

# **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 Year

April 1, 2007 to March 31, 2008

**February 2009**



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## 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 Departments and controlled entities  
for which the Government is accountable to Parliament.**





**Front:**

**Larry Dennis, Auditor General**

**Middle row:**

**Denise Lecompte, Trudy Durham, Merle Parfitt  
Eugina Place, Zaynab Brown, Christine Marquez  
Deann Penney, Tracey Pitt**

**Back row:**

**Michael MacPhee, Claude Nantel, Joel Forbes  
Lennox Cumberbatch, Glenn Hutson, Rhonda Gilbert  
Johnson Mugulusi, Lucy Karanja, Ben Walton**







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The Honourable Stanley Lowe, JP, MP  
Speaker of the House of Assembly  
Bermuda

Sir:

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 the Annual Report for the year ended March 31, 2008.

Respectfully submitted

A handwritten signature in black ink, consisting of a stylized 'H' and 'M' followed by a horizontal line.

Heather A. Jacobs Matthews, JP, CA, CFE  
Auditor General

Hamilton, Bermuda  
December 2009





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**NOTICE TO READER**

The report that follows is the work of the former Auditor General, Larry Dennis, CA.

The report covers the work of the Office of the Auditor General relating to the financial year that ended on March 31, 2008. It is dated February 2009, which reflects when the work underlying the report was substantially complete.

When I became the Auditor General on September 1, 2009, the report had not been finalized. I endeavoured to get the report ready for publication as quickly as possible and this is the earliest opportunity I have had to release it.

There are some important issues included in the report, but I wish to stress that the report is the work of my predecessor. I intend to issue my first annual report (in relation to the year ended March 31, 2009) in March 2010.

Notwithstanding the above comments, any questions regarding the report's content should be addressed to me.

Heather A. Jacobs Matthews, JP, CA, CFE  
Auditor General

Hamilton, Bermuda  
December 2009



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# 1. INTRODUCTION

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## **Reporting Authority**

This is my Annual Report to the House of Assembly for 2008. It is issued pursuant to Section 101 of the Bermuda Constitution Order 1968 (Appendix 10) and the Audit Act 1990 (the Audit Act) (Appendix 13). As required by the Constitution and legislation, the report is addressed to the Speaker of the House of Assembly.

## **General Comments**

This report includes the results of audits completed since my last Annual Report (dated January 2008) and this Report (February 2009). If legislation and normal accountability practices were being followed, these would be the audits of all Government entities for the year ended March 31, 2008. Regretfully, this is not the case. Many audits for fiscal 2008 were not completed, or in some instances had not begun, by February 2009. This is because the accounting records of these entities are in arrears (see Section 2.1 of this Report) and/or management has been unable or unwilling to provide the documentation or information needed to complete these audits.

The Audit Act prescribes the content of my annual reports. Generally, it allows me to report anything that I think merits the attention of the House of Assembly. Specifically, it requires me to report significant deficiencies in accounting and accountability systems, and failures to safeguard assets, to collect revenues or to

disburse expenditures in compliance with legislation. As such, the Audit Act requires my reports to focus mainly on observed problems and deficiencies. To promote improvement in financial administration, I include in my reports recommendations that address such matters. Section 5 of this report explains in detail my audit mandate and mission, and reporting processes and practices.

**Change of reporting practice**

This year, I have discontinued the practice of showing management responses to the matters raised in the body of my Annual Report. I have done this because some management responses in past years were misleading and far too often responses sought to diminish the importance of the reported problem by stating that it has been, or is being, addressed, when such was not the case. This practice is disingenuous and abuses the privilege of my providing an opportunity for responses in my reports. Appendix 2 to this report illustrates some of the false promises of corrective action, and there have been many others.

**Matters of Special Importance**

The Audit Act allows my annual reports to include only those matters that I believe are significant and merit the attention of the House of Assembly. Inevitably though, some matters are of greater significance than others. For the reasons explained below, I consider the following to be of special importance this year:

- Doubtful appropriateness of certain payments by the Departments of Works and Engineering, and Tourism
- Late financial reporting and qualified and denied audit opinions
- Inadequate controls over bank accounts
- Berkeley Bond
- Auditor independence

Doubtful propriety of certain payments by the Departments of Works and Engineering, and Tourism

As explained in Section 4.2.1 of this report, extended audit procedures applied during the annual audit of the Consolidated Fund revealed deficiencies in the way internal controls over certain expenditures were exercised, and led me to question the propriety of certain transactions. As a result, I issued a qualified audit report on the Fund's financial statements for the year ended March 2008.

Late financial reporting and qualified and denied audit opinions

As noted in Sections 2.1 and 2.2 of this Report, 30 financial statement audits were completed during the year ended January 2009. As there are 37 Government entities that issue (or should issue) financial statements each year, this represents further slippage. A related concern (see Section 2.2 of this report) is that during the past three years, half of the audits completed have resulted in a qualified or denied audit opinion. These two concerns, in my view, represent a serious impairment of the Government's accountability to the House of Assembly.

#### Inadequate controls over bank accounts

As explained in Section 4.2.4 of this report, controls exercised over most of the 60 bank accounts administered by the Accountant-General's Department continued to be seriously deficient. In my view, as presently exercised, the controls provide little assurance that fraud could not occur and remain undetected for extended periods.

#### Berkeley Bond

As explained in Section 2.5 of this report, the previously reported Berkeley Bond issue has been resolved. Since the arbitration award of \$6.8 million is a material amount to the Consolidated Fund, I believe it important to explain why this amount is reported as a valid receivable in the financial statements of the Consolidated Fund.

#### Auditor independence

As explained in Section 2.4 of this report, I have received no positive response to recommendations in my 2006 Annual Report to help safeguard the Constitutional independence of the Office of the Auditor General. Those recommendations were prompted by a number of occurrences including the breaching of existing Constitutional safeguards by the Ministry of Works and Engineering in May 2006 (see Section 5).

#### **Audit Committee**

The Government's Audit Committee established under Section 5 of the Audit Act reviewed this report. The Committee's 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 helps ensure that Cabinet is aware of, and not surprised by, the contents of my public reports. It also complements the

## 1. INTRODUCTION

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reporting process outlined in Section 5 of this report whereby senior administrators are able to apprise their Ministers of matters to be reported related to their areas of responsibility.

The members of the Audit Committee are:

---

<b>Name</b>	<b>Position</b>	<b>Employer</b>
Mr. Thomas E.C. Miller, CA, Chairman	Partner	PricewaterhouseCoopers Chartered Accountants
Mrs. Pamela Greyson, CGA, Deputy Chair	Vice President	HLN Enterprises
Mr. Kirk Davis, CA	President & CEO	Pin High Limited
Mr. Tim Marshall, LL.B.	Partner	Marshall Diel & Myers Barristers & Attorneys
Mr. Ronald E. Simmons, CPA	Partner	Moore, Stephens & Butterfield Chartered Accountants
Mr. Ottiwell Simmons, JP		
The Honourable Paula Cox, JP, MP (ex-officio member)	Minister of Finance	

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### **Financial Reporting Accountability Cycle**

After the audited financial statements of the Consolidated Fund and my annual report are tabled, the Public Accounts Committee 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 has ruled that the House cannot take up matters in my public reports until the Public Accounts Committee has issued its report thereon. 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 my reports is forced into the media.

The last Public Accounts Committee report was tabled in February 2009 and covers, at least parts of, my 2005 and 2006 Annual Reports. I am pleased to note that the Committee did not disagree with any of the recommendations in my reports, and specifically endorsed several. However, the Speaker's ruling means that the House is unable to discuss matters raised in my 2007 Annual Report and this Report.

At the date of this Report, the status of the Consolidated Fund's

financial statements, my annual reports and responses thereto is as follows:

	2008	2007	2006	2005
Consolidated Fund Audit completed	Yes	Yes	Yes	Yes
Financial Statements tabled in the House	No	Yes	Yes	Yes
Auditor General's Annual Report issued	Yes	Yes	Yes	Yes
Public Accounts Committee Report issued	No	No	Yes	Yes
Minister of Finance's Reply issued	*	*	No **	No **

\* Note: The Minister cannot reply until the Public Accounts Committee issues its report.

\*\* Note: The PAC report was issued February 2009 which would not have allowed the Minister time to reply.

Further accountability is provided by the Ministry of Finance which, at the same time that my annual report is tabled, tables a publication containing the audited financial statements of all entities that were issued since the previous such publication. Unfortunately, because of late financial reporting by some entities, much of the accountability information is neither current nor complete.

### **Budget Accepted**

In accordance with Section 9(3)(a) of the Audit Act, I confirm that there were no changes made in relation to staffing or money sought by me for the operation of my Office for fiscal 2008 that affected the work of the Office of the Auditor General.

### **Access to Information**

As required by Section 9(3)(b) of the Audit Act, I report that I did **not** receive all the information and assistance needed to carry out the work of my Office for the following reasons:

- As detailed in Section 4.1 of this report, management of several entities could not provide accounting records and information to enable me to express an auditor's opinion on their financial statements. Those entities received denials, or in some cases qualifications, of opinion in my auditor's reports.
- The entities identified in Section 2.1 of this report had not, as of the date of this Report, provided me with all the information needed to complete (or in some cases to start) their audits for 2008 and, in many cases, for earlier years.

### **Commonwealth Auditors-General Conference**

In July 2008, Bermuda hosted the 20<sup>th</sup> Commonwealth Auditors General Conference. It was the first time that the conference was hosted by an Overseas Territory. Forty-five Commonwealth countries and territories were represented by 96 delegates and guests. Also attending the conference were representatives from the United States General Accountability Office in Washington,

D.C., the International Organization of Supreme Audit Institutions in Vienna, Austria, the International Development Initiative in Oslo, Norway, the Organization of American States in Washington, D.C., and the Commonwealth Secretariat in London.

The theme of the conference was “Accountability in the 21st Century” and two plenary sessions were held with the sub-themes “The Powers and Responsibilities of Commonwealth Auditors-General” and “Supporting the Scrutiny Function of Parliaments and Legislatures.” Finance Minister, the Hon. Mrs. Paula Cox, gave a well received opening address.

The general consensus and feedback was that the Bermuda Conference accomplished its goals, the agenda was current and interesting, the facilities and hospitality were top class, and the relaxed atmosphere enabled everyone to enjoy the Conference to the maximum.

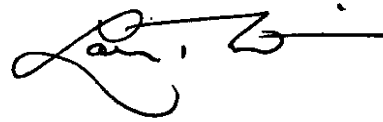
Bermuda’s success in hosting this prestigious conference gave impetus to the decision to finalize arrangements whereby the larger Commonwealth countries will contribute to a fund into which the smaller Commonwealth countries can use to help defray the costs of their hosting the conference in the future.

I wish to thank the Organizing Committee made up of members of my staff and selected members from other Government Departments whose attention to detail allowed the professional and guest programs to flow without a hitch. I also wish to thank the rest of the members of my staff and staff loaned to us by Departments, and the conference staff of the Fairmont Southampton Princess who catered to our every request efficiently and professionally. Everyone who had a part to play, played it well. Finally I would like to thank the Hon. Mr. Alex Scott who, as Premier, threw his immediate support behind the idea of the conference, and the Hon. Premier Dr. Ewart Brown who continued this support unreservedly. A sincere THANK YOU to you all!

### **Acknowledgements**

I acknowledge the contributions of the Audit Committee during the review stage of this report.

I also express my sincere appreciation for the work and professionalism of my staff, without whose dedicated efforts I would have been unable to discharge my legislative responsibilities and complete this report.

A handwritten signature in black ink, appearing to read "Larry T. Dennis". The signature is stylized with a large initial "L" and a horizontal line extending to the right.

