF involves the introduction, from the 2014/15 budget cycle of rolling three-year budget and forward estimates to establish hard multi-year budget ceilings for each Ministry. To achieve the Ministry of Finance's strategy for fiscal consolidation (i.e. deficit reduction) the Ministry set an ambitious target of cost savings on current account expenditure of 15%, in real terms, to be achieved by the end

of three years. The 2015/16 fiscal year represents the second year of the MTEF. The other part of this strategy is to enhance revenue through policies that generate income from economic growth and other revenue streams. This will enable the Ministry of Finance to begin to fulfill its commitment to changing the trajectory of deficits and debt over the medium-term.

The MTEF concept was partially adopted but the Government never did roll out a multi-year program of estimates. As section 4.1.6 of this report shows, there has been a small downward trend in Consolidated Fund expenses over the five-year period ended on March 31, 2016. For example, the 2015/16 Consolidated expenses of \$1,176 million were 6.5% less than the 2011/12 expenses of \$1,257 million. Professional Services and pension and retirement benefits has contributed to this expense reduction.

The Minister of Finance has concurred that the debt and deficit need to be reduced, commenting in his March 10, 2017, statement to the House of Assembly regarding the Government's Consolidated Fund financial statements for the year ended March 31, 2016:

“The level of debt . . . is not only unsustainable but economically and fiscally imprudent and the Government has already committed to intensify our efforts and determination to eliminate the government deficit, and eventually pay down on our debt”.

Unfortunately, the indicators of financial condition show that aside from better control of spending in relation to legislated limits, the financial condition of the Consolidated Fund is not improving.

There needs to be an immediate long-term strategic plan developed (and circulated Government-wide) to provide a roadmap as to how revenues may be increased, how expenditures can be reduced, what levels of service may be expected and how the infrastructure of Government could be improved to support its long-term goals. The focus of the strategic plan should be not only on adapting to the current and future environments but also on providing a road map for influencing the future.

Recommendation No. 2:

To ensure the sustainability of public services, Government should develop as soon as possible a long-term strategic plan to reduce the deficit and the level of public debt, aimed not only at adapting to the current and future economic environments but also at influencing those environments.

Ministry of Finance Response

In successive Budgets, the former Government clearly presented its fiscal strategy to eliminate the deficit and start paying down on the debt. In the 2017/18 Budget Statement, after explaining the threat posed by the size of the national debt the former Minister of Finance said:

“These are the reasons that the OBA Government has set eliminating the annual deficit, balancing the budget and paying down the national debt as its top priority. Pursuing this objective has framed all the budgets this Government has presented during its tenure, and it shapes this 2017/18 Budget as well. The elimination of these risks involve cutting spending, stimulating job-creating economic growth and increasing revenues where and when necessary”.

The 2017/18 Budget Statement also stated the following:

The 2016/17 budget put in place a three-year plan to balance the budget. Some underestimate the importance of balancing a budget; but a balanced budget is the only way to ensure long-term prosperity for Bermudians. Government believes eliminating the deficit is the single most important step we can take to grow the economy and create jobs. It reinforces our credit rating, supports lower interest payments, and stimulates greater consumer and investor confidence. It strengthens our ability to respond to the unavoidable and unforeseen in an unstable world.

Government has been making good progress in its efforts to eliminate the deficit. The results show that at the end of the 2017/18 fiscal year the Current Account is projected to record its third straight annual surplus before debt service. In fact, the surplus will cover 96% of the interest charges. Also from 2013/14 to 2015/16 the total deficit has been reduced from \$299 million to \$162 million representing a reduction of \$137 million or 46%.

2.4 Pensions and other employee future benefits

2.4.1 Public Service Superannuation Fund, Ministers and Members of the Legislature Pensions Fund and the Government Employees Health Insurance Fund

The Public Service Superannuation Fund (“PSSF”) provides pensions for retired Government and quango employees. The Ministers and Members of the Legislature Pensions Fund (“MMLPF”) provides retirement pensions for the ministers, members and officers of the Legislature. In addition to the pension plans, the Government Employees Health Insurance Fund (“GEHI”) provides health insurance benefits for Government employees, Ministers and Members of the Legislature and their dependents.

Legislation relating to the PSSF and MMLPF provides that, if at any time the funds accumulated to pay pensions are insufficient, the deficiency will be made up by the Consolidated Fund.

Table 1: Unfunded liability – pension/health plans

\$ millions						
As at March 31,						
	2011	2012	2013	2014	2015	2016
Unfunded liability:						
PSSF	779	863	954	797	834	873
MMLPF	21	23	23	17	18	19
GEHI	216	240	262	331	398	436
Total unfunded liability	1,016	1,126	1,239	1,145	1,250	1,328

An unfunded liability exists when the benefits to be paid out exceed amounts available to pay. The unfunded liability is therefore the amount of pension benefits which have been earned by current and former employees net of the value of assets held to pay for those benefits.

At March 31, 2016, the combined unfunded liability for the PSSF, the MMLPF and the GEHI stood at \$1.3 billion, as shown in Table 1 below. The unfunded liability is recognized in the Consolidated Fund financial statements, which has a significant negative effect on the Fund’s balance sheet. It should be noted that in the year ended March 31, 2014 there was a \$214.1 million credit resulting from the cost of living adjustment being removed for both current and future pensioners for the PSSF and the MMLPF (\$432.7 million) offset by net unamortized experience losses (\$173.5 million) and past service costs in the GEHI (\$45.1 million).

In our previous report regarding the Consolidated Fund, we recommended that Government should establish and communicate its plan to address the unfunded liability of the plans. In its response, the Ministry of Finance stated that:

- (a) *PSSF contribution rates had been increased from 5% to 8% and 9.5% for regular members and uniformed officers respectively;*
- (b) *in 2012, the Ministry commissioned an actuarial review of the PSSF to ensure the future sustainability of the Fund;*
- (c) *a Pension and Benefits Working Group had been established to review all public sector pension plans, and make recommendations to Cabinet in order to ensure the sustainability of these plans and benefits, and*
- (d) *reviews of the GEHI Plan were also being conducted in order to ensure the sustainability of this plan.*

In 2014, the Pensions (Increase) Amendment and Suspension Act 2014 (“Act”) was enacted. The purpose of the Act was to remove from the PSSF and the MMLPF the cost of living adjustment for both current and future pensioners until such time as the sustainability of the plans has improved. This change had the impact of reducing plan liabilities by \$432.7 million. This reduction, along with some increases in liabilities, was recognized in the Consolidated Fund financial statements for the year ending March 31, 2014, as discussed above.

Further, for the last four years, in his statement to the House of Assembly accompanying the tabling of the annual Consolidated Fund financial statements, the Minister of Finance has stated that “the Government has already started the review of these benefits to ensure their sustainability”.

However, in the five years ended March 31, 2016, the total net unfunded liability of the PSSF, the MMLPF and the GEHI increased by \$0.31 billion (approximately 30.7%).

In “The Way Forward: An Operating Plan for the Bermuda Public Service” issued in May, 2017, strategy 2.8 states is to “Review pension arrangements to determine whether public and private pensions are set at appropriate levels”.

This would indicate that either the work promised by the Ministry of Finance did not materialize or the results of the work have not had the desired impact.

Recommendation No. 3:

Government should establish and implement a long-term plan to address the unfunded liabilities of the Public Service Superannuation Fund, the Ministers and Members of the Legislature Pensions Fund and the Government Employees Health Insurance Fund.

Ministry of Finance Response

As mentioned above the Government has already started to take actions to ensure the future sustainability of the public pension and health insurance Plans. There is no simple remedy to resolve the unfunded positions of the public sector pension and health insurance plans. As previously advised, to assist with the review of these pension plans, a Pension and Benefits Working Group (PBWG) has been established. The purpose of the PBWG is to review, all public sector pension and health insurance plans, and make recommendations to Cabinet in order to ensure the sustainability of these plans and benefits in a manner that is responsible and fair to both the pensioners and members of the plans and Bermuda taxpayers. Following these reviews various general policy recommendations are being considered and the Government will again take the required actions to ensure the future sustainability of the Fund. However, it should be noted that some of these recommendations involve substantial cost-shift away from the government to employees and those already retired and to future retirees and are potentially material to an individual's long-term financial plans. Therefore it is proposed that some proposals be phased in. Also it is critically important that consultation is conducted with the various stakeholders, specifically the unions, before any changes are made. As soon as consultation is completed and Cabinet approval obtained the relevant information on this matter will be communicated to the public.

Finally, it is important to note that to achieve sustainable solvency, it is not necessary that all accrued benefits be fully funded. Research of the funding statuses of regional and international public service pension plans indicate that there is no internationally prescribed funding level. For instance, most of the Caribbean Community (CARICOM) countries and the UK generally have pay-as-you-go government sponsored occupational pension plans that are paid out of their Consolidated Funds. Accordingly they are unfunded. In contrast, various government-sponsored occupational pension plans of Canadian provinces are either fully funded or close to fully funded.

2.4.2 Contributory Pension Fund

The Contributory Pension Fund ("CPF") provides old age pensions, disability and death benefits for the general workforce. The Contributory Pensions Act 1970, the governing legislation for the CPF, does not require the Consolidated Fund to provide for any shortfall if, at any time, the CPF has insufficient funds to meet its current legislated obligations.

According to the latest audited financial statements for the CPF, “the sustainability of a national social insurance scheme is customarily based on the adequacy of the current and projected contribution rate to provide for future benefits. Funding of the Scheme is on a pay-as-you-go basis, where essentially contributions of the current workforce are used to meet the obligations to the current beneficiaries”.

Since the CPF cannot rely on the Consolidated Fund to meet its pension obligations, it is essential that the CPF is well managed.

The SAGE Commission (see section 2.8) focused in part on the CPF. It concluded that the-then current contributions were insufficient to allow the CPF to survive for the foreseeable future, under the current long-term assumptions.

It also found that demographic projections regarding expected lifespans of pensioners (aged 65 and over) were not current and so did not reflect the increased lifespans experienced in many OECD countries that had resulted in retirement ages being increased over time to 68 and beyond.

The Commission recommended that the-then current annual increase in the contribution rate of 1.75% per year above any benefit increase rate be changed to an increase in contribution rates of at least 3% above any benefit increase for a number of years. In addition, it recommended the establishment of a specific strategy to increase the retirement age for the CPF to 68 consistent with other OECD countries.

Subsequent to the SAGE Commission report, an Actuarial Review as at August 1, 2014, was carried out by Morneau Shepell Ltd, a Canadian company. The review, which was completed in May 2016, presented the financial status of the CPF and provided projections of the CPF for the next 50 years to 2064.

The review’s main findings and projection results were:

- *The CPF was projected to increase gradually until 2021 then decline steadily until it was exhausted in 2049 under the best estimate scenario.*
- *The total outgo (including Old Age Pension benefits, other benefits, and administration and investment costs) were projected to exceed contribution income throughout the projection period. By the year 2064, contribution income would need to be about 1.25 times the current level in real terms in order to match the increased benefit outgo. This would require contributions to be increased by about 2.4% a year more than benefit increases over the next 50 years.*
- *If contributions were to increase by 3% more than benefits with future real returns of 4% a year, the CPF was projected to be sustainable throughout the projection period. Under scenarios of higher real investment returns*

and lower contribution rate increases, the CPF was not sustainable in the long term.

- *If the contributing population was increased 10% from 2014 and sustained at these levels thereafter, this was expected to extend the life of the CPF for the entire projection period. For a 10% decrease in the number of contributors, the CPF would run out 6 years earlier.*
- *An increase in the retirement age to 67 over a 5 year period ending 2023, all else unchanged, could also result in a sustainable CPF over the projection period.*
- *The total number of beneficiaries over age 65, taking into account the impact of non-Bermudians, was expected to increase steadily, reaching a peak in about 30 years. Thereafter, a gradual decline in numbers was expected.*
- *The total number of working age persons (age 20 to 64) was projected to decline gradually resulting in a declining old-age support ratio (3.9 to 1.5 over 50 years).*
- *Mortality experience showed that Bermudians were living longer than had been assumed in previous actuarial reviews. The impact of this change in the mortality assumption to reflect this increase in longevity was a reduction in the life of the CPF by 3 years.*

The 2014 Actuarial Review recommended that:

- *In light of the fact that the current benefit and contribution structure is made up of flat rate amounts and the Government's policy is to increase both rates relative to inflation, with contributions increasing faster than benefits, the Government should set a target "benefit/contribution ratio" as part of the policy. This would ensure that any increases to both amounts would not result in the contribution rate exceeding the benefit rate at any point.*
- *The projected contribution rates should also be compared to projected national average wages to ensure that they are feasible and affordable.*

Unfortunately, the last audited financial statements for the CPF were for the year ended March 31, 2012. Disturbingly, my predecessor's audit report included a disclaimer of opinion. Her Auditor's Report stated that:

Due to serious deficiencies in the accounting records of the CPF and in the system of internal controls, I was not able to satisfy myself that all assets, liabilities, revenues and expenses of the Contributory Pension Fund had been reflected, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Contributory Pension Fund for the year then ended. As a result, I was unable to determine whether adjustments were required in respect to recorded or unrecorded assets, recorded or unrecorded liabilities and the components making up the statement of financial position

and the statements in net assets available for benefits and changes in pension obligations.

Because of the significance of the matters described above, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on the financial statements.

Given that Bermuda's aging population relies on the CPF for a minimum income after retirement and will continue to do so into the future, the situation described above is absolutely unacceptable.

Recommendation No. 4:

Government should:

- a) consider and act upon the recommendations of the SAGE Commission and the Actuarial Review as at August 1, 2014, with respect to the CPF contribution rates and the retirement age;***
- b) take immediate steps to bring the CPF annual financial statements up to date, and review, and take appropriate steps to improve, the administration of the CPF.***

Ministry of Finance Response

The Government recognizes that the CPF benefit provides an important base retirement income for our seniors and is sensitive to the challenges facing pension plans of this nature. The Government has considered recommendations from the SAGE Commission and the Actuarial Review as at August 1, 2014. The Government has already taken some steps included in these reports. As evidenced by the 2014 actuarial Report, the viability of the Fund in the short to medium term is good with the Fund being positive for the next 25 years. As at 31 June 2017, the Fund had total assets of over \$1.796 billion, representing approximately 11.7 times the annual value of benefits paid in the 2016/17 fiscal year. However, recognising the long-term challenges of the Fund the Ministry will continue to closely monitor the performance of the Fund and take the appropriate steps to enhance the benefits paid from the Scheme as well as ensure the Fund has the ongoing ability to pay for such benefits.

The Accountant General has dedicated resources to bring the CPF annual financial statements up to date.

In 2015 the Management Consulting Section (MCS) conducted a review of the organisation structure and staffing requirements of the Department of Social Insurance. The purpose of the review was to assess the operational effectiveness and identify staffing efficiencies. The Review has been completed and approved by Cabinet. The Department is in the process of fully implementing the results of this review. Once implementation has been completed the Department will be in a better position to achieve future operational objectives and meeting the increase in benefit recipient and other demands on the Department.

2.5 Taxpayer indebtedness to Government

As the unfunded liability increases, arrears of payroll and other taxes and pension contributions also continue to increase. Measures to reduce taxpayer indebtedness to Government have been largely unsuccessful. More effective collection of outstanding revenue by Government would help reduce the need for borrowing along with its associated finance costs.

As at March 31, 2016, the amount of payroll, hotel occupancy, corporate services and land taxes greater than 90 days in arrears was \$90.6 million compared to March 31, 2011, when the comparative amount owed was \$46.3 million.

Table 2 below shows Payroll, Hotel Occupancy, Corporate Services and Land Tax as at March 31 **greater than 90 days in arrears were:-**

Table 2: Outstanding taxes

\$ millions As at March 31,						
	2011	2012	2013	2014	2015	2016
Payroll, Hotel Occupancy and Corporate Services Taxes	29.9	39.7*	44.2	47.4	54.7	54.9
Land Tax	16.4	19.6	23.2	26.4	31.6	35.7
	46.3	59.3	67.4	73.8	86.3	90.6

- Updated to reflect provision for 100% - over 90 days balances between \$0 & \$5,000, previously excluded

In our previous report regarding the Consolidated Fund, we recommended that Government should establish and communicate a plan to address taxpayer indebtedness.

In its response, the Ministry of Finance agreed and indicated that the Government was looking at increasing resources in its Debt Enforcement Unit to assist with debt collection as this was a high priority of Government.

Whatever actions have been taken in the intervening years, Table 2 shows that they have not been successful. Accounts receivable of the Office of the Tax Commissioner have increased by \$37.3 million (approximately 20.5%) over the five-year period ended March 31, 2016. The provision for doubtful accounts has increased over the same five-year period by \$43.5 million (approximately 114%).

Recommendation No. 5:

Government should establish, communicate and resource appropriately a plan to address the significant taxpayer indebtedness.

Ministry of Finance Response

Government continues to place a high priority on collecting outstanding pension contributions and taxes. Unfortunately due to the extended recession there are many small businesses that have struggled to meet their tax obligations in a timely fashion. This has resulted in some increases in the level of indebtedness to Government. Government will work with these businesses to make suitable arrangements. However, there are others who simply ignore their obligations. For this group Government will continue to use all available means to collect overdue taxes, thereby improving Government's cash flow and reducing its need for borrowing.

The Tax Commissioner have their own debt collection resources. The Tax Commissioner pursues taxpayers and once all efforts to collect receivables have been exhausted, the debt may be referred to the DEU of the Attorney-General's Chambers for Supreme Court Writs.

The Government understands that increased cooperation and liaison between Government departments can be quite effective in increased tax compliance. Currently revenue collecting departments are supported by the various Departments who will withhold permits and vehicles where taxpayers are in arrears with taxes. Government has also used the offsetting provision in the legislation that allows Departments to claw back any monies due to taxpayers from Government (i.e. Work and Engineering contracts). Also Departments have set up instalment plans and have successfully progressed matters in the courts through the Department of Public Prosecution.

Recently the Tax Commissioner, Director of Department of Social Insurance and the Director of Public Prosecutions have held a series of meetings to address the situation of delinquent employers and unpaid Payroll Tax and Social Insurance Contributions. The Tax Commissioner and the Director of Social Insurance will start to forward employer files to the Director of Public Prosecutions for prosecuting employers, companies and individuals, for offences related to delinquent payments pursuant to their respective legislation.

The Ministry recognizes that further action is required in order to facilitate the settlement of Government debt as a priority and will provide the appropriate resources required to meet this objective.

2.6 Spending within Parliamentary limits

In our previous report on the Consolidated Fund, we reported that for a number of years, many ministries, departments and legislative offices had exceeded the limits imposed on their annual expenditures by the House of Assembly. In fact, the annual over-expenditure by departments had become ingrained behavior in the conduct of Government officials for which there were no consequences.

This habitual overspending by Government ministries and departments raised questions about the credibility of the budget process, expenditure control and the cash management functions carried out by the Ministry of Finance.

We had recommended that Government renew its commitment to ensure that unplanned spending receives the full consideration and prior approval of the House of Assembly and the consequences for non-compliance should be enforced.

In its response, the Ministry of Finance stated that:

“All pending supplementary estimates are now taken to the House during the budget session before a ministry has overspent its Budget appropriation. Overspends are now based on ministry totals because departments can overspend as long as funds are vired (transferred) to the department and the Ministry total does not exceed the amount appropriated for the Ministry”.

I am pleased to report that, although total expenditures have reduced little over the last five years, the amount of overspending in relation to limits set by the Legislature has. In the four years ended on March 31, 2016, total spending was lower than the adjusted estimates and, in the last two years, the amount of supplementary estimates required has fallen to a more reasonable level (an average of approximately 1.65% of total estimated spending).

Despite the overall improvement, it should be noted that there were still a few cases of ministry and department overspending

2.7 Complying with Financial Instructions and related rules

It is the responsibility of all public servants to ensure that public monies are spent in accordance with the appropriate legislative authority, the Financial Instructions issued by the Minister of Finance and related rules such as the Ministry of Public Works' internal Management Policies and Procedures set out in P.F.A 2000 "Purchasing of Goods & Materials" and P.F.A 2002 "Procurement of Contract Services.

In our previous report regarding the Consolidated Fund, we reported that many of the capital development transactions selected for testing did not comply with Financial Instructions and related rules. We explained that the issue was not whether controls exist, but, rather, that the controls were being ignored or overridden, with those responsible seemingly immune to the imposition of penalties and sanctions built into Financial Instructions.

While in section 3 of this report we refer to instances where the Financial Instructions were not followed, in many cases the reality is that mistakes were made rather than there being a willful ignoring of the instructions as was the case in our earlier report.

However, I do offer a word of caution with respect to what may seem like an improvement in the application of the Financial Instructions in the last four years. Most of the serious infractions we reported previously such as lack of the required approval of Cabinet, no agreements or contracts and not following the procurement tendering process were in connection with large, one-off capital projects. Due primarily to the Government's serious financial condition, there has not been a great deal of the capital expenditure we witnessed in the first part of this decade. This fact may be the largest contributor to the reduced number of instances of non-compliance with the Financial Instructions.

2.8 Other relevant reports on Government administration

In recent years, there have been two important reviews of Government carried out. The Spending and Government Efficiency ("SAGE") Commission ("Commission") was established by an Act of Parliament (SAGE Commission Act 2013). According to its final report, the Commission was charged with conducting *"a six-month analysis and making recommendations that will help to establish a more modern, efficient and accountable government – one that Bermuda needs and can afford"*.

The second review, a Commission of Inquiry (“COI”) was established by the-then Premier, under section 1A of the Commissions of Inquiry Act 1935, to investigate the matters arising under section 3 (Audit Observations and Recommendations) of the Report of the Auditor General on the Consolidated Fund of the Government of Bermuda for the Financial Years ended March 31, 2010, March 31, 2011 and March 31, 2012. As the Commission’s name indicates, its establishment was the direct result of our previous report regarding the Consolidated Fund.

2.8.1 The SAGE Commission report

The Commission reported its findings to the Minister of Finance on October 31, 2013. The Commission’s report set out a number of “*overarching themes and findings*” that drove the Commission’s final recommendations:

- *There is a lack of effective, accountable leadership in Bermuda’s Civil and Public Service. If this issue is resolved, other weaknesses are likely to be addressed.*
- *The Civil and Public Service suffers from a flawed organisational structure in which the principles of best practice management are not enforced and in which a cumbersome, lethargic culture is rife.*
- *The manner in which the Civil and Public Service is governed and in which reporting lines are identified demands a paradigm shift to meet Bermuda’s needs in the 21st Century.*
- *Political interference has been allowed to thwart the effective management of the Civil Service.*
- *The lack of effective leadership is compounded by a lack of fiscal discipline by both Civil Servants and politicians. This shared responsibility to maintain revenue and expense budgets has been ignored for too long.*
- *The Bermuda Government, including the Legislature, is too big for the size of the country it serves. With too many Ministries and Departments, the organisation has become bloated. As a result, there is evidence of unfocused, duplicated and diluted decision-making.*
- *Because there is no integrated process for planning and measurement, the Bermuda Government does not have a national strategic plan. Clearly articulated measurable goals and objectives are absent, while stated goals and objectives rarely correlate with cohesive business plans.*
- *Some of the services provided by Government could be delivered more efficiently and cost effectively by the private sector.*
- *There is no clear, documented, fully functioning and transparent process to measure efficiencies or to achieve accountability.*
- *Inefficient use of the resources entrusted to Government by the taxpayer should no longer be tolerated.*

- *Measuring efficiencies alone will never achieve accountability. Efficiency only matters if Government is effectively contributing to the well-being of the people of Bermuda.*

While noting the above, the Commission stated its belief that “many employees in the Civil and Public Service have the skills and expertise, and the desire, to deliver necessary services to the community – provided they are led effectively and accountably in an impartial work environment”.

The Commission concluded that “expense reductions must be made of \$65 million, \$75 million, \$80 million and \$90 million a year for the next four years if Bermuda is to regain its financial footing”.

The Commission also concluded that, “just as importantly, any plan for expense reduction must be supported by a plan for generating revenue, increasing the Island’s population and thereby the economy, and establishing jobs for Bermudians”.

The expense reductions called for by the Commission did not happen.

It is neither practical nor necessary to include the full text of the Commission’s report as an Appendix to this report.

The full report may be found at <http://www.oba.bm/images/stories/pdf/sage%20commission%20final%20report-%2031-10-2013.pdf>.

The Commission’s recommendations, which are too voluminous to be repeated here, were grouped according to its areas of focus during its review:

- *performance – the critical paradigm shift;*
- *streamlining – creating a nimble government;*
- *measurement and metrics – the era of accountability;*
- *privatisation and outsourcing – the right services for the right price, and*
- *pensions, retirement leave and government health – securing our future.*

The Commission’s report was tabled in the House of Assembly by the then Minister of Finance in November 2013. The Minister committed that “Government will review the report and hold a debate on its recommendations in the House of Assembly”; December 2013 such a debate did occur.

2.8.2 The Commission of Inquiry report

The COI reported its findings to the-then Premier in February 2017. The following month, the Premier made a statement in the House of Assembly regarding the work of the COI, its findings and recommendations but the report itself was not tabled.

According to the COI's report, its terms of reference required it to consider:

- whether violations had occurred of Financial Instructions and related laws, rules and regulations, and whether there was evidence of possible criminal activity, which should be referred to the Police, or of other matters, which should be referred to other appropriate authorities, and
- whether the laws and regulations currently in force are satisfactory and in particular, provide adequate satisfactory safeguards against repetition of any violations that it finds have occurred in the past.

The COI reported that it had found that there were indeed widespread breaches of Financial Instructions. It concentrated its attention on one aspect of the Financial Instructions, namely, that Government contracts be publicly tendered, and approved by the Cabinet when exceeding the value of \$50,000 (increased to \$100,000 effective November 1, 2016), and that public money is not paid out unless contracts are made and signed on behalf of the Government.

The COI's report stated that it also considered issues raised in other parts of the Auditor General's Report regarding internal accounting matters. It found "*numerous violations, some of which the COI found to be serious and persistent*".

The COI concluded that there was evidence of possible criminal activity requiring referral to the Police. It made no referrals for civil servants, nor did it refer any civil servant for possible disciplinary proceedings. The COI's full report can be found at <https://www.inquirybermuda.com>.