Hamilton, Bermuda  
February 2009

Larry T. Dennis, CA  
Auditor General





## **2. MATTERS OF GOVERNMENT-WIDE AND CONTINUING CONCERN**

During the 31 years I have served as Bermuda's Auditor General, the scope and breadth of the Government's operations have changed dramatically. The Government's accountability systems and reporting methods have evolved to recognize these changes, as well as the recommendations issued from time to time by professional accounting authorities.

Financial management, accounting systems and accountability reporting are much better than they were a decade ago in many areas of Government. But there is still considerable room for improvement. One reason for this, admittedly, is that the bar is being set higher every year. While many of the audit recommendations I have made over the years have been acted upon satisfactorily, some have been rejected and others have been accepted but the action taken to date has been insufficient to resolve my concerns. Appendix 2 to this report contains all such unresolved recommendations and the Government's responses thereto. The following pages of this section of the report outline the major recommendations for improvement that I believe warrant reconsidering or more urgent action to implement.

### **2.1 LATE FINANCIAL REPORTING**

In my 1996 Annual Report, I recommended that the Ministry of Finance use its authority to require Government (and Government-controlled) entities to bring their accounting up-to-date and to make their annual financial statements available for audit in a timely manner.

I made this recommendation because many Government entities with March 31 year-ends were unable to produce satisfactory accounting records for their financial statements to be audited and issued within the ensuing year. In recent years, even after recognizing increased input by the Accountant-General's Department, things have deteriorated. At January 31, 2009 only nine (ten at January 2008) of the Government's 37 entities had issued audited financial statements for the year ended March 2008. The other 28 entities together represent 67 years of accountability in arrears because, as the following list shows, many entities have not issued statements for several years:-

**PUBLIC FUNDS**

Bermuda Department of Tourism North America Retirement Fund	2007, 2008
Confiscated Assets Fund	2007, 2008
Contributory Pension Fund	(July) 2005, 2006, 2007, 2008
Government Employees Health Insurance Fund	2006, 2007, 2008
Government Reserves Fund	2008
Hospital Insurance Fund	2005, 2006, 2007, 2008
Ministers and Members of the Legislature Pensions Fund	2007, 2008
Mutual Re-insurance Fund	2005, 2006, 2007, 2008
Public Service Superannuation Fund	2007, 2008

**GOVERNMENT-CONTROLLED ORGANIZATIONS**

Bermuda Arts Council	2008
Bermuda College	2005, 2006, 2007, 2008
Bermuda Hospitals Board	2008
Bermuda Land Development Company Limited	2008
Bermuda Small Business Development Corporation	2008
Board of Trustees of the Golf Courses	2006, 2007, 2008
CedarBridge Academy	2008
Pension Commission	(December) 2007

**PARISH COUNCILS**

Devonshire Parish Council	2007, 2008
Hamilton Parish Council	2006, 2007, 2008
Pembroke Parish Council	2003, 2004, 2005, 2006, 2007, 2008
Sandys Parish Council	2007, 2008
Smith's Parish Council	2007, 2008
Southampton Parish Council	2006, 2007, 2008
St. George's Parish Council	2006, 2007, 2008
Warwick Parish Council	2007, 2008

**SCHOOL CAPITATION ACCOUNTS**

Berkeley Institute Capitation Account	2008
Sandys Secondary Middle School Capitation Account	2006, 2007, 2008
Whitney Educational Trust	2005, 2006, 2007, 2008

The National Drug Commission does not appear in this list because it was dissolved in February 2006 and its operations transferred to the Ministry of Culture and Social Rehabilitation.

There are no good reasons why entities should not be able to produce annual financial statements in time for them to be audited and issued within ten months of their year-ends. For most, there is a legislated requirement for a much shorter period.

The reasons for late financial reporting vary from entity to entity, though there are recurring themes. Typically, accounting records and supporting documentation are of poor quality or non-existent, and financial controls are absent, weak or put into operation too

late to be effective. Draft statements and schedules are not available for audit until long after year-ends and even then are often incomplete and inadequately supported. Often this reflects a lack of concern by management for prompt reporting and accountability.

The consequences of late financial reporting are many and serious. For example:-

*Legislative control is weakened or lost*

- accountability at all levels of Government is delayed and seriously weakened. Ministers and Boards, for example, cannot hold managements accountable for the financial affairs of the entities for which they are responsible, and the House of Assembly cannot hold the Government accountable for its financial stewardship,

*Effective financial management is impossible*

- effective financial management, particularly budgetary control, is impossible without periodic financial statements and reports based on reliable accounting records,
- it complicates the preparation of consolidated financial statements (see Section 2.6 below), and

*Wrongdoing and fraud are enabled*

- although annual financial statement audits are not designed primarily to detect fraud, they nevertheless can and sometimes do detect misappropriations and other wrongdoings. The prospect of prompt annual audits can thus deter those who might otherwise consider improper conduct. Delays of several years in making financial records available for audit diminish considerably this deterrence and create an environment conducive to perpetrating and concealing fraud.

Among the most delinquent in financial reporting are some of the Government's pension and insurance funds. These Funds hold almost one billion dollars of investments and other public assets and are under the administrative responsibility of the Ministry of Finance, the Ministry with overall responsibility for the Government's accounting and financial reporting.

*The Minister of Finance agrees that action is needed*

The Minister of Finance agrees that up-to-date financial reporting is important. In a report to the House of Assembly in February 2007, the Minister stated, *I consider it essential that all Government entities prepare annual financial statements on a timely basis. This has been a long-standing problem that has now reached the tipping-point and must be rectified without delay. The deficiencies in financial administration of some public funds and entities highlighted by the PAC are disquieting and must be*

*addressed. For accountability purposes it is important that organisations which receive grant funding from Government have their financial records up to date. Those organisations that do not respond in a timely manner will be at risk of having funding withheld until their financial records are current.*

*No accountability yet for \$890 million*

The entities listed above have obviously ignored the Minister's admonitions. Based on the last financial statements audited for entities that are in arrears with their financial reporting, the total expenditures for which Government has not been accountable to the House for accounting years to March 2008 totals almost \$890 million (March 2007 - \$485 million). \$187 million of this increase is attributable to the Bermuda Hospital's Board which faced a couple of unique circumstances this year (see Section 4.3.4).

*The situation worsened during 2008*

Despite the considerable encouragement and resources provided by the Ministry of Finance over the years to address this problem, little improvement has been achieved. This year, the situation worsened. In view of the serious consequences of late financial reporting, it is perhaps time for the Ministry of Finance to provide consequences for fund administrators, CEOs and financial managers who do not bring their financial reporting up-to-date, especially for those who end up with qualified statements, and certainly for those who end up with denied statements.

## **2.2 DENIALS AND QUALIFICATIONS IN AUDIT REPORTS**

In my 2007 Annual Report, I recommended that the Ministry of Finance consider disciplinary action including, in continuing situations, dismissals of CEOs, CFOs, Controllers, and Accounting Officers whose entities receive qualifications or denials of opinion in auditor's reports on their financial statements due to the unavailability of evidential documentation supporting disbursements of public funds.

*Half of the audits completed in recent years received qualified or denied audit opinions*

The penalties called for in my recommendation may seem extreme but the situation has become increasingly serious. Of the 30 audits completed during the year ended January 2009, 16 received qualified or denied audit opinions (see section 4.1 of this report). This is in line with the previous two years wherein half of the audits also received qualified or denied audit opinions. And for the two years before that, more than one third received qualified or denied opinions.

*In the private sector,*

It is extremely rare for an entity in the private sector to receive a denied audit opinion. Denials of opinions are considered so

*denials of audit opinions are rare and provoke serious consequences*

serious that they would likely provoke an extensive management shake-up and urgent action to rectify the problems. Yet some Bermuda Government entities have received denials for several consecutive years with no apparent consequences for the entity, or its financial or other senior management. During the last five years, 27 (more than 18%) of the audits completed received denials of opinion.

The entities that concern me most are:

- National Drug Commission (qualification for 2001 - denials for 2002, 2003, 2004, 2005 and 2006 – see Section 4.3.11),
- Board of Trustees of the Golf Courses (qualifications for 2000, 2001 and 2002 – denials for 2003, 2004 and 2005 – see Section 4.3.9),
- Government Employees Health Insurance Fund (denial for 1996 - qualifications for 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004 and 2005 – see Section 4.4.5),
- Hospital Insurance Fund (qualifications for 2001, 2002 and 2003 – denial for 2004 – see Section 4.4.7),
- Devonshire Parish Council (denials for 2001, 2002, 2003, 2004, 2005 and 2006 - see Section 4.5.1),
- Pembroke Parish Council (compilations for 1997, 1998, 1999 and 2002 – qualifications for 1996, 2000 and 2001 – see Section 4.5.4),
- Sandys Parish Council (denials for 2001, 2002, 2003, 2004, 2005 and 2006 – see Section 4.5.5),
- Southampton Parish Council (denials for 2004 and 2005 – see Section 4.5.7),
- St. George's Parish Council (denials for 1995, 1996, 1997, 1998, 2004 and 2005 – qualifications for 1999, 2000, 2001 and 2002 – and no statements at all for 2003 – see Section 4.5.8), and
- Warwick Parish Council (denials for 2001, 2002, 2003, 2004, 2005 and 2006 – see Section 4.5.9).

*Accounting records were not provided*

For some of the entities that received denials, management could not or would not provide accounting records or documentation to support some, and in some cases any, of the figures in the financial statements.

In response to my recommendation last year, the Ministry of Finance stated that it *will continue to monitor developments to assure that the objective of timely financial reports is achieved for all public funds and the funds of government-assisted entities.*

*The Ministry's response does not address the issue*

This response is disappointing because it does not address the recommendation. The issue is the availability and quality of the financial reporting and supporting evidence, not only timeliness.

### **2.3 MINISTERIAL INTERFERENCE**

During the audit process over the past few years, we have been detecting suggestions of ministerial interference in the operating and administration processes of government. The problem became severe enough during the 2008 audit of the Consolidated Fund that it affected the systems of internal control to such an extent that it contributed to the qualified opinion on the Fund's financial statements (see Section 4.2.1 of this Report).

I have been told before that it is unseemly for the Auditor General to criticize people who don't know what they are doing. Bearing this in mind and assuming the breakdown in controls as a result of ministerial interference and civil service acquiescence is because people don't know better, I recommend the Head of the Civil Service arrange a course or seminar for Heads of Department and Permanent Secretaries on the subject of the responsibilities of civil servants, what they are expected to do and not do, and what they can and cannot do under the Westminster system of government – with a specific focus on a civil servant's relationship with elected officials.

This seminar or course would have little effect if the other half of the equation remains uninformed. Therefore, I recommend that a seminar or course be arranged for elected officials on the role of Cabinet members vis-à-vis the role of the civil servant, the extent of their power, what they can and cannot do under the Westminster system of government, and what they can expect the civil servant to do and not do.

Hopefully, one of the benefits of these seminars or courses would be an improvement in management controls and the consequential elimination of the need to qualify Bermuda's financial statements. It might even avoid a denial of opinion on the statements down the road – who knows? Realistically, I have little hope that these remedies will take place but, nonetheless, important members of the civil service and members of Cabinet really do need to become informed on the Westminster system of government in particular, and good governance in general.

## 2.4 AUDITOR INDEPENDENCE CONCERNS

In my 2007 Annual Report, I recommended that to enhance and safeguard the Constitutional independence of the Office of the Auditor General:

- the Ministry of Finance should assign authority to the Office to establish and operate its own bank account and payments and payroll processing systems,
- the Ministry of Works and Engineering should formally assign authority to the Office of the Auditor General to negotiate and be responsible for its own accommodation arrangements, and
- the Minister of Finance should seek to enshrine the above in legislation and establish the Office of the Auditor General as an independent legal entity.