The COI's recommendation, which are also too many to repeat here, were grouped as follows:

- *Ensure that Ministers and Senior Civil Servants have More Effective Relationships*
- *Improve Transparency and Strengthen Safeguards against Conflicts of Interest*
- *Improve the Effectiveness of Financial Instructions*
- *Clarify Accounting Officer Responsibility*
- *Strengthen the Offices Responsible for Safeguarding the Public Purse*
- *Enhance Parliamentary Oversight of Government Spending*
- *Hold Civil Servants Responsible with Regard to 'Ownership' of Responses to the Auditor General's Reports*
- *Increase Transparency and Make Government's Financial Reporting More Timely*
- *Urgently Review Personnel and Processes in the Civil Service*
- *Hold QUANGOS More Responsible*

2.8.3 Implementing the Commissions' recommendations

The respective roles and focus of the two Commissions was different. The SAGE Commission was forward looking and across-government in focus; the Commission of Inquiry was essentially backward looking in that its primary role was to undertake an in-depth examination of the issues highlighted in section 3 of our previous report regarding the Consolidated Fund. However, the resulting collective recommendations provide a detailed road map of how to deal with Bermuda's current dire financial condition with government that is modern, right-sized, effective, efficient and accountable.

Following the SAGE Commission's report, in February 2014, the then Premier announced the launch of a "Public Sector Reform" initiative to implement some of the Commission's recommendations and some "other major organizational change initiatives.

In June, 2014, the-then Premier made a statement to the House of Assembly to update members on the Public Sector Reform initiative. The statement referred to a Public Sector Reform Strategic Framework having been completed and several working groups having been established. The statement also referenced a proposed Public Bodies Reform Act and indicated that "the action plans (to be developed by the working groups) set out the steps to be taken to implement those SAGE Recommendations and other recommendations that the Government will determine that it supports".

Further action on the above "initiatives" appears to have been limited. Currently, I do not have the resources that would be required to examine the extent or effectiveness to which the Commissions' recommendations have been implemented. Should my office have the resources to do so, I intend to carry out such an examination at some point in the future.

The two reports were commissioned by Government and they cost the taxpayer approximately \$1.2 million. It is my opinion that it is incumbent upon Government to report publicly on its position regarding the resulting recommendations.

Recommendation No. 6:

Government should take the following actions regarding the recommendations of the SAGE Commission and the Commission of Inquiry:

- (a) indicate clearly the extent to which it accepts the recommendations along with rationale if there are any recommendations not accepted;*
- (b) set out a plan and a timeline for their implementation, and*

(c) report out periodically on the status of the recommendations' implementation.

Ministry of Finance Response

With regard to the SAGE Report the former Government had established a strategic framework and implementation mechanism for the advancement of those SAGE recommendations that it accepted and received regular updates relative to the status. The former Government also indicated those recommendations that it did not accept and communicated same publicly.

The current Government has referenced specific SAGE recommendations in its platform and these initiatives have been incorporated into the Public Service Operating Plan.

The recommendations of the COI for the action of the Public Service have been implemented. The former Government advised of those recommendations it would implement in the first instance, those they would not action, and those that would be addressed later. An election intervened and the remaining items were not able to be addressed by the former Government. The current Government has not referenced the COI.

**REPORT OF THE PARLIAMENTARY
STANDING COMMITTEE ON THE PUBLIC ACCOUNTS
ON THE SPECIAL REPORT OF THE AUDITOR GENERAL ON THE
MOTOR VEHICLE SAFETY AND EMISSIONS TESTING PROGRAMME**

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

The Parliamentary Standing Committee on the Public Accounts has the honour to submit the following Report:-

1. INTRODUCTION

- a. Your Committee is pleased to report to the Honourable House of Assembly that we have reviewed the outstanding 'Special Report of the Auditor General on the Motor Vehicle Safety and Emissions Testing Programme', dated October 2010. Your Committee's work is still not closed on this special report and there will be further review of issues raised in it as more data comes to hand.
- b. Matters raised in the Auditor General's Special Report were sufficiently serious that your Committee felt it should concentrate its investigations on matters relating to this report and try to drill down as much as our remit allowed.
- c. Since our last report your Committee has met eleven times and has held two public sessions.

2. INTERVIEWS

- a. Your Committee in its deliberations interviewed a number of individuals whose responsibilities were directly related to the selection of Bermuda Emissions Control Ltd. (BECL) as the vendor to provide Government with an emissions control and testing facility, as well as on-going oversight of their operations at the Transport Control Department (TCD) of the Ministry of Transport (MoT), later the Ministry of Tourism and Transport (MTT). The interviewees were:
 - i. Mr. Herman Tucker, former Permanent Secretary, MoT (in camera).
 - ii. Mr. Kevin Monkman, former Permanent Secretary, MoT (in camera).
 - iii. Mr. Donal Smith, founder & President, BECL (in camera).
 - iv. Mr. Randy Rochester, Director of TCD (public meeting).

- v. Mr. Marc Telemaque, former Cabinet Secretary and Permanent Secretary, MTT (public meeting).
 - vi. Ms. Joyce Hayward, Accountant General (public meeting).
 - vii. Ms. Roseanne Foy, Assistant Accountant General, (public meeting).
 - viii. Mr. David King, Assistant Accountant General (public meeting).
- b. Your Committee would like to thank the above mentioned individuals for their cooperation and assistance in our deliberations.
- 3. Your Committee** investigated all five segments of the Auditor General's Special Report:
- a. Vendor selection
 - b. Project definition
 - c. Oversight of construction
 - d. Disbursement of funds
 - e. Operating Agreement
- 4. VENDOR SELECTION**
- a. BECL's founder, a local entrepreneur, brought the concept to the attention of Government in the 1990's and after several years of analysis by Government, including a formal report by a recognized expert in the field, the idea that pollution emitted by motor vehicles in Bermuda was something that should be controlled, took root in Government circles.
 - b. Your Committee could not get much clarity with regard to how the decision was arrived at to pursue a centralized Government-owned approach versus a decentralized private sector approach most commonly found in other countries, although a former MoT Permanent Secretary [Interviewee (ii)] stated that he had supported the decentralized approach. But the decision to have a centralized government-owned model was a crucial one insofar as all of the subsequent issues are concerned, as a decentralized private sector model would not have given rise to the level of public spending that took place.
 - c. BECL initially had only its founder and one other individual as shareholders.
 - d. Interviewees testified that even as early as 1999 it was a foregone conclusion that if emissions testing were to go ahead BECL would likely be overseeing the project development.
 - e. In August 2001, the then Minister of Transport signed a letter declaring

- BECL as “the preferred vendor” for emissions control, even though:
- i. Such preference had not been approved by Cabinet.
 - ii. Such preference contravened Financial Instructions which called for at least three competitive bids.
- f. At that time, BECL was essentially a one man company with no resources to construct a major structure in Hamilton and two satellite facilities. Neither did it appear that BECL had the financial resources to provide the working capital required that such an enterprise demanded. The Committee found no evidence that such issues were viewed as critical by Government.
 - g. We were informed that Correia Construction Company Ltd. (CCCL) took a shareholding in BECL in February 2003, as a result of the former paying off unspecified expenses incurred by BECL. MoT viewed CCCL’s stake in BECL as providing “financial backing” for BECL, suggesting that at least somewhere in MoT the matter of BECL’s lack of financial resources might have come up. However, MoT did not have any concern about a potential conflict of interest developing.
 - h. Insofar as MoT officials were concerned, there was no other potential vendor “on the horizon” and, insofar as BECL had been working with Government on researching the matter and developing standards, there was “an understanding” that BECL would be awarded the contract.
 - i. There was no evidence of a tendering process which would have allowed for any comparison of bids.
 - j. In December 2006, BECL was awarded a contract, by way of a “Consultancy Agreement,” relating to the construction of the main facility as well as two satellite facilities. This agreement became the mechanism through which BECL then contracted CCCL to carry out the construction work. In December 2008, Cabinet approved the Operating Agreement with BECL.

5. PROJECT DEFINITION

- a. Your Committee endeavoured to ascertain from the interviewees how a project cost could balloon from the initial \$5.3 million estimate to over \$15 million. It was difficult to obtain a definitive answer to this all important question.
- b. The best attempt at an explanation we received was from the former Cabinet Secretary and Permanent Secretary of MTT, who declared that even before ground was broken the cost estimate had escalated from \$5.3

million to about \$12 million, and that plans at that point in no way resembled the plans relating to the \$5.3 million estimate. But there was no explanation of why the final project tally exceeded even the final-revised TAF by some \$983,000.

- c. An important part of cost control is to define what is needed and to satisfy that need in a disciplined way. In this instance, significant structural additions were decided upon subsequent to the approval of the initial plans without due regard given to the soaring costs.

6. OVERSIGHT OF CONSTRUCTION

- a. In addition to major breaches in procedure for vendor selection, prescribed checks and balances were further eroded in the oversight of construction.
- b. MTT initially considered a “build then buy” strategy, which involved the vendor building and owning the facilities, then selling them to Government. This appeared a bit outrageous, given that the land already belonged to Government. It is ironic that the “build then buy” strategy was seen in Government as “not the most cost-effective way to proceed”, because the approach that was actually taken turned out to be in no way cost effective. It was in fact MTT that recommended to have BECL/CCCL build the facilities as contractors for Government. This decision was critical.
 - i. The advantage of the “build then buy” strategy to Government was that the operational risks, including those relating to cost overruns, would have had to have been shouldered by the contractors: i.e. BECL/CCCL. The strategy actually taken by Government, which was “almost” the standard procedure, placed all the operational risks, including cost overruns, squarely on taxpayers’ shoulders. “Almost” - because no Government ministry had a role in verifying change orders on the construction work.
- c. Financial Instructions prescribe that “all capital development projects, with the exception of minor works, must be the responsibility of Works & Engineering (W&E)”, who employ engineers just for such purposes. This did not happen in this case. The Financial Secretary has attempted to explain why oversight of this project was not handled by Works & Engineering. He cites the passing of this responsibility to MoT when specialized expertise was required to resurface the Airport runways sometime in 2000/01.
- d. Your Committee requested sight of the document authorizing this change. No such document could be found. Certainly a Budget Book footnote stating, “ *...projects of the Ministry of Transport are also outside the*

scope of responsibility of the Permanent Secretary of W&E...” is not proper authority. In fact, the Auditor General has received a legal opinion stating that the responsibility and oversight role of W&E cannot be legally transferred without an amendment to Financial Instructions.

- e. The transfer of supervisory authority to Transport, notwithstanding the absence of an authorizing document, was intended to be a one-off for the runway resurfacing project, and not permanent. However, no one in the Ministry of Finance appeared to be cognizant of the potential conflicts of interests that might arise from an operating government department also having supervisory authority over its own capital projects. Finance appears to have simply allowed MTT to proceed as if this was normal.
 - i. MTT operated outside of the parameters of Financial Instructions regarding W&E oversight on capital projects.
- f. In addition to the appearance of ‘a government within the government’, there was a conflict of interest between BECL and CCCL: the former being the contracting firm, the latter being the actual construction company, but having a shareholding in BECL. Significantly, BECL was a one man company and, for its operations on the TCD project, BECL used CCCL’s accountant to produce its accounts. How could BECL control or supervise the activities of CCCL under those circumstances? Clearly, it could not.
- g. The contractor, BECL, which was controlled by the subcontractor, CCCL, was in no position to refuse change orders. They were simply rubber stamped. Thus, CCCL had no risk of having change orders refused.
 - i. Change orders were being sent to BECL for approval. But BECL was essentially fulfilling a figurehead role for CCCL, the ultimate contractor, so there were no effective checks and balances, although the Director of TCD was required to sign-off on all payments.
 - ii. The retaining of Entech, the architectural consulting firm, did not remedy the problem because Entech was retained by BECL instead of the project’s owner, the Bermuda Government.
- h. Statutorily, BECL was doing what W&E was supposed to be doing. For example: an engineer submitted an application for a million dollar change order and BECL approved it the next day. It was highly unusual, and unlikely that proper due diligence was carried out for such a large change order in such a short period of time. It would have been reasonable to expect such a large change order to be rejected pending more back-up information.

- i. The Permanent Secretary of Tourism and Transport and the Director of TCD ought to have known of these breakdowns in the system of checks and balances required by Financial Instructions, as they relate to the actions of BECL/CCCL. Still, they continued to push ahead.
- j. When questioned about this, the former Cabinet Secretary and Permanent Secretary of MTT referred to a previous overarching decision by Cabinet to have a single vendor for emissions control.
 - i. He was asked why MTT disobeyed a Cabinet Conclusion that required the satellite facilities to be put out to tender.
 - ii. If the two Cabinet decisions were in conflict, why did he not, as PS, recommend to the Minister to take it back to Cabinet for clarification.
 - iii. Even without that clarification, it would have been reasonable to conclude that the most recent decision by Cabinet was its current thinking, notwithstanding a decision it had made in the past. Adding weight to this logic was the fact that the most recent Cabinet decision conformed with standing Financial Instructions.
 - iv. Instead of this line of thinking, the Ministry chose to ignore the most recent Cabinet instruction, and tried to use a previous decision as cover for its actions.
- k. The former Cabinet Secretary and Permanent Secretary of MTT, after pointed questioning from the Committee, eventually admitted that he should have advised the Minister to return to Cabinet for clarification. But that did not happen.
- l. This is evidence of the Ministry acting ultra vires to Financial Instructions.
- m. **RECOMMENDATION**
Your Committee recommends that Government contracts should be sufficiently clear and unambiguous, and should be designed, so as to ensure that there is an appropriate level of protection for the public purse.

7. DISBURSEMENT OF FUNDS

- a. Despite the attempts to control all aspects of the project within MTT, funds could only be disbursed by the Accountant General, in her treasury function.
- b. The Accountant General questioned why the project had not been put out to tender according to Financial Instructions. She requested documentary evidence that justified the single vendor strategy, but never received any.