I made these recommendations because of a growing concern that the independence of my Office was being steadily eroded and compromised.

*Auditor independence is vital*

Independence is critical to the credibility of auditors. This principle is recognized universally in authoritative professional pronouncements and in audit legislation world-wide. It recognizes that auditors must be free from interference or fear of reprisal from those whose affairs they audit. Bermuda's Constitution and the Audit Act recognize this principle. Both state that *the auditor is not subject to the direction or control of any other person or authority in the exercise of his functions....*

The Ministry of Finance rejected my recommendations responding that it *considers that the preconditions for the functional independence of the Auditor General are currently in place with the current legislative framework.*

This assertion is difficult to accept considering that:

*The Government promised legislative changes*

- before it had the power to do something about it, the Government itself recognized that there were inadequate safeguards to protect the independence of the Auditor General. In its 1998 election platform the Government stated that the legislated safeguards to the independence of the Office of the Auditor General were inadequate, and the platform contained plans to strengthen the legislation. Legislative safeguards have not been changed since 1998;

*The Government's*

- in 2006, the firm of independent auditors appointed by the Parliamentary Standing Committee on the Office of the

*own auditors  
recommended  
increased autonomy*

Auditor General to audit the accounts of the Auditor General reported that the current legislative frame-work limits the autonomy and the ability of the Auditor General in the independent exercise of financial control and accountability. The firm recommended improved autonomy for the Office;

*The Ministry of  
Works and  
Engineering ignored  
legislated safeguards*

- in 2006, my office, including furniture, working paper files, data files and computers were forcibly moved by the Ministry of Works and Engineering to un-renovated premises with less than 24 hours notice. By so doing, the Ministry effectively closed down my Office's operations and controlled and compromised its confidential information and documentation. In addition, I cannot imagine that this display of Government power over the Office of the Auditor General was missed by most Bermudians;

*The honesty of an  
Officer of the Crown  
was impugned*

- in June 2007, I was arrested, put in jail and interrogated on suspicion of having handled stolen police files related to the police investigation into the Bermuda Housing Corporation. My offices were searched twice by the police, my house once, and my staff interviewed, some several times. I was released without charge but remained under arrest for several months. On November 25, 2008 the documents that were removed from my office were returned to me and I was informed that the investigation was now complete and that no further action would be taken.

*Candidates publicly  
slandered the  
Auditor General*

- further attacks on my reputation and independence occurred during the 2007 election campaign. Candidates several times accused me publicly of dishonesty, criminal behaviour and receiving stolen property.

Another example of how some Ministers do not understand the legislated independence and rights of the Auditor General occurred this year. In early February this year, I received two letters from the Permanent Secretary of the Ministry of Works and Engineering. The first letter stated that the Minister questioned my right to audit his Ministry's activities and instructed that my auditors discontinue communicating with Ministry staff. The second letter, six days later, rescinded those instructions after I drew the Permanent Secretary's attention to the penalties provided by Section 20 of the Audit Act for failure to co-operate with the Auditor General.

In my view, the Constitutional and legislated safeguards for the Office of the Auditor General need reviewing and strengthening. With the advent of a new Auditor General, it would now be a good time to implement these three recommendations.



When political commentators in Bermuda with a pre-determined agenda talk about Auditor General's independence, they talk in terms of power. Not surprisingly, their conclusion is that the Bermuda Auditor General has too much power. I must conclude, therefore, that what they are not saying outright is that the Auditor General in Bermuda is too independent.

Recently, Reuters had this to say about the UK Auditor General and the National Audit Office:

*“The NAO is an independent body funded by parliament, rather than the government of the day. However, it has limited powers and its role is largely to draw attention to cases where it feels public money has been misused.”*

The National Audit Act 1983 actually gives the Comptroller and Auditor General of the UK more security and power than the Auditor General in Bermuda has. In fact, the NAO operates its own bank account and is responsible for its own accommodations. To say, therefore, Bermuda's Auditor General has too much power is dishonest, disingenuous and mischievous.

I call, therefore, for the issue of the Auditor General's independence to be discussed in terms of best practice and Constitutional intent, not unfounded accusations of power. If this can be achieved, I have no doubt that my three recommendations will be put in place.

## **2.5 PERFORMANCE BOND FOR THE BERKELEY INSTITUTE SENIOR SCHOOL CAPITAL PROJECT**

The following section was included in a Special Report sent to the House earlier this year. I repeat it here to provide continuity to my annual reports.

In a Special Report to the House dated October 2002, I expressed concern about the adequacy and propriety of the performance bond provided by the contractor for the above-noted project. The bonding company was Union Asset Holdings Limited, a wholly owned subsidiary of the Bermuda Industrial Union.

At my request, the Police investigated these matters and in 2008 reported nothing amiss.

Following a series of construction delays and other problems, the contractor was dismissed. The contractor sued the Government and the Government countersued. The matter went to arbitration, and arbitration hearings were completed in December 2007. The Government was awarded \$13.2 million damages against the contractor, about half of which (\$6.8 million) was to be contributed by the bonding company. The arbitrator also ordered the contractor to reimburse the Government for legal costs of \$2.4 million.

As disclosed in Note 2 to the financial statements of the Consolidated Fund for March 2008, the \$8.8 million due from the contractor has been recorded as an amount receivable, less an allowance of the same amount because the contractor's ability to pay is doubtful. However, because the performance bond is collateralized by the assets of the Bermuda Industrial Union, the \$6.8 million due from Union Asset Holdings Ltd is recorded as an amount receivable.

As readers of my public reports have probably discerned, I have always harboured doubts about whether the security for the performance bond was real.

In most countries, there are features of nature, buildings and even organizations which, because of their national, historical or cultural significance, are protected. Their continued existence is inalienable, and is often protected by a National Trust, or simply by the public perception that life without them would be unthinkable. In Bermuda, our beaches, Government House and Sessions House probably fall within this category. The King Edward VII Memorial Hospital might also fall within this category although a few years ago a \$20 million mortgage on the Hospital property was eventually not viewed as a Government guarantee and therefore not included in the calculation of Government debt, even though it is unthinkable that the Government would allow the bank to exercise its rights to the property under the mortgage agreement.

Pursuing this line of thought further, I am persuaded that the Bermuda Industrial Union might be viewed by many as an organization, life without which in Bermuda would be unthinkable. For this reason, I had doubts that any Government would, by prosecuting a claim for \$6.8 million against Union Asset Holdings Limited, inflict perhaps fatal damage on the Bermuda Industrial Union.

I expressed these views at a meeting with the Minister of Finance in January 2009, noting that they appeared to be supported by the

fact that a year had passed since the arbitrator's award with no apparent efforts to collect. My concern was that if the Government did not intend to collect the \$6.8 million, then it should not be recorded as a valid receivable in the financial statements of the Consolidated Fund.

To my surprise, the Minister informed me that Government had begun efforts to collect this debt and showed me a solicitor's letter to that effect. Still not entirely convinced, I asked the Minister if this was a serious attempt to collect the amount due from Union Asset Holdings under the performance bond. She informed me that the legal requirements are clear and that the Government had no option but to pursue its legal rights.

Based on the contents of the solicitor's letter, the Minister's assertion, plus the assurance of the Financial Secretary as provided in his representation letter, I accepted the \$6.8 million as a valid receivable of the Consolidated Fund. I am accepting the assertion and assurance that the obligations of Union Asset Holdings are collateralized by the property and other assets of its holding company, the Bermuda Industrial Union.

## 2.6 CONSOLIDATED FINANCIAL STATEMENTS FOR BERMUDA

In my 1992 Annual Report, I recommended that the Ministry of Finance prepare and publish annual consolidated financial statements for the Government of Bermuda. In ensuing annual reports, I made further recommendations to identify some of the problems that will need to be addressed before consolidated financial statements can be prepared.

The bases for my recommendation were twofold:-

1. The House of Assembly and the Government need, and currently do not have, a complete overview of the Government's financial operations and position. At present, the best available information on the Government's financial position is provided by the annual financial statements of the Consolidated Fund, but these are incomplete. These statements only aggregate the operations of Government ministries. They do not incorporate the considerable operations of other public funds and government-controlled organizations. A complete overview can only be achieved by aggregating (consolidating) the financial statements of all Government's public funds and controlled organizations.

*The House of Assembly lacks a complete overview of Bermuda's financial operations and position*

*Professional reporting standards call for consolidated financial statements for governments*

2. Financial statement preparers in Bermuda are bound by the accounting principles promoted by the Institute of Chartered Accountants of Bermuda. These include accounting principles and recommendations that apply to government accounting. One of these recommendations, issued many years ago, states that governments should issue annual summary (consolidated) financial statements.

Successive Accountants-General have had differing views on this recommendation. Some have agreed with it and taken steps towards eliminating the difficulties that presently hinder its implementation. Others have disagreed with it, questioning its usefulness or the lack of specific legislation. As a result, 17 years have gone by without progress on this issue.

However, I am encouraged by the Accountant-General’s response that consolidated statements are targeted for March 2010. The most difficult hurdle to overcome will be bringing up-to-date the financial reporting of all public funds and government-controlled organizations (see Section 2.1).

## 2.7 PENSION CONTRIBUTIONS AND TAXES IN ARREARS

In my 1998 Annual Report, I recommended that the Office of the Tax Commissioner develop initiatives and intensify efforts to encourage delinquent employers to remit past-due taxes. Then in my 2002 Annual Report, I made a similar recommendation to the Director of Social Insurance with respect to past-due pension contributions.

The following chart shows that despite the efforts of the Tax Commissioner and the Director of Social Insurance over the years, arrears have grown. The figures are pension contributions (at July 31), and payroll tax and land tax (at June 30) that were past due more than 90 days:

Year	2008	2007	2006	2005	2004	2003	2002	2001	2000
	(Millions of Dollars)								
Pension contributions	15.9	14.8	14.4	15.4	14.9	9.2	13.1	11.0	10.7
Payroll taxes*	23.8	24.1	17.8	14.5	17.0	16.2	9.6	8.8	11.1
Land taxes	<u>11.6</u>	<u>10.8</u>	<u>10.0</u>	<u>8.2</u>	<u>7.0</u>	<u>5.7</u>	<u>4.6</u>	<u>4.2</u>	<u>3.0</u>
	<u>51.1</u>	<u>49.7</u>	<u>42.2</u>	<u>38.1</u>	<u>38.9</u>	<u>31.1</u>	<u>27.3</u>	<u>25.0</u>	<u>24.8</u>

\* *Payroll taxes receivable do not include estimated assessments for employers who have not filed tax returns in the current year*

*Other countries are not so tolerant*

For the Government and its public pension fund to be owed more than \$51 million of taxes and pension contributions that are more than three months in arrears should be, in my view, a major concern for Government. In most developed countries, taxation authorities react aggressively when employers fail to remit payroll deductions promptly.

*Revenues and pension benefits are lost*

These amounts should be in Government bank accounts, reducing borrowing costs or providing investment opportunities. The above amounts would be even greater if, from time-to-time, uncollectible accounts were not written off. When taxes are written off, Government loses revenue. When pension contributions are written off, employees lose the pension benefits for which they have paid.

*Non-compliance with policy*

In response to my concerns about these arrears in previous years, the Ministry of Finance established a policy of not doing business with companies that are persistently in arrears with their payroll tax and/or pension contribution remittances. It appears, however, that all Government Departments are not adhering to that policy. For example, Government is still doing business with the following entities even though their arrears in excess of 90 days were and remain material:

- Guardwell Security Services Ltd had arrears of \$308,000 at July 2007 and \$380,000 at July 2008, yet from July 2007 to January 2009 the Government purchased more than \$637,000 of goods and services from Guardwell.
- Integrated Systems of Bermuda Ltd had arrears of \$114,000 at July 2007 and \$160,000 at July 2008, yet from July 2007 to January 2009 the Government purchased more than \$139,000 from Integrated Systems.