She was told to “just make it happen” by the Permanent Secretary of MTT, through the MTT controller.

- c. She was told that expert advice had been given to justify this strategy, but never saw or heard any proof.
- d. She attended meetings which were intended to figure out how to make the procurement of the satellite facilities conform to Financial Instructions. At some of these meetings a representative from BECL was present; a circumstance which appeared to the Accountant General to be most improper.
- e. To satisfy Financial Instructions relative to the vendor selection for the satellite facilities, two cost assessments were produced, which were found not to be acceptable to the Auditor General's Office.
- f. An Assistant Accountant General testified that a request for disbursement had come to him using a draft contract as authority for the payment. He refused to authorize the issuance of the cheque and waited for several months until he sighted the signed contract, which he found to be very different from the draft copy that he was originally given.
- g. The PS for Works & Engineering had told your Committee during last year's parliamentary session that he had refused a payment request on this project because W&E had no knowledge of it, having been completely circumvented by MTT.
- h. Thus, some checks and balances in Government did actually function in this case, but not sufficient to save taxpayers millions.

8. OPERATING AGREEMENT

- a. BECL also had the contract to operate the emissions testing at TCD once the facility was built. This involved several civil servants becoming employees of BECL.
- b. The Operating Agreement and the relationship between BECL and TCD was the responsibility of the Director of TCD.
- c. During questioning, it was revealed that the operating contract called for BECL to be reimbursed for certain operating expenses such as rent, depreciation of equipment, property taxes and equipment repairs. However, the audit showed that these expenses were already being incurred directly by Government. Moreover, BECL was not due reimbursement for depreciation because Government, not BECL, owned

the equipment. Therefore, BECL has been receiving money under the contract that was not properly due to it.

- d. The Director claimed that when the contract first came to his attention he was concerned that the initial intent was to grant BECL the contract for 10 years. He advised against that term and it was revised to five years plus the option to renew for a further five years.
- e. The Director thought that if the testing was done totally by Government, savings of about \$1 million per year could be effectuated.

9. REMAINING ISSUES

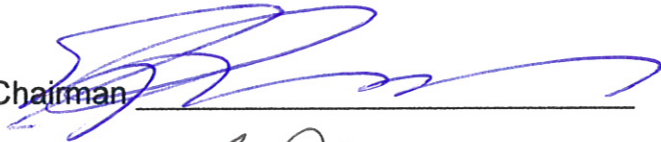
- a. Your Committee questioned BECL's founder about its role in the project's construction phase. His answers indicated that he had little active knowledge or interest in the details of the project, merely rubber stamping payment requests, although he did say that he thought he should have participated in the "profits of the construction period". We asked the BECL President if the Committee could view the accounting records of his company, as it related to the TCD project, and he willingly agreed to do this. However, this request was effectively vetoed by his accountant, who is supposed to answer to him, but who was also the accountant for CCCL. In this circumstance, your Committee was obliged to conclude that BECL was clearly fulfilling a figurehead role on behalf of CCCL.
- b. Your Committee has the authority, under section 30 of the Parliament Act 1957, to obtain records of BECL as the primary contractor for the TCD project but, to date, they have not been made available to us. Section 34 of the Parliament Act also empowers your Committee to summon the accounts of CCCL, which we intend to do in furtherance of our investigation. The Committee's position is further supported by the legal opinion on this matter which has been provided to the Auditor General by her Legal Counsel.
- c. It is clear that there was a specific intent, at the highest echelons of MTT, to give this contract to BECL, irrespective of what Financial Instructions prescribe. The burning question is why. It is a question squarely in the public interest.

10. CONCLUSION

- a. Your Public Accounts Committee will exercise its powers to follow any thread of evidence and follow the money wherever it may lead. Only then will the public have confidence that the public's money is being properly spent and that the public is getting proper value for money.
- b. Your Committee would like to acknowledge the invaluable advice and assistance provided by the Auditor General, Mrs. Heather Jacobs Matthews, and her professional staff during our deliberations; as well as the sterling work done on behalf of the Committee by the Deputy Clerk to the Legislature, Mr. Clark W. Somner. We would also like to thank MG Court Reporting & Transcription Services for their support in our public meetings.
- c. Your Committee recommends that the Minister of Finance be requested to inform the Honourable House of Assembly of the action to be taken on the points raised in this report.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

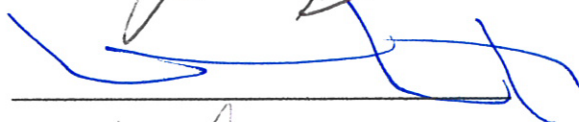
Mr. Everard T. Richards, J.P., M.P. - Chairman




Mrs. Patricia J. Gordon Pamplin, J.P., M.P.



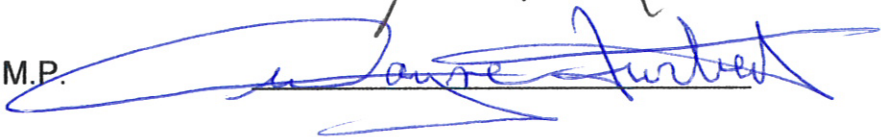
Hon. Walter M. Lister, J.P., M.P.



Ms. Lovitta F. Foggo, J.P., M.P.



Hon. Wayne L. Furbert, J.P., M.P.



Dated: 15th July, 2011.

**REPORT OF THE PARLIAMENTARY
STANDING COMMITTEE ON THE PUBLIC ACCOUNTS
FOR THE FINANCIAL YEARS ENDED
31st MARCH 2009 and 31st March 2010,
AND ON THE SPECIAL REPORT OF THE
AUDITOR GENERAL ON THE MISUSE OF PUBLIC FUNDS**

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

The Parliamentary Standing Committee on the Public Accounts has the honour to submit the following Report:-

Your Committee is pleased to report to the Honourable House of Assembly that we have reviewed new information that has come to our attention as it relates to our previous investigation of the Bermuda Department of Tourism, and we have deliberated extensively on the Special Report of the Auditor General on the Misuse of Public Funds as it relates to the Bermuda Land Development Company. Time has not permitted us to investigate the second part of the Special Report on the Misuse of Public Funds. Furthermore, your Committee has not, in the usual fashion, been able to investigate the Auditor General's Annual Report on the Government's Accounts for the Years 1st April 2008 to 31st March 2009 and 1st April 2009 to 31st March 2010.

Your Committee has met 13 times since our last report, and 2 of these meetings have been open to the public. The decision to have meetings in public has been a great step forward in modernizing our democracy, as there has been keen interest shown by the public. In fact, even though there was not much publicity given prior to our last meeting, our decision to use a larger, non-government venue was justified by the attendance.

In addition, your Committee has expanded the boundaries of its inquiry both in breadth as well as depth. New ground was broken as interviewees included members of the general public as well as Members of the Legislature. The collection of relevant documents was also unprecedented.

A. BERMUDA DEPARTMENT OF TOURISM (BDOT)

1. Tourism remains a critical industry for Bermuda and the handling of multimillion dollar advertising budgets requires an approach that is professional and compliant with Financial Instructions.
2. Your Committee was presented with new information provided by the former Director of Sales & Marketing - North America (DSM). This information provided further insight and perspective around the conclusions that we reached last year, namely that Financial Instructions were not properly adhered to when the advertising agency contract with GlobalHue was "rolled over" without going to tender.
3. Billings by GlobalHue to BDOT had been handled in Bermuda. The responsibility for these payments was subsequently transferred to BDOT's New York office and therefore came under the supervision of the DSM, who noticed that GlobalHue's billings did not have the relevant invoices of the media that was being purchased attached, as was required by Financial Instructions, the contract between BDOT and GlobalHue, and by US Federal Communications Commission regulations.
4. GlobalHue's payments were stopped, pending submission of proper invoices. Instead of willingly providing the invoices, documents provided to the Committee indicated that GlobalHue proceeded to try to destroy the career of the DSM, a Bermudian veteran tourism officer of 20 years.
5. The CEO of GlobalHue wrote a shockingly strident and totally unprofessional letter directly to the Premier/Minister of Tourism and Transport, containing insulting personal attacks on the DSM; thereby short circuiting the Director of Tourism and the Ministry Permanent Secretary.
6. In fact, in an email dated 21 March 2007 to the Secretary of the Cabinet from a well known public relations agency hired by BDOT, the relationship was described as "unusual" and the email also noted that "for the client to cede so much power to an individual agency, which, in this case, provides the perception - and perhaps the attitude - that it is the agency that is leading the client, rather than the opposite." Based on the evidence presented, your Committee concurs with this statement.
7. The direct access to the Premier/Minister of Tourism and Transport gave GlobalHue the licence to ignore established protocols. This relationship is the perspective from which the breaches in Financial Instructions must be viewed.
8. The GlobalHue letter to the Premier/Minister of Tourism and Transport would have catastrophic consequences for the DSM, who revealed that he was later offered a job with the title 'Director of International Development' (DID), and that the job offer was printed on GlobalHue letterhead. He was unsure at the time if this job was to be with

BDOT or GlobalHue, and he concluded that he was being shunted aside out of his DSM post to one which would soon evaporate.

9. The post of DID turned out to be a government position. Although approved by the Cabinet, it was a temporary position, with no job description nor any place in the BDOT management structure being specified.

10. The DSM testified that tremendous pressure was applied on him by senior Ministry officials to take the position of DID and he was told that he could "name his price." An email, sent by a senior Ministry official, criticizing the DSM for not taking the DID position was apparently erroneously copied to DSM, thereby adding to the pressure. The DSM declined the position and resigned from the department a few months later.

11. Evidence presented to your Committee showed that the civil servants' responsibilities were over-ridden by the Premier/Minister of Tourism and Transport and GlobalHue. The evidence also showed that Financial Instructions were not adhered to. Under these circumstances, value for money for the public purse was not likely achievable.

12. Your Committee is appreciative of the testimony and evidence provided by the DSM.

13. **Your Committee recommends** that the Civil Service Executive be reminded that inappropriate interference by any outside agents in the work of civil servants contravenes Financial Instructions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED:

Mr. Everard T. Richards, J.P. M.P. - Chairman

Ms. Lovitta F. Foggo, J.P. M.P.

Mrs. Patricia J. Gordon Pamplin, J.P. M.P.

Hon. Walter M. Lister, J.P. M.P.

Dated: 20th July, 2012

B. BERMUDA LAND DEVELOPMENT COMPANY

1. In the Auditor General's Special Report on the Misuse of Public Funds, one of the principal matters that was highlighted was an incident whereby the Chairman and Deputy Chairman of the Board of the Bermuda Land Development Company (the Company) entered into a paid consultancy arrangement with the Company to investigate and report on certain Company matters, with the report to be presented to the Board. The Auditor General found this arrangement to be highly irregular and a breach of the Chairman and Deputy's fiduciary responsibilities.

2. In testimony before the Committee, both the Chairman and Deputy repeatedly claimed that they had been given a directive (or directives) to carry out this consultancy arrangement by the Minister of Public Works (the Minister). They agreed there was an urgent need for their intervention and felt that they were therefore justified in their actions. Moreover, they testified that they provided value for money and that the position taken by the Auditor General was incorrect. The findings of your Committee are set out below.

(A) THE DUTIES OF DIRECTORS

1. The Chairman and Deputy have used as their defense to the Auditor General's assertion of conflict of interest, the position that the Bye-Laws of the Company did not prohibit them from engaging themselves as consultants. If one considers the Company to be an ordinary Bermuda company, this may be valid.

- The Company was created by The Base Lands Development Act 1996 (the Act). Section 5 of the Act refers to, "...creation of opportunities for increased employment now and in the future...in furtherance of the well being of the present and future generations of Bermudians." These are very public sector objectives, not private sector objectives.
- But Section 6 says the Company, "...shall not be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown."
- However, in Section 14, government specifically indemnifies directors of the Company against liabilities and legal costs so long as they have, "...acted honestly and in good faith with a view to the best interest of the Company."
- Section 12 provides that the Minister may give directions to the Company, "...and the Company shall out carry any such directions."

2. Normally company bye-laws are the arbiters of the conduct of business within a company, but the Company is no ordinary company.

- The fact that the Auditor General (the constitutionally appointed auditor of the entire public sector) has been specified as its auditor makes the Company unusual.
- The fact that the Minister may issue directives clearly establishes that there is an authority higher than Company bye-laws. The ultimate arbiter is the Minister. In a commercial company the Board would be the ultimate arbiter, operating under the aegis of the bye-laws. But here the bye-laws are silent on the conflict of interest issue.
- But the Act also establishes that the Company is essentially a part of the public sector, despite Section 6.
- Section 14, which says government indemnifies directors that have, "...acted honestly and in good faith with a view to the best interest of the Company," is key to this case. This clearly implies that government, the sole shareholder, **EXPECTS** directors to act this way; that it is **THEIR DUTY TO ACT IN THE INTERESTS OF THE COMPANY ONLY**. The "Final Recommendation" in the consultancy report prepared by the Chairman and Deputy (dated April 2010) was, in effect, to continue the consultancy arrangement, presumably at the already established hourly rate, for yet another six months to "monitor the CEO"; an extension of the arrangement that was not brought before the Board. And this recommendation was, in fact, carried out.

3. The question is, have these directors acted in, "...good faith with a view to the best interest of the Company?". At the very least, one could say that this consultancy arrangement represented a profound conflict between their own interests and the Company's interests. This was the same conclusion arrived at by the Auditor General.

4. During the conduct of our deliberations, it was also revealed that the Company had engaged and signed a painting contract (valued at \$24,897.50) with an assigned contractor. The Deputy Chairman instructed the CEO to terminate that contract, and give the contract to a company operated by the son of the Chairman. The CEO refused, on principle, but he was overruled and the switch was consummated. The subsequent contract with the Chairman's son's company was for \$31,630.00, and there was an additional request to apply another finish coat at a cost of \$6,600, for a total of \$38,230. The originally assigned contractor filed suit against the Company. The matter was settled out of court in June 2011, with the Company having to pay \$9,500 including \$1,000 for legal fees. Thus, the total cost for this project including legal costs escalated to \$47,730; that is \$22,832.50 or 92% more than the originally assigned contract.

5. These anecdotes caused your Committee to question whether the Chairman and Deputy were acting "...honestly and in good faith with a view to the best interest of the Company." The incident of granting the painting contract to the company operated by

the Chairman's son also contravened Financial Instructions, the tenets of fairness and good governance, and was a clear misuse of taxpayers' money.

(B) THE MINISTER'S ROLE

1. The Base Lands Development Act 1996 sets out the relationship between the Company and the Minister. The Minister may give directives to the Company and the Company must follow them, however:

- the other shareholder, i.e. the Minister of Finance, must give prior consent to said directives;
- the Company must confirm to the Minister, in writing, that the directive has been carried out; and
- the written text of "every directive" given by the Minister must accompany the Company's financial statements, which have to be laid in the House of Assembly.

2. It is clear from the above that the Minister's power to direct is one to be used strategically, or in special or extraordinary circumstances. The rules that govern the use of the power to direct are deliberately cumbersome so that this power should not be used for routine management of the Company's affairs.

- In correspondence to the Minister, the Permanent Secretary for Public Works and the CEO of the Company dated 30 December 2010, the Minister of Finance stated that she had no prior knowledge of the consultancy arrangement, and took action.
- It is also clear that the power of the Minister to direct cannot be used orally, as the text of every directive must be appended to the Company's financial statements.

3. During the conduct of a public hearing, the Minister dismissed the constraints on his authority. He did not appreciate his role as Minister and the appropriate use of his power to direct as laid out in the Act. He explicitly testified that he gave frequent oral operational orders and claimed there was no other way to run a company. The Minister testified that "it was in his remit to issue operational directives to the BLDC." Your Committee determined that he conducted his role as an "executive chairman" rather than the role envisaged by the Act, which could be described as "oversight by exception."

4. Although it is the Act that prescribes his powers and their limitations, the Minister did not appear to be familiar with the Act, having emphatically stated once that he had not read it, although later admitting that he had. He felt he had the discretion to ignore the Act if impractical, and further stated that the requirement for written instructions specified in the Act "should not be taken literally".

5. Both the Chairman and Deputy testified that the Minister gave them multiple oral directives which were never subsequently put in writing. A letter signed by the Permanent Secretary for Public Works authorizing the consultancy retrospectively (one year later in February 2011), confirming that the Minister had authorized the Company to engage the services of the Chairman and Deputy, clearly does not meet the requirements of the Act. This was an ineffective attempt to address the irregularities that the Auditor General had uncovered.

6. Furthermore, the Minister neither sought nor received prior approval from the other shareholder, the Minister of Finance, as per the Act. Section 12(2) of the Act states that before the Minister gives a directive to the Company, he shall consult the Minister of Finance and the Directors with respect to the content and effect of the directive. Therefore the directives given to the Chairman and Deputy were not valid under the Base Lands Development Act 1996. This is a fundamental issue which supports the Auditor General and the Minister of Finance's recommendation that the funds paid to the Chairman and Deputy be repaid to the BLDC. Not only does this issue represent a conflict of interest, it also speaks to a misuse of public funds.

7. Your Committee took note of four other ministerial directives in the preceding year which were not in compliance with the Act, as reported by the Auditor General to Senior Management on 21 September 2010. These directives all related to the use of land and other property on which the Minister of Finance was never consulted by the Minister, and speak to a pattern of behavior inconsistent with the requirements of the Act.

8. It is interesting to note that the Minister of Finance, once notified of the Auditor General's concerns on 21 December 2010, subsequently commissioned an external accounting firm to undertake a review of the BLDC's Governance. That review was completed in May 2011 and confirmed that "the Chairman, Deputy Chairman, Board members and Permanent Secretary of the Ministry of Public Works indicated that the work performed between May and December 2010 was done at the verbal request of the Shareholder [the Minister of Public Works]."

9. As the most senior officers of the Company, the Chairman and Deputy should have known that oral directives were not valid unless they followed the requirements of the Base Lands Development Act 1996, for which they, along with the Board, were responsible. Like the Minister, the Chairman and Deputy did not appear to be familiar with the Act and the rules governing their conduct contained therein.

(C) BLDC CODE OF CONDUCT

1. The Company set out a Code of Conduct in 2002 which clearly stated "Directors and Employees must avoid conflicts of interest between their private financial activities and the conduct of BLDC business". However, this Code was amended in January 2008

and instead of referring to Directors and Employees the term "members" was used. While the term "member" is not defined in this context, the balance of the document referred repeatedly to employees, so one could surmise that "member" refers to employees only.

2. Your Committee could find no evidence that the Chairman or Deputy Chairman sought to clarify what was meant by "members" prior to undertaking the work referred to herein. The Code was subsequently updated again in 2010/11 to once more specify Directors, after the matter was reported by the external accounting firm.

(D) DID THE CONSULTANCY PROVIDE THE COMPANY WITH VALUE FOR MONEY

1. The question of value for money hinges on the circumstances surrounding the problems besetting the Company; the qualifications of the Chairman and Deputy to professionally address the problems; and what they accomplished for their time spent.

2. It is clear that the Company had significant problems, particularly with collecting its receivables. The CFO position had been vacant for three years and testimony was given to the Committee that the Minister had refused, on more than one occasion, to allow the Company to retain a full time CFO, even though that position had long been provided for in the Company budget. Moreover, the Company CEO's effectiveness had been compromised a year and a half to two years before the consultancy started, due to severe illness.

3. The Act allows the secondment of civil servants to the Company. However, in his testimony the Chairman testified that the Company did not formally seek the secondment of a civil servant to fill the gap in the management structure of the Company. The CEO testified that he requested that the Company fill the vacant CFO position multiple times but was refused by the Minister, although he claimed such a move had the support of the other shareholder, the Minister of Finance.

4. The directive of the Minister for the consultancy work was not put in writing; neither were the terms of reference for the work to be done by the Chairman and Deputy. In fact, the Board retroactively approved payment and hourly rates for these two officers after a considerable amount of time had already been billed. The consultancy carried on well past the time the Board had authorized. Clearly, the consultancy was not properly authorized by the Board as there was no quorum at the meeting of 23 March 2010, when the arrangement was approved with only two Directors being present.

5. Having determined the backgrounds of both the Chairman and the Deputy, via their own testimony, it does not appear that either separately or together they would have qualified as management consultants for an undertaking of this nature. While both

had considerable real world experience in their respective fields, neither had any experience in analysis or reporting on management structures and solutions. Moreover, the rates they charged the Company were comparable to consulting management professionals, which they were not.

6. While there appears to have been a litany of issues with respect to the operations of the Company, the one stressed the most was the ballooning and aging Accounts Receivable. The Minister himself intervened in an attempt to get a major receivable regularized, and some progress on receivables was made by the Chairman and Deputy. However, the recruitment of a new CFO may have been a better solution to this problem.

(E) FURTHER OBSERVATIONS

1. The Bermuda Land Development Company is a Quasi Autonomous non-Government Organization (a Quango), and is not an ordinary company. Quangos carry out public sector functions and therefore are subject to the same scrutiny and oversight as any other part of the public sector. The directors of a private company could very well be its owners, in which case the interests of the company may be congruent with those of the directors. But with a Quango this is impossible, hence the importance of the separation of the interests of directors from those of the Quango.

2. In the case of the Company, it appears that all the players, except for one director, completely ignored this key distinction between personal interests and the Company's. This error of judgement was made more egregious by the refusal of the directors to acknowledge their mistake, instead, conveniently making repeated references to the Company bye-laws and failing to look up the authority ladder to the Act which makes clear reference to conflicts of interest.

3. **Therefore, your Committee's first recommendation** is for government to make the personnel it appoints as directors of Quangos aware of their legal duties and responsibilities, with particular reference to the canons of conflicts of interest. This is consistent with the recommendation made by the Auditor General.

4. The behavior of the Chairman and Deputy in this matter appears to be derived from their perception that they had been given a valid directive by the Minister to address a real problem. It was their duty to know the rules under which that Minister was empowered to give those directions and that he did not adhere to those rules. Given that the Minister's directives were invalid, it was their duty to know that.

5. As a minister of the government, the Minister must know the conditions and limits under which the law grants him power. The Minister also must know his role is not to micro-manage assets or enterprises under his charge. In this case, it is clear his power to direct was meant to be used strategically as opposed to casually or routinely. The

Minister did not appear to know his appropriate role nor the constraints of his power to direct. He used his power routinely and orally.

6. The Minister, in his testimony, confirmed that he gave the Chairman and Deputy instructions to carry out the investigation, but that he had not specifically authorized them to receive remuneration as consultants, saying that was the Board's decision, even though he agreed with the Board's right to do so under the bye-laws, citing the legal opinion provided by a private law firm. Your Committee noted that the stated legal opinion was not given until after the December 2010 objections by the Auditor General to the consultancy arrangement had been made known to the Company. So the time line does not support the Minister's testimony suggesting that the legal opinion empowered the Board to engage in the consultancy arrangement. The legal opinion was obtained ex-post facto.

7. The Minister testified that he found out about the consultancy agreement from the other shareholder, the Minister of Finance, in December 2010. However, the Minister had access to Board minutes which explicitly discussed the arrangement on several occasions. In view of the hands-on role the Minister had taken with respect to the Company, your Committee questions how he missed the fact that his Chairman and Deputy, whom he directed to perform the investigation, were receiving consultancy remuneration.

8. Your Committee heard evidence that the Minister also used his power of influence to inappropriately give unfair advantage to a political colleague as it relates to the leasehold of a Company property. The Committee was also apprised of another incidence of the Minister's intervention in insisting that a carpentry shop have its rent reduced and unpaid rents written off.

9. While the Chairman and Deputy cannot be absolved of their responsibilities in this matter, the root cause is the manner in which the Minister executed his responsibilities relative to the Company, a manner that encouraged this inappropriate behavior.

10. In his testimony, the Minister complained that the matters in the external accounting firm's report should have been raised with him by the Auditor General. However, your Committee reviewed evidence that standard procedure had in fact been adhered to by the Office of the Auditor General, which included the provision of a Management Letter to the senior management of the Company (and a copy of the said letter to the Chairman of the Board and the Financial Secretary) outlining issues of concern that were uncovered through the annual audit. Your Committee could not determine whether any action had been taken in response to these concerns.

11. It should also be noted that correspondence between the Auditor General and the Company, when this matter was uncovered, was copied to the Minister, the Minister of Finance and the Director of Internal Audit - most notably correspondence dated 22 December 2010, 31 December 2010 and 27 January 2011. A copy of the

applicable section of the draft Special Report was also submitted to the Ministry for a response before the final document was produced and released. This is standard procedure. The Ministry of Public Works later responded to the Auditor General, with a copy to the new Minister of Public Works.

12. The Minister testified that because the CFO position was vacant he initiated the investigation to determine what needed to be done at the Company. Your Committee concluded that by filling the vacant CFO post the Company could have not only found out what the problems were but also had them rectified.

13. The Minister refused to dismiss the Chairman and Deputy when instructed by the Premier and Minister of Finance who, as the other shareholder, on becoming aware of the situation, immediately deemed the situation as unacceptable and sought to have it rectified.

14. Your Committee fully subscribes to the principle that those responsible for these breaches in fiduciary responsibility be held accountable. As indicated above, the Minister neither sought nor received prior approval from the other shareholder, the Minister of Finance, as per the Act. His directives were not in writing and not reported to the House of Assembly as per the Act. Therefore, the directives given to the Chairman and Deputy were not valid under the Base Lands Development Act 1996. Moreover, the Board meeting at which the matter was discussed was not properly constituted. The Committee supports the Auditor General's recommendation that the funds paid under the consultancy be refunded to the Company forthwith.

C. CONCLUSION

1. **The second recommendation of your Committee, consistent with the recommendation of the Auditor General, is that ministers make themselves fully aware of their role as it relates to Quangos and the limitations and conditions under which their power can be exercised. Ministers should then operate within the strict parameters the law provides. A minister of the government cannot decide which laws to abide by and which ones to flout, at his discretion. As members of Cabinet, ministers, more so than ordinary citizens, must abide by the law.**

2. Your Committee would like to extend its sincere gratitude to the Deputy Clerk to the Legislature, Mr. Clark W. Somner, in recognition of his tremendous sterling work done on behalf of the Committee throughout the past year. Also, we must acknowledge the excellent advice and support provided by the Auditor General, Mrs. Heather Jacobs Matthews, and her professional Staff during our deliberations, without which the Committee would not have been able to expand its reach on behalf of the taxpayers of

Bermuda in the way it has this past year. We would also like to thank MG Court Reporting & Transcription Services for their support in our public meetings.

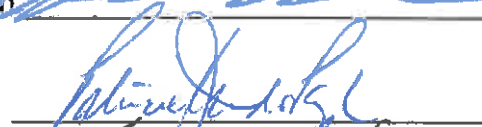
3. **Your Committee recommends** that the Minister of Finance be requested to inform the Honourable House of Assembly of the action to be taken on the points raised in this report.