And there are others.

**Recommendation No. 1**

**The Ministry of Finance should formally remind senior management in all Ministries and Government-controlled Organizations of their responsibility to comply with Section 8.2 of *Financial Instructions* which, in effect, prohibits doing Government business with companies that are in arrears with their payroll tax and pension contribution obligations.**

*Initiatives to address the collection of payroll tax arrears*

The increases in payroll tax arrears during the past few years are particularly troubling, especially since a number of initiatives suggested by the previous Tax Commissioner to address this problem were not approved. For example, a proposal to waive accumulated penalties if arrears are fully paid was never

*have not been approved or have been delayed*

forwarded for Cabinet approval by the Ministry of Finance. The Ministry also did not approve a proposal to offer incentives for paying taxes on-line, thereby freeing up resources that could be applied to collections. Despite mention in the 2005 Throne Speech, there has been no progress in the establishment of a Tax Court dedicated to the enforcement of tax arrears, though I understand that there may be progress on this this year. And as explained in section 4.2.8 of this report, funding to upgrade or replace the Tax Commissioner's antiquated and unhelpful computer systems has been delayed.

Meanwhile, I am continuing my practice of illustrating to the House of Assembly the extent of these arrears by including as Appendices 5, 6 and 7 to this Report, listings of the most delinquent employers and land tax debtors.

## **2.8 EFFECTIVENESS OF BOARDS AND MANAGEMENT COMMITTEES**

In my 2002 Annual Report, I recommended that to improve accountability, governance and effectiveness of Government-controlled Organizations and Public Funds, the Ministry of Finance should publish guidelines requiring Boards and Management Committees to be established and operate under terms of reference that call for comprehensive stewardship roles and responsibilities.

Most Government-controlled Organizations (often referred to in Bermuda as quangos) have Boards of Directors or similarly named governing bodies. The legislation that establishes quangos usually specifies the size of the Board, how members are appointed, how often it should meet, etc., and assigns general duties and responsibilities. Rarely does the legislation specify the wider governance and accountability responsibilities normally required of private-sector Boards.

*Corporate failures prompted increased oversight responsibilities*

Following a spate of much-publicized corporate failures in the United States (Enron, Worldcom, etc.) a few years ago, efforts were intensified to recognize and stress the importance of Board governance to corporate welfare. The Sarbanes-Oxley Act, for example, prescribes and increases the oversight responsibilities of Boards of public companies. Other governments and securities regulators implemented similar requirements.

*Government had its own failures*

The Government of Bermuda had its own corporate (quango) disasters. The Bermuda Housing Corporation and the National Drug Commission are two quangos whose Boards failed spectacularly to fulfil their oversight responsibilities. The result for the former was fraud, loss of public funds and a police

investigation, and for the later was a total breakdown of control and disbandment, with the possibility of fraud not yet pursued.

In both of the above cases, the Board did not demand of management the accountability information that would have revealed their inappropriate behaviour. That more disasters of this nature have not occurred in other quangos is due mainly to the honesty of senior management (and good fortune). But many Boards of Directors and Management Committees are not contributing as much as they could to the accountability, governance and operational effectiveness of Government entities. The suggested responsibilities for Boards published by the Criteria of Control Board of the Canadian Institute of Chartered Accounts would make a useful basis for establishing guidelines for Bermuda's Boards and Management Committees. These minimum responsibilities include:

- Approving and monitoring mission, vision and strategy,
- Monitoring management control,
- Formally evaluating senior management,
- Overseeing external communications, and
- Assessing and reporting to the responsible Minister on the Board's effectiveness.

In my 2002 Annual Report, I expanded on the duties and responsibilities that fall under each of these headings.

*Board members  
are individually  
responsible*

It should also be clearly articulated to individual Board members that they can and will be held personally accountable (with the prospect of financial penalties) for the collective failures of the Board that lead to loss of public funds. If Board members find this unacceptable, they should resign. Better no Board member at all than one who is unwilling to face up to his or her responsibilities.

In recent years, the Ministry has responded to my recommendation by stating that *it will continue to advise members of Boards and Management Committees of their roles and responsibilities.*

I continue to urge the Ministry of Finance to issue and enforce minimum operating standards, roles and responsibilities for the Government's Boards of Directors and Management Committees. From an audit perspective, future audits will include an evaluation of the degree to which boards adhered to their minimum responsibilities guidelines.

## 2.9 WHISTLEBLOWER LEGISLATION

In my 2004 Annual Report, I recommended that the Ministry of Finance consider seeking whistleblower legislation to encourage public employees to report apparent malpractice or other wrongdoings, and to protect those who do so.

*Whistleblowers can  
become the victims ...*

My recommendation followed a series of misappropriations and wrongdoings by public employees that had occurred during the previous few years. I was particularly concerned to observe that when these wrongdoings were discovered following someone within the entity “blowing the whistle”, the first reaction of many was often “let’s find whoever it was that ratted on us.”

If public employees feel that they may lose their jobs by “blowing the whistle”, they are likely to keep quiet about observed wrongdoings. People who approach me from time to time to report questionable activities invariably express concern that by doing so they are endangering their livelihoods. This perpetuates an environment where fraud can persist and flourish.

*... unless properly  
protected*

For this reason, I suggested that the whistleblower legislation be passed and supported by practices that demonstrate that reported malpractices are investigated fully without fear or favour, that whistleblowers are protected, and that perpetrators of misappropriation and fraud are dealt with firmly.

In successive responses to my recommendation, the Ministry has stated that the Ombudsman Act 2004 provides redress for whistleblowers through the Human Rights Act. This is incorrect and I have obtained legal advice that these statutes provide neither opportunity nor protection for whistleblowers.

I can understand that employee fraud within the Government can be politically embarrassing. But I nevertheless urge the Ministry to reconsider comprehensive whistleblower protection legislation.

On a related matter, the Accountant-General’s *Financial Instructions* should be updated to require entities to notify the Auditor General when fraud or other financial wrongdoing is detected or strongly suspected. Invariably, when the Auditor General is informed of suspected wrong-doings early in the process through official channels, rather than finding out through the media or back door channels, the resulting investigation is carried out in an environment of trust and respect.

And on another related matter, public employees should view the Public Service Commission (PSC) as a protector, or a place to



seek advice should they feel pressure from above to do or not do something that is contrary to, for example, *Financial Instructions* or the Conditions of Employment and Code of Conduct. I recall when I entered the Bermuda public service more than 30 years ago, that was how the PSC was viewed.

In recent years, I have noticed that when public employees come to me with a work-place dilemma, none of them have thought of taking their concerns to the PSC. Often I would get a shrug of the shoulders with a comment that it would be useless to do so, or even dangerous. Perhaps the PSC should re-examine its role in this area and determine why the public perception of the PSC as protector of employee interests has changed.

## 2.10 TENDERING FOR MAJOR PROJECTS

In my 2002 Annual Report, I recommended that the Accountant-General's Department enforce better compliance by Ministries with the contract tendering requirements in *Financial Instructions*, and that the Ministry of Finance require Government-controlled Organizations (quangos) to adopt tendering requirements at least equal to those contained in *Financial Instructions*.

*Lack of compliance is the problem*

The operative word here is compliance. The tendering requirements in *Financial Instructions* are sound, and the Ministry of Finance now requires quangos to adopt them or to implement equally stringent ones. The problem is that, too often, Ministries and quangos do not adhere to them and there is little or no regulatory oversight regarding this lack of compliance.

Over the years, my public reports to the House have identified numerous instances where contract tendering requirements were ignored or circumvented. For example:

*History is replete with failures to follow tendering requirements*

- performance bond requirements were not followed when letting the contract to construct the Westgate Correctional facility in 1991,
- a 2001 audit revealed that the Department of Tourism's European marketing contract had not been tendered for twelve years. Others had never been tendered,
- for years the Stonington Beach Hotel lacked proper tendering procedures, and when in 2002 the property was leased to a private sector operator, the tendering process was seriously compromised,
- lack of proper tendering was endemic at the Bermuda Housing Corporation where, despite having formally adopted

the requirements of *Financial Instructions*, tendering was the exception rather than the rule, and

- for the contract to construct the new Berkeley Institute Senior School, performance bond requirements were circumvented. And one can only speculate how much of the \$60 plus million cost overrun might have been avoided had the contract been awarded to the contractor that the tendering process selected.

More recently, as explained in section 4.2.1 of this report, the tendering for the contract to construct the new courthouse and Hamilton police station was not conducted in accordance with Government tendering policies.

*And there were others*

These are just some of the more material instances of failure to comply with established tendering requirements. Annual audits have revealed many others, and there exist undoubtedly more because financial statement audits are not designed to test for compliance with such procedures.

In a Government context, proper tendering can help ensure economy and value for money, promote financial control over expenditures, and ensure and demonstrate that all potential and qualified suppliers are treated fairly. If suppliers suspect that the process is a pretence, and that favouritism is involved, they will opt out. This will translate into a dearth of competitive bids and higher costs to government.

In the public sector, tendering is the first and underpinning control feature. It sets the foundation upon which other significant controls spring.

As I noted earlier, I have been discussing this issue since 2002. My recommendations have had no impact. In fact, the lack of a transparent, open tendering process has become a greater and greater problem during the intervening years. It was unwise for Government to think that it could ignore such an important matter and expect to escape repercussions. The lack of a transparent and open tendering process has now reached such proportions that in my opinion it has affected the integrity of the financial statements. The qualification of the 2008 financial statements has its genesis in the compromised tendering process.

## **2.11 CONFIDENTIALITY AGREEMENTS**

From time to time when public employees leave the Civil Service (voluntarily or otherwise), they enter into confidentiality agreements with the Government. Often such agreements bind

the ex-employee to refrain from disclosing terms of the agreement, or information or documentation they have acquired while a member of the Civil Service.

I acknowledge the need for such agreements where the knowledge they acquired relates to sensitive policy issues or Government intentions. However, confidentiality agreements should not be used to avoid the release of financial information purely because it is administratively or politically embarrassing, particularly where the agreement is accompanied by a golden handshake.

Confidentiality agreements that involve expenditures of public funds cannot be used to thwart or frustrate the Constitutional and legislated rights and responsibilities of the Auditor General. Those rights include the right *to require access to all property of any entity whose accounts are under audit and to all records relating to those accounts* (Audit Act Section 14 (b)). Those responsibilities include reporting to the House on the disbursements of public money (Audit Act Section 9).

**Recommendation  
No. 2**

**Confidentiality agreements should include a clause that the confidentiality does not apply to those who have a Constitutional or legal right to know or have access to the information they contain.**

Extending this line of thought, I have difficulty understanding the appropriateness of any limitations on the disclosure of expenditures from public funds. In my mind, confidentiality and spending public funds are two concepts that simply do not go together. If the Constitution and legislation give the Auditor General the right to know and investigate all expenditures of public funds and the responsibility to report on them to the Legislature if he/she thinks it is appropriate, these expenditures by definition are public. Private agreements between the Government and any individual or company cannot deny or limit rights and responsibilities granted under the Constitution and public acts, and, thus, in my opinion, they cannot impose disclosure limitations on the expenditure of any public funds.

Authoritative guidelines are needed to prevent the inappropriate use of confidentiality agreements, and the related inappropriate use of public monies that often accompany them.

**Recommendation  
No. 3**

**The Attorney-General's Chambers should develop and obtain Cabinet approval for guidelines for the use of confidentiality agreements with ex-civil servants, together with a mechanism**

**by which the guidelines are monitored by an independent officer of the Legislature.**

## **2.12 UNADDRESSED AUDIT RECOMMENDATIONS**

*Audit recommendations remain unaddressed*

I have expressed concern in previous annual reports that management of some Government entities are unreasonably slow in addressing audit recommendations. This remains a problem.