ALL OF WHICH IS RESPECTFULLY SUBMITTED:

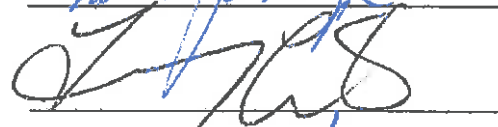
Mr. Everard T. Richards, J.P., M.P. - Chairman



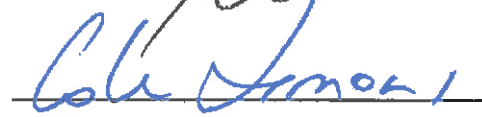
Mrs. Patricia J. Gordon Pamplin, J.P., M.P.



Hon. Terry E. Lister, J.P., M.P.



Mr. N.H. Cole Simons, J.P., M.P.



Dated: 20th July, 2012

**REPORT OF THE PARLIAMENTARY STANDING
COMMITTEE ON THE PUBLIC ACCOUNTS ON THE
SPECIAL REPORT OF THE AUDITOR GENERAL ON
THE MISUSE OF PUBLIC FUNDS**

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

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

1. Introduction

Your Public Accounts Committee (PAC) is pleased to report to the Honourable House of Assembly that we have reviewed the outstanding section *Inappropriate Use of Public Funds for Payment of Personal Legal Expenses* of the Special Report on the Misuse of Public Funds as produced by the Auditor General and tabled in this Honourable House on 3 March, 2012. This PAC Report covers the second section of the Auditor General's report; the first section was reported on by PAC on 20 July, 2012.

2. Meetings

PAC held nine meetings on this report with the Auditor General and staff, current and former public officers, and had deliberations amongst the committee. Below are the dates of the meetings:

- 12 September, 2013
- 19 September, 2013
- 3 October, 2013
- 24 October, 2013
- 31 October, 2013
- 13 February, 2014
- 14 February, 2014
- 23 April, 2014
- 29 May, 2014

3. Witnesses

PAC sought clarity on the matters raised in the report from a number of current and former Ministers and current and former public officers. The list below identifies the persons who provided information to PAC and how it was provided. All oral testimony was held "in camera". Written submissions received by PAC have been included in this report.

Oral Testimony

- Robert Horton, former Permanent Secretary of Public Works
- Anthony Manders, current Financial Secretary
- Randy Rochester, former Permanent Secretary of Public Works

Written Submission

- Doctor the Honourable Ewart F. Brown, J.P., former Premier
- Honourable Derrick V. Burgess, J.P., M.P., former Minister of Public Works

Invited to Attend

- Honourable Paula A. Cox, J.P., former Premier and Minister of Finance
- Kathy Lightbourne-Simmons, former Permanent Secretary of Legal Affairs
- Michael J. Scott, J.P., M.P., former Attorney-General
- Kim N. Wilson, J.P., M.P., former Attorney-General

4. Findings

- a. PAC found that a contract with the Canadian law firm was ratified by Cabinet and executed by the Solicitor General on behalf of the Government.
- b. The main contention was how an action approved by Cabinet for the Government of Bermuda ended up as a lawsuit filed in the name of former Premier Ewart Brown and former Minister Derrick Burgess.
- c. PAC, like the Office of the Auditor General, was unable to ascertain precisely by whom or when authorisation was given for the legal action to be filed in the name of former Premier Ewart Brown and former Minister Derrick Burgess (as opposed to the Government of Bermuda). The Ministry of Justice, in its response, stated that, "the

personal action was the only means by which the Government could take action against those responsible for essentially attacking the Government via its Ministers." This determination arose from the fact that a Government cannot be a plaintiff in a defamation action.

- d. Given that the action was filed in the names of former Premier Ewart Brown and former Minister Derrick Burgess, and although Dr. Brown and Mr. Burgess have stated publicly that any proceeds would not have benefited them personally, the PAC was provided with no legal or contractual evidence to support this. Though the action may have been for a government purpose, the lack of documentation regarding any potential damages allowed for the possibility for someone to personally benefit from the lawsuit. While PAC is not accusing former Premier Ewart Brown and former Minister Derrick Burgess of seeking to profit from this action, there was no documentation provided to PAC or to the Office of the Auditor General that satisfies this dilemma.
- e. Given that the lawsuit was filed in the names of former Premier Ewart Brown and former Minister Derrick Burgess, and given that they may have stood to benefit from a successful suit, the Auditor General argues that this was a misuse of public funds. The PAC agrees with the Auditor General in the strict letter of the law that a lawsuit in private names can be viewed as a violation of Financial Instructions; however, given the unusual circumstances of this case, the Public Accounts Committee acknowledges the Government's position that it considered this action to be for a "government purpose" and thus in line with existing Financial Instructions.
- f. PAC is wholly dismayed by the unwillingness of Attorney-General's Chambers to share information with the Office of the Auditor General and does not accept their claim of privilege. Audit functions cannot be properly executed if government departments claim legal privilege and block access to documents. Although the Members of the PAC are not lawyers, we did not see the need to spend government funds on seeking an independent legal opinion to validate what we all saw as patently obvious. We fully support the Auditor General's position that she is a servant of the government and, given the contract was between the government and the law firm, any information requested should have been provided to the Auditor General. In our attempt to further understand the Government's reasoning for not sharing the requested information with the Auditor

General, PAC tried to speak with the former Permanent Secretary in the Ministry of Legal Affairs. Unfortunately, the Committee did not get to speak with Ms. Lightbourne-Simmons as she had left Government at the time of the hearings. PAC is also dismayed that the former Attorney-General Michael Scott, when asked to attend PAC, declined the opportunity to attend to provide PAC additional clarity regarding these events. PAC believes that our report would have been more complete if we had participation from these two officers.

- g. PAC takes note that the retainer agreement between the Government of Bermuda and Lax O'Sullivan Partners was terminated in September 2011 in line with the Auditor General's recommendation.
- h. PAC takes note of the Auditor General's recommendation that surcharged funds be paid back, but does not support the recommendation - as the Committee accepts the explanation that Cabinet approved the funds and it was the view of Cabinet that the funding was for a "government purpose".

5. Recommendations

- a. PAC recommends that the Government examine amending Financial Instructions to allow for the Cabinet to support a civil action taken on behalf of a Minister against anyone who defames and damages the reputation or credibility of the Minister when he or she is carrying out his or her duties. The PAC also recommends that any amendment to Financial Instructions make it clear that any proceeds from any such action revert to the Government of Bermuda.
- b. PAC recommends that the Government ensures that the Auditor General receives access to all Government files without delay. The Office of the Auditor General must have the cooperation of the executive of the day to be effective - the lack of access to information gives the impression, whether rightly or wrongly, of something to hide. The PAC recognises the doctrine of legal privilege, however if such communication is to a legal team funded by the government, it is the opinion of this Committee that the Office of the Auditor General should have access to any information requested in accordance with the section 14 of the Audit Act 1990.

6. Conclusion

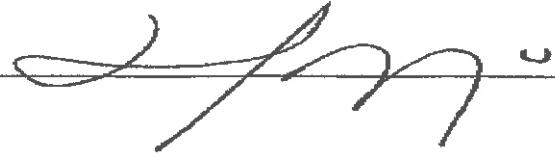
- a. PAC would like to acknowledge the advice and assistance provided by the Auditor General, Mrs. Heather Jacobs Matthews, and her professional staff during our deliberations; as well as the sterling work done on behalf of the Committee by Deputy Clerk to the Legislature, Mr. Clark W. Somner. PAC would also like to acknowledge the contributions of the Honourable Jeanne Atherden, J.P., M.P., who served on PAC prior to being appointed a Minister.
- b. PAC recommends that the Minister of Finance be requested to inform the Honourable House of Assembly of the action that is to be taken on the recommendations submitted in this report.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Mr. E. David Burt, J.P., M.P. – Chairman



Ms. Lovitta F. Foggo, J.P., M.P.



Mr. Terry E. Lister, J.P., M.P.




Mr. N. H. Cole Simons, J.P., M.P.



Mr. Glen C. Smith, J.P., M.P.



Mr. Jefferson C. Sousa, J.P., M.P.



Date: 6th June, 2014

Minister of Finance Response on the Report of the Parliamentary Standing Committee on the Public Accounts on the Special Report of the Auditor General on the Misuse of Public Funds

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

Introduction

Mr. Speaker, I am grateful for this opportunity to respond to the Public Accounts Committee (PAC) Report on the Special Report of the Auditor General on the Misuse of Public Funds that was tabled in this Honourable House on March, 2012. This PAC Report focused on the outstanding section – Inappropriate Use of Public Funds for Payment of Personal Legal Expenses.

Mr. Speaker, it should be noted that the above mentioned incident being reported on occurred under the former administration at a time that I was actually Chairman of the PAC. Unfortunately, the previous PAC was unable to report on this matter due to the change in Government. The change in Government has obviously led to delays in responding. Nevertheless, I table the Government's written response to the above mentioned PAC Report in order to complete the financial reporting accountability cycle within Government.

Since coming into office in December 2012, the Government has placed great emphasis on the need to make continued improvements to Government's accounting and financial control systems and practices.

As mentioned above, this PAC Report focuses on one particular matter – Inappropriate Use of Public Funds for Payment of Personal Legal Expenses of the Special Report on the Misuse of Public Funds as produced by the Auditor General in March 2012. For ease of reference I have attached the PAC Report as **Annex I**.

Inappropriate Use of Public Funds for Payment of Personal Legal Expenses

The Government acknowledges the work of the Public Accounts Committee in addressing items of concern relating to the above mentioned matter. I also note the findings and recommendations emanating from the PAC Report.

As recommended by the PAC, I hereby inform this Honourable House of the recommendations submitted and in the PAC Report on the Special Report of the Auditor General on the Misuse of Public Funds - Inappropriate Use of Public Funds for Payment of Personal Legal Expenses and the actions that are to be taken in response to those recommendations.

Recommendation 1 - Section 5a of the Report:

“PAC recommends that the Government examine amending Financial Instructions to allow for the Cabinet to support a civil action taken on behalf of a Minister against anyone who defames and damages the reputation or credibility of the Minister when he or she is carrying out his or her duties. The PAC also recommends that any amendment to Financial Instructions make it clear that any proceeds from any such action revert to the Government of Bermuda”.

The Government is fully supportive of this recommendation and will ensure that any civil action taken on behalf of a Minister approved by Cabinet will be transparent and fully documented. One of the key findings in the PAC report was that whilst the former administration considered the funding of this action to be for a government purpose and was an appropriate course to follow in the interest of the Government, the Country and Bermuda’s international reputation, there was a lack of documentation to support this position. As mentioned above, any future civil actions taken by the Government on behalf of a Minister will be fully documented which will also make it clear that any proceeds from any such action revert to the Government of Bermuda. It should be noted that Financial Instructions already state that “Government funds or property should only be used for **Government purposes** and must not be used for personal reasons”. Accordingly there is no need to amend Financial Instructions to provide for this recommendation. The key requirement is to document the cases in which the Cabinet is to support a civil action taken on behalf of a Minister against anyone who defames and damages the reputation or credibility of

the Minister when carrying out his or her duties. This documentation will be the support for any payments made towards this matter.

Recommendation 2 - Section 5b of the Report:

“PAC recommends that the Government ensures that the Auditor General receives access to all Government files without delay. The Office of the Auditor General must have the cooperation of the executive of the day to be effective-the lack of access to information gives the impression, whether rightly or wrongly of something to hide. The PAC recognises the doctrine of legal privilege; however, if such communication is to a legal team funded by the Government, it is the opinion of the Committee that the Office of the Auditor General should have access to any information requested in accordance with section 14 of the Auditor Act 1990.”

While the Government supports the PAC’s recommendation that the Auditor General should have access to any information requested in accordance with section 14 of the *Audit Act 1990* (“**the Act**”), the Government, having taken legal advice from the Attorney General, does not accept that such information includes documents or information which is protected by legal professional privilege. The suggestion by the PAC in paragraph 5(b) of its report that the withholding of legal professional privileged documents or information gives the impression that there is something to hide fundamentally fails to comprehend why it is important to protect from disclosure to the public legal professional privileged information.

It is the opinion of the Attorney-General, who is charged under section 71 of the Bermuda Constitution Order 1968 to be the principal legal adviser to the Government, section 14 of the Act does not entitle the Auditor General to have access to legal professional privileged information.

It is important that the Government supports the non-disclosure of legal professional privileged information to the public in order to ensure that:

- (1) Government officials are not deterred from telling the whole truth to their attorneys for fear that such information may be made public; and
- (2) Legal advisers are able to give honest and candid advice on a sound factual basis to the Government without couching such advice for fear that it may find its way into the public domain and used against the Government in any civil proceedings against the Government.

The Government is a legal person and is entitled to the same protection against the disclosure of legal professional privilege information as any other person who seeks advice from legal counsel.

In the present case, the Attorney-General informed the Auditor General (citing legal authorities) of her legal interpretation of section 14 of the Auditor Act 1990 and it is inappropriate for the PAC to infer in its findings and recommendation expressed in paragraphs 4(f) and 5(b) of its report that such legal opinion is incorrect without citing any legal authorities that support such an inference. It should be noted that under same section 14 (d) of the Act, the Auditor General is entitled, in the exercise and for the purpose of his functions, to seek from the Attorney General in writing an opinion on any question regarding the interpretation of any statutory

It is the opinion of the Attorney-General, who is charged under section 71 of the Bermuda Constitution Order 1968 to be the principal legal adviser to the Government, section 14 of the Act does not entitle the Auditor General to have access to legal professional privileged information.