Appendix 2 to this Report lists 70 audit recommendations from this and past years' annual reports. The second part of Appendix 2 lists recommendations that were removed from the list this year. Some were removed because the underlying problems have either been addressed or are well on the way to being addressed. This is encouraging. A few recommendations, however, were removed because I have given up hope of them ever being adopted. In these cases, the control deficiencies or other problems still exist and I must assume that the responsible Minister and Management have decided to accept the risks associated with them.

The movement in unaddressed audit recommendations this year is as follows:

Recommendations in Appendix 2 of last year's Report dated January 2008	62
Recommendations dropped this year for the reasons explained in the preceding paragraph	(3)
New recommendations in this annual report (see Appendix 1)	11
	<hr/>
Recommendations in Appendix 2 of this Report	70
	<hr/> <hr/>

Audit recommendations originate from observed failures to comply with legislation, poor accountability, or absent or inadequate management processes and accounting controls. In most cases, management has agreed with my recommendations but has not taken corrective action.

A perusal of managements' responses noted in Appendix 2 shows how, for many recommendations, promises are made year after year that the deficiencies are being or will be fixed, yet too often nothing happens.

*Risk of  
misappropriation  
and fraud*

Absent and inadequate management processes and accounting controls create an environment conducive to error, misappropriation and even fraud. I urge management of the entities to whom my recommendations are addressed to resolve these problems without further delay or excuse.

I began including Appendix 2 in my annual reports in 1993 as an aid in keeping track of recommendations that still needed to be addressed. I was advised at the time, despite my good intentions, this schedule could backfire since, if the Government simply ignored the recommendations, it could become an embarrassing record of the Auditor General's inability to influence good governance. To lessen this perception, I dropped over 50 recommendations, considered of less importance, from the schedule in 2004 and 2005 even though they had not been addressed, and I have continued to do so since. Even so, as noted above, Appendix 2 contains 70 unaddressed recommendations going back as far as 1992.

The time has now come to consider whether the advice I received in 1993 was prophetic and the resources employed to keep the schedule up-to-date and meaningful should be re-assigned and the schedule dropped from the public domain. Since this is my last Annual Report, I have decided to leave the schedule of unaddressed recommendations in and let the new Auditor General weigh the pros and cons of continuing this practice.



## 3. PERFORMANCE AUDITS

Formerly called Management Control Systems Audits or Value for Money Audits, Performance Audits (PAs) refers to an examination of a program and reporting on issues related to the following areas as defined by CICA Public, Sector Handbook Section 5400:

- (a) The adequacy of management control systems, controls and practices, including those intended to control and safeguard assets, to ensure due regard to economy, efficiency and effectiveness.
- (b) The extent to which resources have been managed with due regard to economy and efficiency.
- (c) The extent to which programs, operations or activities of any entity have been effective.

The examination is objective and systematic, generally using structured and professionally adopted methodologies. The scope of PAs may include the detection of fraud, waste and abuse, although often these are not included in the scope. Prior to engaging in a PA, the auditor must have a scope and plan defined which will be used to guide the audit process.

Section 9(iii) and (iv) of the Audit Act allows me to report inadequacies in, or the lack of, management controls systems designed to ensure or promote economy and efficiency, and to measure and be accountable for program effectiveness. Annual financial statement audits often do not involve full reviews of systems of this nature. During the current reporting period, we completed a PA of the Department of Tourism's Faith-Based Tourism initiative.

### 3.1 FAITH-BASED TOURISM

#### Background

##### *BDOT Contracts with FBT*

The Bermuda Department of Tourism (BDOT) entered into an agreement with Harvest Investment Holdings Limited, trading as Faith-Based Tourism (FBT), for the period April 12, 2007 to March 31, 2008. FBT contracted to produce a minimum of ten faith-based multi-day events designed to deliver a minimum total of 2,200 visitors to Bermuda for a contract sum of \$400,000.

#### Scope

We obtained a copy of the agreement and compared the duties and responsibilities therein to documentation held by BDOT.

## Objectives

### The objectives of our audit were fourfold

- to determine whether the service contract was awarded in compliance with Financial Instructions;
- to determine whether funds were disbursed to FBT in accordance with the agreement;
- to determine whether FBT produced at least ten multiple-day events as required by the agreement; and
- to determine whether all amounts disbursed by BDOT to FBT under the agreement were used for purposes for which they were given.

The specific nature of the objectives zero in on compliance issues and, as such, this audit could easily be referred to as a compliance audit.

## Audit Criteria

### Awarding the contract in accordance with Financial Instructions

- goods and services with an estimated value in excess of \$5,000 shall be obtained on the basis of at least three quotations;
- a closing date and time for submission of quotations must be stated and strictly observed;
- the lowest price must be accepted or reasons for not accepting the lowest price must be documented;
- unsuccessful suppliers should not be allowed to resubmit a lower quotation price – the first quotation must be accepted; and
- the Permanent Secretary of Tourism and Transport is responsible for ensuring that these procedures are followed and may be called upon to justify the tendering process.

### Determine whether funds were disbursed in accordance with the agreement

- BDOT will authorize payments only when deliverables have been met and invoices received; and
- BDOT shall retain the final payment for a period of up to ten days following delivery of final service or the date of termination of the agreement, whichever is later, such period being allowed to ascertain whether or not full compliance with the terms of the agreement has been achieved.



Determining whether FBT met its responsibilities under the agreement

- FBT shall produce a minimum of ten faith-based, multiple-day events that are designed to deliver a minimum total of 2,200 visitors to Bermuda;
- in every case FBT shall provide BDOT with event overview, dates, package, booking and ticketing information a minimum of six months in advance of each event;
- FBT shall use its best efforts to provide accurate reports on the number of visitors attending the events, including travel date, accommodation and addresses; and
- the 2,200 targeted visitors shall not include work staff or media whose trip is paid by FBT.

Determining whether funds were used for the purpose for which they were given

- FBT shall keep full, accurate and detailed records of all expenditure and liabilities incurred for the period of the agreement.

**Conclusions****1. No tendering for the procurement of contracted services was conducted.***Proprietary and sponsored events*

In reply, the current Permanent Secretary of the Ministry of Tourism and Transport distinguished between proprietary events and sponsored events, stating that the FBT initiative was a sponsored event and therefore not subject to the rules of tendering.

*Form over substance*

I agree that Government sponsors many programs and events in the form of grants and, as such, these would not be tendered. However, the FBT event would not fall into this category.

Moreover, I think the attempt of the Ministry to try to now portray it as such is an after-the-fact rationalization and attempts to place form over substance.

*Contract for services*

The agreement between Harvest Investments Holdings Limited and BDOT trading as FBT was the provision of a minimum of 10 faith-based events which would yield a minimum of 2,200 visitors to Bermuda for a contract sum of \$400,000. This is a contract for services.

*Cabinet informed of reason not to tender*

Further, until I questioned the lack of tendering, the Government itself viewed FBT as a project that needed to be tendered. When Cabinet approved the project on April 10, 2007, it was informed the justification for not tendering the project was because of “*the tremendous success of faith-based events during 2006, and the desire to capitalize on the obvious strength of the Proprietor of FTB.*” It was not because the expenditure of \$400,000 was considered a grant for a sponsored event.

**2. Criteria for disbursement of funds were not met.**

A condition for making the first payment of \$191,000 was the receipt of an insurance policy and a detailed listing of ten events, dates, venues, and targeted amount of visitors for each event.

*Disbursement before conditions met*

This condition was not met in the following ways:

- there is no evidence of the insurance policy being received;
- there is no evidence of a forecast of the targeted amount of visitors for each event; and
- an overview was provided for only eight events. The event organizer of one of the eight pulled out, leaving seven events with an overview.

Nonetheless, on April 4, 2007, an initial \$25,000 was paid out and a further \$166,000 was paid out on April 13, 2007.

**3. No clear evidence of FBT producing ten faith based events and 2, 200 visitors was noted.**

*Missing report*

On completion of the ten events, FBT was required to prepare and provide to BDOT a report showing:

- the approved number of targeted visitors was met;
- a financial statement detailing monies generated from FBT and expenses incurred;
- a summary outlining the benefits generated for Bermuda; and
- copies of international and local media coverage (clippings), magazine articles and photographs, supporting and recording the events.

No such report was received.

#### 4. No accountability was provided by FBT for funds disbursed

##### *Lack of support*

No documentation was provided to support FBT expenditures and, therefore I was in no position to determine which events were organized or whether the funds paid to FBT by the BDOT were spent on faith-based tourism initiatives as per the agreement.

Although we saw evidence of BDOT requesting an accountability report and supporting documentation from FBT, we did not see any evidence of this ever being received nor, as noted above, FBT complying with any other criteria for payment. Nevertheless, between April 4, 2007 and March 25, 2008, following approval by BDOT, seven payments to FBT totalling \$345,250 plus seven payments for FBT rent to the Bermuda Hotel Association totalling \$29,250, were made.

#### **Additional Findings**

##### *Payment before required Cabinet approval*

#### 5. Further deviation from Financial Instructions

Financial Instructions, Section 9.3.1 states, “Contracts totalling over \$50,000 (including those with multiple payments) must be submitted to Cabinet for approval before acceptance.” Cabinet approved the contract on April 10, 2007. As noted above, the initial \$25,000 payment to Harvest Investment Holdings Ltd. was made on April 4, 2007.

In reply to this, the current Permanent Secretary stated that the initial \$25,000 advance was “subject to the production of a purchase order and said funds were later deducted from the initial payment to Harvest. The initial disbursement of \$25,000 was requested and approved by the then Permanent Secretary.”

I do not deny this but it misses the point. Although an authorized purchase order was produced to support and facilitate the payment, the \$25,000 payment was made in advance of the required level of authorization, i.e., Cabinet approval. This is a breakdown in the Ministry’s control system.

#### 6. Questionable use of funds.

##### *Questionable use of funds results in call for Police investigation*

As noted above, BDOT paid Harvest Investment Holdings Ltd. \$191,000 in April, 2007. The amount can be traced to the company’s April 2007 bank statement. This statement also reveals questionable account transfers from Harvest’s account to that of its President, Mr. Andre Curtis, such as the following:

- \$38,089 worth of payments to Andre Curtis;
- \$11,906 applied to Andre Curtis' credit card;
- \$20,264 payment to Vision Construction, an Andre Curtis company;
- \$30,000 payment to Emerald Financial Group.

I recommend a police investigation be undertaken into the affairs of Harvest Investment Ltd. and its President, Mr. Andre Curtis. Assuming the investigation will support charges of criminal activity, I recommend that the Permanent Secretary of the Ministry of Tourism and Transport and/or the Director of BDOT make a complaint against the President of Harvest Investment Holdings Ltd.

**Recommendation  
No. 4**

The Permanent Secretary of the Ministry of Tourism and Transport or the Director of BDOT should ask the Police Services to investigate the affairs of Harvest Investment Ltd.

If the investigation supports charges of criminal activity, the Permanent Secretary of the Ministry of Tourism and Transport or the Director of BDOT should make a complaint against the President of Harvest Investment Holdings Ltd.

**7. Defect in Agreement**

*Contract does not adequately provide for accountability considerations*

The contract between Harvest Investment Holdings Ltd. and BDOT was vetted by the Attorney-General. The contract may cover legal considerations adequately but it does not adequately cover accountability, fiduciary and custodial considerations. All payments under the \$400,000 contract, except for the final payment of \$20,000, were to be made only on the provision of written expectations and intentions, well before the delivery of the contracted services. This is contrary to the responsibility of civil servants to protect public assets.

Evidence shows that the final \$20,000 payment, payable on delivery of the contracted services, was never paid. From this I assume that BDOT officers realized, after approving the expenditure of \$375,000 from public funds, that the Government had received none or little of the contracted services.

### 8. Incompetence vs. Negligence

*Inexcusable lack of care*

I have been told incompetence is not criminal. Negligence is, however. A responsibility of public officers, commensurate with their positions, is to protect public assets. The public officers responsible for the oversight of this contract obtained no deliverables or proof that services were properly delivered before authorizing payments totalling \$374,500. In fact, they demonstrated an inexcusable lack of care. In my opinion, the public officers with the responsibility to negotiate and oversee this contract and approve disbursements from the public purse were negligent. Further, in my opinion the evidence at hand supports a complaint being brought by the Head of the Civil Service against those public officers who failed to carry out their oversight and fiduciary responsibilities, and I so recommend.

**Recommendation  
No. 5**

The Head of the Civil Service should bring a complaint against those public officers who failed to carry out their oversight responsibilities in respect to the Faith-Based Tourism project.



## 4. AUDIT OBSERVATIONS & RECOMMENDATIONS

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### 4.1 DENIALS AND QUALIFICATIONS IN AUDIT REPORTS

Section 9(2)(a) of the Audit Act (see Appendix 13) requires me to provide details in annual reports of denials and qualifications of opinion in auditor's reports on financial statements. My reports on the financial statements of the following entities issued since my last annual report contain denials or qualifications of opinion for the reasons indicated:

#### Denials of opinion

Auditors issue denials of opinion only in very serious situations. Professional standards call for denials where deficiencies in accounting records and controls are so significant and pervasive that they limit the scope of the auditor's work to the extent that there is no basis for the expression of an opinion. I issued denials of opinion on the financial statements of the following entities for the fiscal years indicated:

#### **Board of Trustees of the Golf Courses – 2005**

I was unable to express an opinion on whether the financial statements of the Board of Trustees of the Golf Courses for the year ended March 2005 were presented in accordance with generally accepted accounting principles because of serious deficiencies in the accounting records and in the system of internal controls. As a result, I could not obtain sufficient appropriate audit evidence to support inventory, accrued vacation pay and various operating expense accounts including salaries, wages and employee benefits. Also, other assets and liabilities, net income and retained earnings were not susceptible of satisfactory audit verification (see Section 4.3.9).

#### **National Drug Commission – 2005 and 2006**

I was unable to express an opinion whether the financial statements of the National Drug Commission for both 2005 and 2006 were presented in accordance with generally accepted accounting principles because of the lack of documentary and other evidence needed to audit satisfactorily most of the Commission's assets, liabilities, revenues and expenses. Furthermore, there were serious deficiencies in internal controls to the extent that I could not be satisfied that all revenues and expenses have been recorded, or that those that are recorded were proper (see Section 4.3.11).

**Hospital Insurance Fund – 2004**

I was unable to express an opinion whether the financial statements of the Hospital Insurance Fund for the year ended March 2004 were presented in accordance with generally accepted accounting principles because of the lack of documentary and other evidence needed to audit satisfactorily premium and other revenues totalling \$7.7 million and related accounts receivable, and claims paid and payable totalling \$5.9 million (see Section 4.4.7).

**Devonshire Parish Council – 2006** (see Section 4.5.1)

**Warwick Parish Council – 2005 and 2006** (see Section 4.5.9)

I was unable to express an opinion whether the financial statements of Devonshire and Warwick Parish Councils were in accordance with generally accepted accounting principles because the Councils could not provide accounting records or documentary evidence to support any or most of the numbers in the financial statements.

**Whitney Educational Trust – 2004**

I was unable to express an opinion on whether the financial statements of the Whitney Educational Trust were in accordance with generally accepted accounting principles for five reasons:

- The Trust could not provide adequate support for \$40,000 of operating expenses and related accounts payable.
- The Ministry of Education was unable to provide figures for the amounts paid to substitute teachers on behalf of the Trust for inclusion in the Trust's financial statements.
- Certain capital assets are not recorded in the Trust's financial statements because neither the Ministry of Works and Engineering nor the Ministry of Education have cost-data for these assets that were paid for years ago by Government.
- The Trust could not provide a complete set of minutes to enable me to determine whether all decisions taken by the Board had been reflected in the financial statements.
- The Trust receives donation revenue which, by its nature, cannot be audited satisfactorily (see Section 4.6.4).



### Qualifications of opinion

Auditors issue a qualification of opinion where the financial statements are affected by a departure from generally accepted accounting principles, or where there is insufficient audit evidence to determine whether the statements are affected by such a departure. Unlike denials of opinion, however, the problems encountered are not so pervasive that I cannot express an opinion. I issued qualifications of opinion on the financial statements of the following entities for the fiscal years indicated:

#### **Berkeley Institute Capitation Account – 2007**

My auditor's report on the 2007 financial statements of the Berkeley Institute Capitation Account contains a qualification because I was unable to verify the accuracy of year-end accounts receivable relating to the school's wireless laptop program (see Section 4.6.1).

#### **Bermuda Arts Council – 2006 and 2007**

My auditor's reports on the financial statements of the Bermuda Arts Council for both 2006 and 2007 contain qualifications of opinion because the Council receives donation revenues which, by their nature, are not capable of being audited satisfactorily. This qualification does not necessarily reflect adversely on the Council's accounting records (see Section 4.3.1).

#### **Bermuda College - 2004**

My auditor's report on the 2004 financial statements of Bermuda College contains a qualification for three reasons:

- The College receives donation revenues which, by their nature, are not capable of being audited satisfactorily. This qualification does not necessarily reflect adversely on the College's accounting records.
- The College has not obtained an actuarial valuation to determine its obligation to pay post-retirement benefits to long-serving employees.
- I was unable to obtain sufficient appropriate audit evidence to support the accuracy and validity of expenses totalling more than \$6 million (see Section 4.3.2).

#### **Bermuda Housing Trust - 2008**

My auditor's report on the 2008 financial statements of the Bermuda Housing Trust contains a qualification for two reasons:

- There is insufficient evidence to verify the reasonableness of its estimate of the total amount of rents repayable to former tenants.
- The Trust receives donation revenue which, by its nature, cannot be audited satisfactorily. This qualification does not necessarily reflect adversely on the Trust's financial records (see Section 4.3.6).

#### **Consolidated Fund – 2008**

My auditor's report on the Consolidated Fund for the year ended March 2008 contains a qualified opinion because deficiencies in internal controls in two Departments led me to question the appropriateness of certain payments during the year under audit and the reporting period in the following one (see Section 4.2.1).

#### **Government Employees Health Insurance Fund – 2005**

My auditor's report on the financial statements of the Government Employees Health Insurance Fund for the year ended March 2005 contains a qualified opinion due to the lack of sufficient evidence to audit satisfactorily claims expenditures totalling \$30 million and claims payable totalling \$5.8 million (see Section 4.4.5).

#### **Sandys Parish Council – 2006**

My auditor's report on the 2006 financial statements of Sandys Parish Council contains a qualified opinion because the Council was unable to provide evidence to support certain expenditures. I was also unable to assess the accuracy of account balances brought forward from the prior year because I had issued a denial of opinion for that year (see Section 4.5.5).

## **4.2 AUDIT OF THE CONSOLIDATED FUND**

The Consolidated Fund accounts for the financial affairs of Bermuda's Ministries, Departments, Legislature and other Offices. The Fund's 2008 audited financial statements are included in this report as Appendix 8.

### *Failures by Departments to*

The Accountant-General's Department operates the Government's central payments, payroll and revenue recording systems. Individual Departments are responsible for maintaining their own accounting records and controls, and ensuring that their financial

*carry out  
accounting and  
financial control  
responsibilities*

information on the central systems is accurate and complete. At year-ends, they report to the Accountant-General's Department information on accounts receivable and payable and other balance sheet amounts needed to prepare the Consolidated Fund's annual financial statements. Some of the problems that delayed completion of annual audits in recent years were caused by the failure of some Departments to properly carry out the above-mentioned responsibilities.

A larger cause of delays, however, was the provision by the Accountant-General's Department of schedules and records much later in the audit process than originally agreed. When errors were found in the schedules, correcting them contributed to further delays. These problems were with schedules and information derived from the Accountant-General's own records as well as from the records of other Departments.

The following sections contain specific matters that I believe warrant the attention of the House of Assembly that arose from the 2008 audit of the processes used to prepare the financial statements of the Consolidated Fund, and the accounting records and controls of the Ministries and Departments that comprise it. Many have already been reported following previous audits:

#### **4.2.1 Reservation of audit opinion**

The matters referred to in this sub-section were included in a Special Report to the House of Assembly tabled in February 2009.

*Qualified audit  
opinion*

My auditor's report on the financial statement of the Consolidated Fund for the year ended March 31, 2008 contains a qualified opinion because deficiencies in internal controls over certain expenditures led me to question the propriety of certain transactions. As a result, I was unable to determine whether adjustments might be necessary to certain figures in the financial statements to ensure compliance with generally accepted accounting principles.

The propriety of expenditures in question relate to two Departments:

##### **Ministry of Works and Engineering**

A combination of events, both before and after the contract for the construction of the new Magistrate's Courthouse and Hamilton

Police Station was executed, led to misgivings about the propriety of some of the related payments.

Tendering process

The tendering process was designed to give smaller Bermudian construction companies an opportunity to team-up with larger suitably qualified overseas companies. The Ministry received ten expressions of interest and pre-qualified five. Two were “teams” and three were large companies with suitable experience operating in Bermuda.

*From the beginning, efforts were made to expedite matters*

On June 14, 2007 the five pre-qualified bidders were invited to submit detailed tenders by August 31, 2007. Bid packages were issued on July 23. Some bidders expressed concern that the deadline was too tight, and it was extended to September 14, 2007. Despite this extension, only two organizations submitted detailed tenders.

In my 2002 Annual Report, I predicted that if potential contractors suspect that the Government’s tendering process is compromised or unfair, they would not invest the time and money needed to prepare detailed quotations. This would eventually translate into fewer bids, less competition, and therefore higher costs.

*The contractor recommended to Cabinet was not the one that the Ministry’s evaluators had recommended*

The Ministry’s Chief Architect evaluated the two tenders and recommended that the contract be awarded to a Bermuda company with experience with recent large construction projects in Bermuda. However, a Cabinet Memorandum dated October 30, 2007 recommended instead that the contract be awarded to a team bidder operating under the name of Landmark Lisgar Construction Company Ltd. Lisgar Construction was the Canadian partner in the Landmark Lisgar team. The Cabinet memorandum indicated that cost-wise, the two bids were comparable.

*Cabinet may not have been provided with all the facts*

At a meeting on October 30, 2007, Cabinet decided to award the contract to Landmark Lisgar. The Cabinet decision appears to have been based mainly on two Cabinet Memoranda dated October 23 and 30, 2007. The October 23 memorandum states that Landmark Lisgar *failed to complete the required cost break-down by elements. Without this information it is difficult for the Ministry to assess their bid. Normally such an omission would render the bid as insufficient.* The October 30 memorandum for the meeting at which the decision was taken pointedly does not mention the deficiencies noted in the October 23 memorandum, or that the Ministry’s Chief Architect had reservations that had caused him to consider

Landmark Lisgar's bid to be "non-responsive".

For example, the memorandum did not explain to Cabinet that the bid called for the Ministry to pay in advance for materials ordered and prior to shipment to Bermuda (a practice prohibited by Government policy as set out in the Accountant-General's *Financial Instructions*). It also failed to disclose that Landmark Lisgar had not submitted a detailed cost breakdown of the project, a compulsory requirement for a valid bid.

*Negotiations continued after the decision to award the contract*

After the Cabinet's decision and before a contract was signed, there were further negotiations with Landmark Lisgar. These were conducted with the Minister and the Permanent Secretary without much involvement of the Department of Architectural Design and Construction. Discussions included obtaining and agreeing an itemized cost breakdown of the project, and determining whether the contractor could obtain bonding for the project.