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provision. Hence, it appears that the Legislature intended the Attorney General to advise the Auditor General in regards the interpretation of any statutory provision, including provisions under the Auditor Act 1990.

Mr. Speaker, it should be noted that the above mentioned position is consistent with the position of the former administration as recorded in their reply to the Special Report of the Auditor General on the Misuse of Public Funds dated December 19th 2011.

Conclusion

Mr. Speaker, I wish to express my thanks to the Auditor General and members of the Public Accounts Committee for their work in identifying and bringing forth their observations and recommendations to the attention of this Honourable House. This Government is committed to strengthening the way in which it manages and controls Bermuda's public finances and I have every confidence that continued improvements will be achieved.

**REPORT OF THE PARLIAMENTARY STANDING
COMMITTEE OF THE PUBLIC ACCOUNTS ON:
THE ANNUAL REPORT OF THE AUDITOR GENERAL
ON THE WORK OF THE OFFICE OF THE AUDITOR
GENERAL AND ON THE ACCOUNTS OF THE
GOVERNMENT OF BERMUDA FOR THE FINANCIAL
YEARS APRIL 1, 2008 TO MARCH 31, 2009 AND
APRIL 1, 2009 TO MARCH 31, 2010**

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

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

1 Introduction

Your Public Accounts Committee (PAC) is pleased to report to the Honourable House of Assembly that we have reviewed the Annual Report Of The Auditor General On The Work Of The Office Of The Auditor General And On The Accounts Of The Government Of Bermuda For The Financial Years April 1, 2008 To March 31, 2009 and April 1, 2009 to March 31, 2010, tabled In This House on 22 June, 2012.

2 Meetings

PAC held ten meetings on this report with the Auditor General and staff, current and former public officers, and had deliberations amongst the committee. Below are the dates of the meetings:

- September 12, 2013
- September 19, 2013
- September 26, 2013
- October 24, 2013
- October 31, 2013
- May 29, 2014
- June 12, 2014
- July 3, 2014
- July 10, 2014
- July 18, 2014

3 Witnesses

Given the reports were over two years old, PAC sought to glean essential information from Public Officers responsible for the supervision of government budgets and spending. The list below identifies the persons who provided information to PAC. All oral testimony was held “in camera”.

Oral Testimony:

- Mr. Anthony Manders - Current Financial Secretary
- Mr. Donald Scott - Former Cabinet Secretary and Financial Secretary during the period covered by the Report
- Mrs. Tina Tucker - Principal Budget Officer
- Ms. Lucia Peniston - Tax Commissioner
- Ms. Wendy Greenidge - Debt Enforcement Unit

Invited to Attend (but not available):

- Mrs. Heather Thomas - Director of Internal Audit

4 Findings

1. Bermuda's budget process has not kept up with modern needs.
 - a. PAC is concerned that Estimates of Revenue and Expenditure (Estimates) were submitted to Parliament with financial projections that senior civil servants considered unrealistic and unattainable. Such revelations showcase the weaknesses of our current budget process.
 - b. Parliament must oversee the Budget process, but there is limited independent review of the Budget.
 - i. Larger Parliaments have their own independent budget offices to scrutinise the Executive's budget to ensure it is able to deliver planned programmes.
 - ii. Supplementaries are received in arrears, a long time after spending has occurred, with minimal Parliamentary scrutiny as the money has already been spent.
2. There have been some improvements in budget control.
 - a. PAC heard of new measures, first implemented in 2012 and further enhanced in 2013, to catch budget creep at an earlier stage. Some of the measures detailed were:
 - i. Ministries were required to enhance their monthly reports pertaining to their expenditure versus budget allocations so that any slippage can be arrested; additionally, quarterly reports are made to Cabinet.

- ii. The introduction of budget checking in the ERP system ensures that Ministries and Departments have budgeted funds available before committing to the procurement of goods and services.
 - iii. A Budget Implementation Group has been established at the civil service level to ensure that members of the civil service are motivated to deliver on the mandates of the budget.
3. The Government continues to face challenges in the raising of revenue and collection of monies owed to the Government.
 - a. PAC heard testimony about the Government's revenue challenges. These challenges have been exacerbated by the numerous tax concessions that have been given and difficulty in collecting taxes. Witnesses also recommended that the Government may wish to look at reforming the tax system to enhance Government revenue and broaden the tax base as a way to address the revenue challenges.
 - b. PAC heard that Bermuda's tax culture is poor and that additional measures need to be taken to increase levels of compliance with existing tax legislation. As of July 10, 2014 there was \$30,597,673 in land taxes that were more than 90 days overdue with the Office of the Tax Commissioner; and \$50,336,577 in Payroll and other taxes that were more than 90 days overdue.
 - c. PAC heard that increased cooperation and information sharing between Government departments is necessary to increase tax compliance.
 - d. PAC heard that the Debt Enforcement Unit is currently under-resourced. The Unit has had success in obtaining judgement against debtors; however the enforcement of those judgements remains a challenge.
4. PAC heard conflicting evidence on whether civil servants had been surcharged for violations of Financial Instructions. It should be noted that since the report time period, violations of Financial Instructions are now criminal offences.
5. There is an ongoing challenge that exists with the quality and timeliness of accounts submitted for audit. The Auditor General has confirmed a large number of accounts have not been audited, some dating back to 2005. In addition, a significant number of these accounts have been submitted with incomplete information. As the Auditor General has to audit these accounts, this task is made very difficult due to the lateness and quality of the information submitted. PAC understands that in many cases there have been recommendations from the Auditor General as to the improvements to be made but these have not been made. These outstanding accounts increase the risk of financial irregularities going undetected.
6. Disposition of Auditor General's Recommendations
 - a. Accounting officers have responsibility for the review and implementation of the recommendations made in the Report of the Auditor General.

- b. The Auditor General made eleven new recommendations in this report; however there were 73 outstanding recommendations from previous reports.
- c. In 2010 the Department of Internal Audit and the Office of the Auditor General signed a memorandum of understanding. As a result of the agreement, the Department of Internal Audit monitors the implementation of the Auditor General's recommendations.
- d. PAC will meet with the Director of Internal Audit to ascertain what progress has been made on the Auditor General's Recommendations.

5 Recommendations

1. Given the findings mentioned in Section 4 of this report, PAC makes the following recommendations to modernise the budgetary process:
 - a. PAC recommends that the House considers updating budget rules to make supplementary funding a more disciplined process.
 - b. Consider implementing "pay-go" rules to ensure that any additional, nonemergency, spending that occurs during the budget year is offset by additional revenue or corresponding cuts. Approval should be sought from the Legislature prior to additional funds being spent.
 - c. Increases in capital estimates often are missed because total allocated funding increases are not shown in the Estimates of Revenue and Expenditure. PAC recommends that the Annual Estimates of Revenue and Expenditure include the historical total allocated funding so that the Legislature and the public can understand the increasing costs of capital projects.
2. PAC believes that additional transparency in the budget process will lead to better budgetary control by Parliament, therefore PAC recommends:
 - a. The Minister of Finance should, as a matter of routine, submit a mid-year report on Government finances to the House no later than November 15 in any given year. This statement should include any spending changes and provisional estimates for approval in advance of additional and unbudgeted monies being spent.
 - b. The Minister of Finance should publish quarterly revenue and spending figures by Department.
 - c. The Minister of Finance should include Zero Based Budget rankings in the Annual Estimates to ensure the Committee of Supply is aware which ongoing programs are funded in the Government Budget.
 - d. The Minister of Finance should publish the disposition of supplementals and surcharges so that members of the public can know the extent to which action has been taken with those who violate Financial Instructions.
3. Given the testimony about Government revenue, mentioned in Section 4 of this report, PAC recommends:

- a. That Government review the current tax system with a view to increasing the efficiency of revenue collection and to broaden the tax base.
- b. That Government take immediate steps to increase cooperation between Government departments to withhold government services from those who are not in good standing with the Office of the Tax Commissioner. Services such as work permits, business licences, vehicle registrations, should be withheld from non-compliant businesses and persons.
- c. That Government develop a Memorandum of Understanding (MOU) for all Government Departments that are involved in revenue collection and debt enforcement. This MOU will formalise the information sharing between Government Departments and will aid debt enforcement.
- d. That Government assign additional and dedicated resources the Debt Enforcement Unit to aid in the recovery of debts.
- e. That Government should again examine a Tax Court and specific legislation to facilitate the recovery of funds owed to the Government. Any new Tax Court should be established in addition to existing civil courts.
- f. The Government should again examine the establishment of a Business Registry as highlighted in previous reports of the Auditor General to facilitate the identification of potential taxpayers.

6 Conclusion

1. PAC would like to acknowledge the advice and assistance provide by the Auditor General, Mrs. Heather Jacobs Matthews, and her professional staff during our deliberations. We would also like to acknowledge the sterling work done on behalf of the Committee by Deputy Clerk to the Legislature, Mr. Clark W Somner, and the contributions of the Honourable Jeanne Atherden, J.P., M.P., who served on PAC prior to being appointed a Minister.
2. PAC recommends that the Minister of Finance be requested to inform the Honourable House of Assembly of the action that is to be taken on the points raised in this report.

ALL OF WHICH US RESPECTFULLY SUBMITTED.

Mr. E. David Burt, J.P., M.P. – Chairman




Ms. Lovitta F. Foggo, J.P., M.P.



Mr. Terry E. Lister, J.P., M.P.



Mr. N. H. Cole Simons J.P., M.P.



Mr. Glen C. Smith, J.P., M.P.



Mr. Jefferson C. Sousa, J.P., M.P.



Mr. Michael A Weeks, J.P., M.P.



Dated: 18th July, 2014

Minister of Finance Response on the Report of the Parliamentary Standing Committee on the Public Accounts on: The Annual Report of the Auditor General on the work of the Office of the Auditor General and on the Accounts of the Government of Bermuda for the Financial Years Ended 31 March, 2009 and 2010

Introduction

Mr. Speaker, I am grateful for this opportunity to respond to the Public Accounts Committee Report on the Public Accounts for the financial years ended 31 March, 2009 and 2010. This Government appreciates that this process is an important component of the financial reporting accountability cycle within Government and will fulfill its duty to ensure that Government's financial reporting is raised to its optimal level.

Mr. Speaker, before I go into my formal response I would like to comment on the role of the Public Accounts Committee (PAC) and parliamentary procedure in general.

When the Auditor General tables a report in the House it is automatically referred to the PAC, Parliament's Standing Audit Committee. The Committee then selects the portions of the report it wants to scrutinise and calls public servants from audited organisations to appear before it to respond to the Auditor General's findings. The PAC also reviews any other Special Auditor Reports

that have been tabled, and attempts to identify financial shortcomings of the Government in light of issues raised in the Auditor General's reports. The Committee then tables its report and makes recommendations to the Government for improvements in spending practices and request that the Minister of Finance formally replies to the points raised in the Report and it is debated including input from the relevant and accountable Ministries and Ministers.

Mr. Speaker, unfortunately, because of the passage of time, this PAC report is an historical document. While media reporting of the PAC Report conveys a sense of immediacy, nothing could be further from the truth. Yet, too often the PAC Report is thought to represent the status quo when in fact it has been overtaken by events and real progress has occurred.

In fact, usually by the time a PAC Report is released more than three years has lapsed. Very often Government officials or boards of public sector entities – who have the fiduciary responsibility for their own accounts – have taken action already to address weaknesses or to make enhancements to financial systems and controls. As my remarks will show much has been done since 2009 and 2010 which this report refers to. In fact, Mr. Speaker during this period the current Government was not in office.

For ease of reference, I have adopted the same order as the PAC Report, which I attach as Annex I. Please note that the latest PAC Report relates to the years ending March 31, 2009 and 2010, clearly some of my comments may already be in the public domain.

Budget Process and Control

Mr. Speaker, the Ministry of Finance agrees with the Committee that during the 2009 – 2010 periods the budget process may not have kept up with modern times. Since this period major budget reform has occurred.

Mr. Speaker, budgeting and financial performance starts at the very top of the government structure, which is with the Cabinet. Previous governments appear to have operated whereby Cabinet decided what services the Government desired to provide to the public and the spending budget became the total of all those services. This approach has been one of the key factors behind the fiscal crisis that the Bermuda Government finds itself in.

This Government takes the opposite approach, virtually the same approach a prudent family would take when arranging its budget. Our approach is based on the cash inflows we expect to have available to spend. We then allocate spending limits to each ministry based on priorities so that services provided to the public fit within the overall budget limit. This is what is meant by living within one's means.

Mr. Speaker, Honourable Members will recall, that during the 2013/14 Budget debate it was announced that the Government was proposing that the 2014/15 National Budget provide Bermuda with a foundation for what will become a three-year revolving framework, one that will embed long-term structural reforms into the current account strategy, reforms that will allow us to adopt a multi-year approach to public sector financial planning.

To transition to this model, we needed to adopt a medium-term plan that would enable us to consolidate and generally rebuild our revenue base, identifying new sources of income while underpinning existing sources. This required efforts on three fronts: better budget preparation, better and more transparent budget execution and systematic budget monitoring, the whole underpinned by clearly articulated sector strategies, efficient delivery agencies, and monitoring by oversight entities and the legislature and, most importantly, the public.