In my judgement, most of the above issues should have been settled before the decision was made to award the contract.

*There were reservations about Lisgar's experience*

A pre-construction meeting held in Toronto on November 27, 2007 included visiting facilities that Lisgar had constructed. At that time, the Ministry's Project Manager expressed concern about the appropriateness of Lisgar's experience. The facilities visited were 15 years old and unlike the facility to be constructed in Bermuda. Requests to visit a more recent and similar facility that was shown in Lisgar's brochure were evaded; it was later found that Lisgar's involvement in constructing that facility had been relatively minor. Lisgar's most recent construction project had been in central Asia, and that facility differed significantly from the proposed Bermuda facility. The Project Manager communicated her reservations about the appropriateness of Lisgar's experience to the Ministry's Permanent Secretary.

Nevertheless, the contract with Landmark Lisgar was signed on December 5, 2007.

*The Attorney-General's Chambers did not vet the contract*

The Ministry used a law firm to draft and advise on the contract, and the final contract was not reviewed by the Attorney-General's Chambers (as required by Government policy). From this point on, however, the Minister instructed that future legal services related to the project should be acquired from the Attorney-General's Chambers. This caused a problem later when the Attorney-General's Chambers declined to help draft tender acceptance letters because it had not advised on the drafting of the contract.

Commencement of construction operations

*Sub-contract was not tendered*

According to an internal Ministry memorandum, the Permanent Secretary instructed that site clearance begin as soon as possible so that the public would see activity before the approaching general election. Hoardings were erected around the construction site on November 24, 2007, and clearance began on December 3. This was two days before the contract was signed. Excavation began thereafter even though the excavation contract had not been tendered as required by the main contract.

The tender package provided to bidders on the contract included a detailed report by independent architects on the geological characteristics of the construction site. The report was based on extensive boring, open pit and other soil investigation methods. The report was designed specifically to give potential bidders a thorough understanding of the rock and soil conditions they would encounter when constructing the building's foundations. Despite this, when work began the contractor reported that the rock under the site was harder than expected, requiring redesign of the configuration of the pilings under the building and additional drilling. This and related concerns were brought to the attention of the Permanent Secretary and in early March 2008 another engineering company was hired to undertake this work. All of this caused significant delays and additional costs to the Ministry.

Contract changes

*Exit the Canadian partner*

As stated above, the contract with the Construction Manager (Landmark Lisgar) was signed in December 2007. By the late summer of 2008, however, work was already four months in arrears. Relations between the Canadian and the Bermudian partners in Landmark Lisgar had deteriorated, and eventually the Canadian partner departed (or was pushed out). This left Landmark, a small company with no experience with construction projects of this size, as the sole contractor. On October 23, 2008 Landmark Lisgar Construction Company Ltd., changed its name to LLC Bermuda Ltd. (LLC).

*A new contract was signed*

The December 2007 contract fixed \$66 million as the guaranteed maximum amount to be paid for the construction work, plus a \$6.9 million Construction Manager's fee. But on December 1, 2008, the Ministry signed a new contract with LLC, which superseded the December 2007 contract.

The new contract, which was negotiated with LLC by the Minister and the Permanent Secretary, was for \$71.9 million, and no Construction Manager's fee. However, the Ministry hired a Chief Superintendent to oversee the project at a cost of approximately \$400,000 per year.

*The new contract allows much more scope for cost overruns*

Whereas the original contract allowed little or no scope for cost overruns, the new contract provides for disallowed claims to be resolved, either by agreement with the Ministry, or by a dispute resolution procedure. In my view, this creates a situation similar to the Berkeley School project which resulted in huge cost overruns. The new contract also provided for LLC to receive an advance payment of \$600,000, for unspecified reasons, and does not require LLC to provide a performance bond.

The new contract also represents a change in how the construction work is monitored. Under the original contract, the Ministry's Department of Architectural Design and Construction received copies of all correspondence, progress reports and meeting minutes to enable the monitoring of the project's progress. Since the new contract was put in place, these documents now go only to the Permanent Secretary and the Minister. As well, the newly hired Chief Superintendent reports directly to the Permanent Secretary, and not the Chief Architect.

*The new contract did not give the Ministry access to needed documentation*

What concerned me most as an auditor, however, was the failure of the new contract to provide for appropriate support for progress payment submissions. The original contract required Landmark Lisgar to keep *full and detailed accounts and controls ...and afford the Ministry access to Landmark Lisgar's records, books, correspondences, instructions, drawings, receipts, subcontract, purchase orders, memoranda and other data relating to the contract.* Among other things, this allowed the certifying architect to require full support for requests for monthly progress payments submitted to the Ministry by the contractor. The new (December 2008) contract does not contain these extensive access rights, and the access rights that it does have were not exercised.

#### Monthly progress payments

By late October, work on the construction project continued to lag behind schedule. On several occasions, the Ministry's Project Manager and Chief Architect had also expressed concerns about the legitimacy of some of the costs being claimed by Landmark Lisgar. Some, including a political donation and a car payment, were obviously unrelated to the construction project.

The Ministry employed a Canadian firm of architects (the same firm that designed the new courthouse/police station) to examine and certify the reasonableness of progress payment requests submitted by the Contract Manager. Payment requests had to be certified before they were processed for payment.

*\$2.7 million of progress payment claims were disallowed*

The first seven payment requests submitted by Landmark Lisgar for work to October 31, 2008 totalled \$12.8 million. Of this amount, the architect refused to certify more than \$2.7 million, primarily because they were not supported by adequate documentation (suppliers' and sub-contractors' invoices etc.). However, on the Permanent Secretary's instructions, \$560,000 of these unsupported costs were paid. It should be noted here that Government policy (*Financial Instructions*) prohibits the Ministry from paying construction cost claims that have not been certified by the certifying architect.

Another claim that the certifying architect refused to certify related to a \$10.7 million administration fee which was included in the \$66 million contract price. The contract called for this fee to be paid throughout the project on the basis of the percentage of the work completed. However, Landmark Lisgar persistently calculated this fee on a straight-line basis in its progress payment claims. If paid, this would have accelerated very considerably the payment of the administration fee.

Towards the end of August 2008, the Minister instructed that Landmark Lisgar be allowed to charge the administration fee on a straight-line basis, even though this clearly breached contract terms. At that point the certifying architect ceased certifying administration fees and, in a September 4, 2008 letter to the Ministry's Chief Architect, expressed concerns about the Minister's decision. It is disturbing to note that a December e-mail from the Permanent Secretary to the Ministry's Chief Architect states that the Minister is instructing the Chief Architect to alter the certifying architect's September 4 letter to indicate that allowing the contractor to charge administration fees on a straight-line basis was a Ministry decision, not a Ministerial decision.

*Documentation to support progress payments was inadequate*

Late in 2008, the Ministry engaged a new firm of architects to certify progress payments. The new firm operated under the conditions of the new (December 2008) contract. The new firm certified the contractor's progress payment requests totalling \$4.5 million, for work done in November and December, without disallowing any parts thereof. I am aware that the new certifying architect visited the construction site to view the status of



construction. However, the progress payment requests were supported by little or no documentation (invoices etc.) to demonstrate the validity of the materials and subcontract work included therein.

*More than \$665,000 paid that was not in accordance with the contract*

In addition, the claim for work done in November certified by the new certifying architect included more than \$665,000 for administration fees calculated on a straight-line basis. This calculation was retroactive to the beginning of the project and was contrary to the requirements of the contract that covered work to the end of November (when the new contract was signed).

At this point, I informed the Ministry of Finance that, the material amounts involved and the lack of appropriate documentation to verify the validity of the payments, would likely result in a qualified auditor's opinion on the financial statements of the Consolidated Fund. Since this occurred before I had signed off on the Fund's March 2008 statements, it fell under the accounting definition of a material subsequent event.

*The contract is to be changed*

I was later informed (in January 2009) that the Financial Secretary has instructed that the new (December 2008) contract was to be amended to include the access to information requirements contained in the original (December 2007) contract.

#### Withdrawal of Ministry co-operation

In early February 2009, as I was finalizing this Special Report, I received two letters from the Permanent Secretary of the Ministry of Works and Engineering. The Permanent Secretary informed me that the Minister had instructed him to advise me that he had received legal advice that questioned whether I was lawfully authorized to conduct an audit at this stage of the construction work. He also stated that the Minister had rescinded his earlier instruction that the Ministry should give my auditors the fullest cooperation in the course of their work. He asked me to inform my staff to discontinue communicating with Ministry personnel.

The Minister's withdrawal of co-operation is not only disappointing, it also runs contrary to Section 14 of the Audit Act which states *The Auditor General is entitled in the exercise and for the purpose of his functions ... to request that he be supplied with any explanation, information or assistance which he may reasonably require for the performance of his functions ... and any person to whom a reasonable demand ... is properly directed shall comply with the demand.*

In response, I informed the Permanent Secretary that I considered his actions an unacceptable contravention of Section 14 of the Audit Act. I also stated that if the impediments to my access to information were not removed, I would take action under Section 20 of the Audit Act which states that *a person who ... fails or refuses to fulfil his duty under section 14 ... commits an offence ... for which he may be prosecuted summarily and, if convicted ... is liable to a fine ... or to imprisonment...*

#### Conclusions

In my view, the above series of events indicate that at various stages the Minister and Permanent Secretary of Works and Engineering intervened with and compromised key internal controls designed to protect the Government's rights and public monies. The events therefore cast doubt on the propriety of significant payments to Landmark Lisgar/LLC.

#### **Department of Tourism**

Work performed by the Government's Internal Audit function led to concerns about certain payments for the provision of tourism advertising by the Department of Tourism. Extended auditing procedures subsequently employed by my Office likewise led me to have misgivings about the propriety of some of those payments.

#### Background

In 2004, the Department contracted with GlobalHue, an American advertising agency, *to arrange for the performance of services ... in connection with the preparation and placement of advertising for ... leisure travel, group and incentive travel, and travel trade.* GlobalHue contracts with media-buying agencies to place advertising with media vendors such as print, radio and television companies. Pursuant to the contract, GlobalHue receives an annual fixed fee and is prohibited from adding any further mark-ups to invoices submitted for advertising purchased. The media buying agency most used by GlobalHue is Cornerstone Media, another American company.

For 2008, the Department provided GlobalHue with a budget of \$13.2 million to be spent for the above-mentioned purposes, plus a fee of \$1.4 million for doing so.

The Department's contract with GlobalHue allows GlobalHue to

prebill the Department *in time for GlobalHue to meet the payment dates of media and to earn any cash discounts offered*. In practice, this means paying for advertising in advance.

When or after the advertising occurs, the media vendors bill Cornerstone, Cornerstone bills GlobalHue for the media vendors' costs plus its own mark-up, and GlobalHue bills the Department for Cornerstone's charges. At that time, any difference between the amount that GlobalHue prebilled the Department, and the actual amounts charged by Cornerstone, should be adjusted.

As Auditor General, I have no legal or other authority to require GlobalHue or Cornerstone to provide me with records or information. However, the contract requires GlobalHue to maintain accurate and detailed records of expenditures and liabilities incurred in connection with the advertisements it places for the Department, and to give the Department access to those records, subject to certain conditions and limitations. I would expect the Department to obtain from GlobalHue the documentation needed to demonstrate that the expenditures it incurs under the contract are valid and reasonable.