Mr. Speaker, as promised we moved to a Medium Term Expenditure Framework (MTEF). This is the name given to Government's medium term plans to eliminate the deficit and ultimately reduce the debt. The full implementation of a medium-term expenditure framework involved the introduction, from the 2014/15 budget cycle, of rolling three-year budgets and forward estimates to establish hard multi-year budget ceilings for Ministries. The MTEF program allows flexibility in the

allocation of resources across a series of annual budgets to meet objectives related to debt service and other Government commitments that cannot be achieved in a single budget cycle. This will enable the Ministry of Finance to begin to fulfill its commitment to changing the trajectory of deficits and debt over the medium-term.

To achieve the Ministry of Finance's strategy for fiscal consolidation (i.e. deficit reduction), the Ministry set an ambitious target of cost savings on current account expenditure of 15 per cent , in real terms, to be achieved by the end of three years. We noted that this plan would be a challenge but could be accomplished if all Ministries work together. Further, the discipline of the exercise would also provide a strong platform for more effective financial management in the medium term. If fiscal consolidation is not successfully implemented, there is a material risk of further credit rating downgrades.

Moving forward, the Government will drive fiscal policy management by top-down, hard debt targets rather than by bottom-up methodology of the past, whereby priority was given to spending plans.

Mr. Speaker, the Budget Office is constantly encouraging all managers to commit to higher levels of financial rigor. It is their strong view that it is in the country's interest for all senior executives in the public service to maintain a disciplined grip on the budgets that are under their charge. The introduction of budget checking in the Enterprise Resource Planning System (ERP) introduced in 2011 has

also assisted with enhanced budgeting monitoring. This capability has facilitated stronger control over the use of budgeted funds by ensuring that Ministries and Departments have budgeted funds available before committing to the procurement of goods and services on behalf of the Government of Bermuda.

Mr. Speaker, budgeting is not an exact science and it should be noted that the Ministry of Finance has procedures in place requesting all departments to seek supplementary Estimates before the actual overspend. On occasions it is impractical to prohibit overspending of appropriated amounts until the Legislature formally approves the necessary Supplementary due to timing differences and possible emergency expenditure. It must be emphasized that unapproved overspends are considered serious financial violations by the Ministry of Finance. During the annual budget training sessions conducted by the Budget Office the importance of Ministries staying within their budget allocation is constantly enforced.

Mr. Speaker, the Budget Office will continue to oversee the transformation of the management of the public finances. Although there have been some improvements there is always room for further enhancement. Accordingly, Ministries are now required to enhance their monthly reports pertaining to their expenditure versus budget allocations so that slippage can be arrested before becoming problematic. This government is committed to changing the trajectory of deficits and debt going forward by implementing various measures.

Mr. Speaker, I noted the PAC's concern with regard to limited independent review of the Budget. The Government agrees with this concern and announced in the 2015/16 Budget Statement that, to increase transparency and international credibility, Government intends to establish an international, independent committee to review, monitor, assess and publicly report on the fiscal progress of the government. It was noted that several other islands have also adopted similar outside assessors and it has helped bolster credibility and confidence. This monitoring committee will be established under aegis of the Financial Stability Framework regime already under development at the Bermuda Monetary Authority.

Mr. Speaker, while I agree that it would be beneficial for Parliament to have their own independent budget offices to scrutinise the Executives budget to ensure it is able to deliver planned programmes. However such a body would itself use up government funds – funds which are already very scarce.

Finally it should be noted that the Ministry of Finance currently produce quarterly fiscal data which is released to the public.

Revenue Raising

Mr. Speaker, it was pointed out in the 2015/16 Budget Statement that a recent study comparing the tax/GDP ratios of small island economies illustrated that Bermuda had the lowest ratio. One could say kudos to Bermuda for keeping its taxes low. But that would only be appropriate if we were balancing or nearly balancing the budget; something that clearly is not the case. In view of the inherent and serious risks of running large deficits, this study implies that Bermuda's taxes are not high enough to achieve or maintain long term fiscal sustainability. The bottom line is Customs Duties are no longer producing the portion of revenue that they once did, thus exacerbating the annual deficit.

Mr. Speaker, as announced in the Budget speech, Government therefore has requested technical assistance from the Caribbean Regional Technical Assistance Centre (CARTAC), an IMF regional body, to study the feasibility of broadening Bermuda's tax base.

It was noted that a decision on the outcome of this analysis will be taken and communicated after a period of study and public consultation.

Debt Collection

Mr. Speaker, another concern noted by the PAC in their report and shared by the Government is the matter of pension contributions and taxes in arrears. As previously stated, this Government places a high priority on collecting outstanding amounts owed.

As the PAC Report indicates, Government financial statements show large amounts of money as Taxes Receivable. These represent taxes that should be paid to government according to law but have not been paid. As Government presently has to borrow money to pay monthly bills, every unpaid dollar owed to government increases the public debt and costs taxpayers the interest payable on that dollar.

Due to the extended recession there are many small businesses that have struggled to meet their tax obligations in a timely fashion. Government will work with these businesses to make suitable arrangements. However, there are others who simply ignore their obligations. For this group Government will use all available means to collect overdue taxes, thereby improving Government's cash flow and reducing its need for borrowing.

Mr. Speaker, in-lieu of raising taxes or implementing new users fees, Governments are putting in strategies and measures to collect on their receivables/debts.

Some of the most effective strategies for debt collection are as follows:

1. Automated notices and correspondence
2. Centralized collections
3. Use of law firms to augment collection capacity
4. Automated collection software
5. Electronic payments
6. Imposition of penalties and interest
7. Increased staffing (lowest return on investment)

It is incumbent on the Bermuda Government to take similar measures. One such strategy currently being considered by the Government relates to the use of law firms to supplement the Debt Enforcement Unit (DEU) within the Attorney General's Chambers.

Mr. Speaker, except where otherwise legislated, Government Departments are responsible for collecting outstanding amounts until such time as they become 90 days overdue, at which time they must be referred to the Accountant General Debt Collection Section which will initiate means of recovering the debt. However, the Tax Commissioner and the Director of Social Insurance have their own debt collection resources. The Tax Commissioner pursues taxpayers for, amongst other things, overdue Payroll Tax and Land Tax and the

Director of Social Insurance likewise recovers outstanding unpaid Social Insurance Contributions. Once all efforts to collect receivables have been exhausted, the debt may be referred to the DEU of the Attorney-General's Chamber for Supreme Court Writs.

Currently, the DEU has two staff members and given the massive amount of outstanding taxes it is critical to beef-up this unit by engaging up to three law firms to secure and enforce court judgments against taxpayers who owe taxes in excess of 90 days.

By engaging law firms to augment the manpower of the DEU, the Government will quickly strengthen its debt collection capabilities, without adding full time employees, and be able to aggressively reduce the amounts owed.

Mr. Speaker, the Ministry understands that increased cooperation and liaison between Government departments can be quite effective in increased tax compliance. Currently, revenue collecting departments are supported by the various Government Departments who will withhold permits and vehicles licenses where taxpayers are in arrears with taxes. Government has also used the offsetting provision in the Public Treasury (Administration and Payments) Act 1969 that allows Departments to recover any monies due to taxpayers from Government (i.e. Works and Engineering contracts). Also, Departments have set up installment plans and have

successfully progressed matters in the courts through the Department of Public Prosecution.

The Government through the Office of the Tax Commissioner continues to make debt collection and enforcement a priority as well as taxpayer education and awareness. To assist with this the Government proposes to amend existing tax legislation in order to increase the Tax Commissioner's powers for debt collection as well as impose stricter penalties for non-compliance and criminal tax evasion.

Mr. Speaker, despite these measures, the Ministry is neither satisfied nor complacent. As a result, the Ministry will enhance cooperation between Government departments by regularizing this process by way of the development of an MOU as suggested by the PAC.

Mr. Speaker, the Government will continue to take an aggressive stance in recouping tax and pension arrears in order to establish the settlement of Government debt as a priority.

Financial Instructions

Mr. Speaker, Honourable Members are aware that Government's Financial Instructions (FI) provide the basis for the financial controls, processes, and procedures under which the Government operates.

To ensure compliance with FIs the Accountant General's Department ensures that Financial Instructions (FI) are available to, and delivers FI training in conjunction with the Department of Human Resources for, all Public Officers.

Incidents of non-compliance with Financial Instructions have to be reported to the Accountant General who ensures that appropriate action is taken against the violating parties.

Late Financial Reporting

To facilitate sound financial management and planning, reliable and timely information is required. To achieve efficient management - flexible and responsive management requires an ongoing flow of management information.

Mr. Speaker, I note the PAC's long-standing concerns with regard to late and inadequate financial reporting of certain government entities and public funds. Whilst we acknowledge there are still obstacles to overcome with regard to late financial reporting for some Government entities and public funds, these obstacles are being addressed and will be resolved.

I can report to the general public that progress is being made. In many cases, management accounts have been prepared and

significant progress has been made with regard to bringing all public sector entities' accounts up to date.

Mr. Speaker, the delays in submitting and auditing some public sector accounts, combined with enhanced auditing standards are providing further challenges to the auditing process. Therefore, in some instances, in order to complete the auditing process, the Auditor General may have to issue qualified or in some cases disclaimer of opinions.

The Ministry of Finance will work with all public sector entities and the Auditor General in order to bring all public sector entities' accounts up to date in an auditable state. It is anticipated that with the provision of timely auditable financial statements the Auditor General will obtain comfort that the pre-conditions for future audits exists and that the financial statements will provide information for decision making and for accountability purposes.

Relevant Government entities will have to play their part to rectify this problem by bringing all outstanding accounts up to date and delivering them in an auditable state to the Office of the Auditor General.

Outstanding Auditor General's Recommendations

The Government has placed great emphasis on the need to address the numerous recommendations made by the Auditor over the years and on making continued improvements to Government's accounting and financial control systems and practices. The Accountant General's Department continues to work with Controllers in Ministries to ensure audit recommendations that have been noted and accepted in prior years are addressed expediently.

PAC Recommendations

Mr. Speaker, I have already provided a fulsome reply to the PAC Report. Some of this commentary addresses the various PAC Recommendations. For the sake of good order I will provide a brief reply to each recommendation in Section 5 of the Report.

Recommendation 5.1.a

The Ministry of Finance already has procedures in place requesting all departments to seek supplementary Estimates before the actual overspend.

Recommendation 5.1.b

As part of the budget monitoring and control exercises all Ministries/Departments are required to review expenditure performance and to confirm, on a monthly basis, their current and

capital account expenditure performance with the Budget Office. Also as part of the enhanced on-going budget monitoring and control exercises, the Ministry reports to Cabinet on at least a quarterly basis on the overall financial performance of the Government's expenditures and revenues.

If in the course of Ministries' budget monitoring and control exercises they report to the Ministry of Finance that they have potential budget overages in certain Departments, these Ministries, in the first instance are still required to seek expenditure reduction in other areas of the Ministry to cover these items. Also in cases of budget overages in one Ministry, Cabinet is asked to realign Ministry budget appropriations, including both current and capital expenditures. This is to facilitate any additional expenditures that may arise during the year.

In cases of budget overages in current account the Budget Office will seek to offset these additions by reducing capital spend.

Recommendation 5.1.c

All Total Authorised Funding (TAF) increases are approved by the House either via a Supplementary Estimate or during the normal budget appropriation process in the budget session. Any increases in the TAF of a project are noted in the "Capital Account Estimates" pages in the Budget Book. The PAC is referred to the "Notes to Schedule B – Capital Development" in the Budget Book.

5.2.a

The Ministry already publishes aggregate quarterly revenue spending figures. This can be incorporated into a mid-year report on Government finances to the House.

Recommendation 5.2.b

The Ministry already publishes aggregate quarterly revenue spending figures. It should be noted that PATI requires each Department to publish their quarterly spending figures.

Recommendation 5.2.c

As mentioned in my reply, the Government's budget methodology has been changed to the Medium Term Expenditure Framework. Ministries and Departments still use the ZBB rankings during their internal budget preparations. It should be noted that the Budget is presented at the service level and clearly shows which programmes are funded.

Recommendation 5.2.d

This recommendation will be further considered.

Recommendation 5.3.a

As mentioned in this report the Ministry will be conducting a review of the current tax system. Tax administration will also be included in this review.

Recommendation 5.3.b

The Government supports this recommendation. Currently Government departments do cooperate on tax collection matters. This cooperation will be enhanced.

Recommendation 5.3.c

The Government supports this recommendation.

Recommendation 5.3.d

The Government supports this recommendation. As noted in the reply the Government is seeking to supplement the DEU with law firms.

Recommendation 5.3.e

This recommendation will be discussed with the Attorney General.

Recommendation 5.3.f

Due to potential resource implications, this long standing recommendation will only be considered after other debt collection strategies have been implemented.

Conclusion

Government and governance is dynamic and just as the international regulatory environment has a shifting and changing landscape so too it is with the process of government. More is being required of all civil

servants, Permanent Secretaries/Chief Accounting Officers and of the Ministers of the Government and associated agencies.

The Government appreciates and highly values the efforts of the Standing Committee on Public Accounts to strengthen the Government's accountability to Parliament, and to enhance the Committee's contributions to public policy and administration. The Government fully supports the Committee in fulfilling its important mandate.

To this end, the Government will continue to work with the Committee and respond to its reports and requests for information in a manner that appropriately respects the respective roles of Cabinet, Ministers and Public Officers within our system of responsible government.

The Government is committed to strengthening the way in which it manages and controls Bermuda's public finances and I have every confidence that continued improvements will be achieved. Under this administration, there is every expectation that Government's financial reporting and stewardship will reach the highest possible standards.

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