Audit findings

I have misgivings about the propriety of payments to GlobalHue for the following reasons:

- Prepaying is not allowed ...*

  - Prebilling for goods and services, except where unavoidable, is prohibited by Government policy as set out in the Accountant-General's *Financial Instructions*.
- ... and unnecessary*

  - GlobalHue pays Cornerstone after the adverts are run, so I see no reason why GlobalHue needs to be paid in advance.
  - No instances were observed where the Department was the beneficiary of discounts earned by paying early.
- The Department cannot verify the amounts it is billed*

  - Cornerstone does not provide GlobalHue, and GlobalHue does not provide the Department, with copies of media vendors' invoices. Accordingly, the Department is unable to verify that the amounts billed are correct.
  - In all instances noted, the amounts eventually billed to GlobalHue by Cornerstone closely match the amounts previously prebilled to (and prepaid by) the Department.

*GlobalHue was reluctant to provide vendors' invoices ...*

- GlobalHue has consistently refused to provide media vendors' invoices to support its billings. In a written response to an earlier Department request, it stated that *we do not require Cornerstone to provide us with copies of invoices...from media outlets, that's their business.*

*... but after much pestering ...*

- Following repeated requests from the Department (at the prompting of my auditors), GlobalHue informed the Department that Cornerstone was refusing to provide the requested media vendors' invoices. Without seeing media vendors' invoices, I have to wonder how GlobalHue could ensure that its client (the Department) was not being overcharged. Surely that was one of the services for which the Department was paying \$1.4 million.

*... eventually did*

- After still further delays, I informed the Ministry of Finance that the Department's inability to obtain copies of media vendors' invoices created an unacceptable limitation on my audit's scope, one that would result in a qualified auditor's opinion on the Consolidated Fund's financial statements. Shortly thereafter, copies of the invoices were provided.

- The media vendors' invoices show that Cornerstone's mark-ups during 2008 varied considerably. On some it was minimal and for others it was as high as 154% and 169%. A Cornerstone representative informed my auditor that the 154% and 169% mark-ups represented Cornerstone's profit margin but should not be viewed in isolation. She said the average mark-up for the year was more like 30%.

*Mark-ups and administration fees together appear extraordinarily generous*

To test this assertion, at my request the Department prepared a schedule of all Cornerstone's invoices for the year, and the mark-ups charged. Overall, the average mark-up for all services Cornerstone billed averaged 51%. I understand that the standard industry mark-up is 15%. In my view, a 30% mark-up would be high. A 51% mark-up is excessive and raises suspicions. Add to this the annual fee of \$1.4 million (\$1.62 million in 2009) for the work that GlobalHue does and the total amount the Department pays for arranging and placing advertising appears to be extraordinarily generous.

*Department may have paid \$1.8 million too much*

- If the mark-ups on the advertisements placed and billed by Cornerstone had been 15%, the Department would have paid approximately \$1.8 million less for its advertising during 2008.
- It is doubtful whether the Department receives credit when

*Credit not received  
for advertising that  
did not occur*

advertising for which it has prepaid is cancelled or otherwise does not occur. For example, on the Minister's instructions, the Department agreed to sponsor a televised basketball game in New York involving Howard University. Part of the \$80,000 prepaid to GlobalHue was for two 30-second advertising slots during the game. By chance, the Department discovered later that the adverts were not shown. Whether GlobalHue received a refund is unknown, but I can find no record that the Department did.

*Director who  
pressed to receive  
invoices  
"resigned" with a  
severance package*

- I am informed that a previous Director of Tourism resigned in 2007, shortly after he began pressing GlobalHue to obtain copies of media vendors' invoices. Apparently, GlobalHue considered that the Director's actions constituted "micro-managing" the contract. Under the terms of a confidentially agreement (see Section 2.11 of this Report), the Director received a severance settlement which, including unused vacation entitlement and vested pension contributions, exceeded \$440,000.

The Civil Service has rules and regulations governing the dismissal of public employees who are non-, under- or improperly performing. Applying those rules to a Director of Tourism would result in a severance payment of \$132,750. A payment of \$440,000, suggest that the public employee was not non-, under-, or improperly performing, and therefore, raises questions.

- In discussions with Department officials, some appeared to have only a marginal understanding of their accountability responsibilities for the payments they were approving. Even those who did raise concerns about the payments they were asked to approve, eventually did so. Apparently they felt pressured by what they viewed as the close relationship and influence that GlobalHue has with the Minister of Tourism and Transport.

### Conclusions

In my view, the above findings and conclusions combine to cast considerable doubt on the propriety of the relationship between the Department of Tourism and GlobalHue, and on many of the payments made to GlobalHue. It also casts doubt on the ability or willingness of some Department officials to ensure that key internal controls operate effectively at critical times.

**4.2.2 Additional commentary in my 2008 auditor's report**

*The Consolidated Fund's financial statements are not the consolidated financial statements of the Government*

The financial statements of the Consolidated Fund are viewed by some as the financial statements of the Government. This view was valid when most revenues and expenditures were transacted through the Consolidated Fund. But over the years, a large and increasing amount of Government business is transacted through other public funds and Government-controlled organizations (quangos).

*Consolidated financial statements are not being produced*

Most governments now publish summary (i.e. consolidated) financial statements that aggregate the financial results and affairs of all entities controlled by the government. Indeed, generally accepted accounting principles for governments require this. For various reasons, the Government of Bermuda does not produce summary financial statements. There is a risk therefore, I believe, that users of the financial statements of Bermuda's Consolidated Fund may mistakenly view them as the consolidated financial statements of the Government.

The Parliamentary Standing Committee on the Public Accounts, in a report tabled in December 2006, again endorsed the need for consolidated financial statements for Bermuda. As explained in section 2.6 above, the Accountant-General's Department has signalled a renewed commitment to removing the constraints currently preventing the production of consolidated financial statements.

*To help avoid misunderstandings*

To help avoid misunderstandings, I have continued my practice of including the following explanatory paragraphs in my auditor's reports on the Consolidated Fund's financial statements:

*... I include cautionary paragraphs in my auditor's reports on the financial statements of the Consolidated Fund*

*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 the summary consolidated financial statements, as contemplated by the Institute of Chartered Accountants of Bermuda and the Canadian Institute of Chartered Accountants, that would report the financial position and results of operations of the Government of Bermuda. Significant financial activities of the Government occur outside the Consolidated Fund.*

*In the absence of consolidated summary financial statements for 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 results of its operations and changes in its financial position. 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 and changes in its financial position.*

#### **4.2.3 Delays in issuing the Consolidated Fund's audited financial statements**

*The timeliness of annual reporting for the Consolidated Fund continues to slip*

By legislation, the Accountant-General is responsible for preparing the Consolidated Fund's financial statements and for ensuring the information therein is accurate. This applies regardless of whether that information is generated by the Accountant-General's Department or by others. Since 2003, the Consolidated Fund's audited financial statements have been released late, mainly because the Accountant-General's Department has been unable to produce final figures, and the accurate and timely schedules and information needed, to complete audits within the timeframes planned.

*Delays in issuing financial statements were caused by missed deadlines and tardy corrections*

Each year the Accountant-General's Department and my Office agree a formal plan for preparing and auditing the Fund's financial statements. The plan stipulates dates by which the Department agrees to have schedules and supporting documentation ready for audit. Again this year, several schedules and supporting documentation were not provided for audit within the pre-agreed deadlines.

*Same old problems result in longer delays*

Despite previous assurances by the Accountant-General that things would improve, the problems and delays experienced during the 2008 audit increased compared with previous years. For the four years ended March 2007, the audited statements were issued in November, more than two months later than planned. The 2008 statements, however, were not issued until January 2009. Comparing this with 2002 and 2003 when the statements were issued in September, a deteriorating and worrying trend is exposed.

Inaccurate, incomplete and late documentation in many areas of the audit also created the need for additional audit work. Four of these areas were particularly egregious:

- As explained in section 4.2.4 below, bank reconciliations that should have been available at the beginning of June were not

available until (in some cases) several months later, and were then found to contain numerous adjusting items that called for more audit work than planned. (Actual audit hours were twice what was budgeted.)

- As explained in section 4.2.5 below, several material inaccuracies were found in the year-end accounts payable. The Department's subsequent payments review was performed late and staff were slow to adjust the records for errors detected. (Actual audit hours were 35% more than budgeted.)
- As explained in section 4.2.7 below, the figures for overspent Departmental appropriations changed frequently during the audit and changes were still being made ten months after the year-end. (Actual audit hours were 70% more than budgeted.)
- The concerns explained in section 4.2.1 above called for extended audit procedures and additional audit work.

*Almost 300  
correcting  
adjustments were  
needed during  
the 2008 audit*

Following previous audits, the Accountant-General agreed that if records were in good order there should be very few correcting adjustments needed after the agreed date for presenting a trial balance for audit. That date for the March 2008 audit was June 7, 2008. The fact that almost 300 adjustments (240 for the 2007 audit) were needed after that date is a testament to the poor quality of many of the accounting records. Approximately half of those adjustments were directly or indirectly the result of audit findings and resulted in changes in the financial statements of almost \$300 million.

The audit plan called for draft financial statements with schedules and notes to be presented for audit on July 2. Draft statements were eventually presented seven weeks after that date, and schedules and notes over the ensuing month and a half. Amended drafts were still being issued in January 2009.

5,100 hours of audit time were budgeted for the 2008 audit, which eventually consumed over 6,300 hours. These additional audit hours could and should have been used to help other entities bring their financial reporting up-to-date and undertaking Performance Audits. The last four audits of the Consolidated Fund have, each year, consumed almost twice as much audit time as the 2002 and 2003 audits.

The above-mentioned problems do not reflect a difficult relationship between my Office and the Accountant-General's Department. My staff and I continue to enjoy a healthy and cooperative working relationship with the Accountant-General and her staff.



#### 4.2.4 Controls over bank accounts

During 2008, controls exercised over most of the Government's 60 bank accounts continued to be seriously deficient. In my view, as presently exercised, the controls provide little assurance that fraud could not occur and remain undetected for extended periods.

##### Background

*Recommendations for improved control were accepted ...*

Over the years, I have reported on numerous control deficiencies in the way that bank accounts are administered by the Accountant-General's Department. Following a fraud discovered in 2004, an independent review of banking controls resulted in 40 recommendations for improved control which were accepted by the Accountant-General. One particularly important recommendation was that monthly reconciliations of all bank accounts should be performed and independently approved within 30 days of month-ends.

##### This year's audit

*Controls are still seriously deficient*

Timeliness - The 2008 audit revealed that the administration of, and controls over, bank accounts have not improved appreciably. It appears that few if any of the Department's bank accounts were reconciled and approved within the required 30 days after month ends. Half of the year-end reconciliations were not prepared and approved within 60 days. Only 15 of 60 the March 31 bank account reconciliations were available for audit by the first week in June. The remainder were made available over the ensuing four months. This was because Department staff were "playing catch-up" with the monthly reconciliations.

*It was almost a year before anyone noticed that cheques were being drawn on the wrong bank account*

Failure to prepare monthly bank reconciliations promptly is a lack of control and allows errors to remain undetected. For example, due to a computer programming change, payroll cheques from June to August 2007 were drawn on a bank account normally used for accounts payable, instead of on the payroll bank account. Because neither bank account was reconciled monthly, no one noticed this until April 2008 when reconciliations for the previous year were first attempted. And reconciliations of the payroll account are still in arrears – the April 2008 reconciliation was still in the process of being prepared in October 2008.

Adjusting items - It is acknowledged that many year-end bank reconciliations were better prepared than in previous years.

However, many were still far from satisfactory and 15 of them were recalled for changes during the audit. In addition, half (30) of the reconciliations contained numerous adjusting items, the nature or purpose of many of which were not investigated. Many of these adjusting items date back to prior years.

*\$20 million of adjusting items identified in bank reconciliations have not been investigated*

The adjusting items described in the preceding paragraph total approximately \$20 million. Of this approximately:

- \$4 million are deposits that appear on the bank statements but not in the general ledger,
- \$760,000 are deposits that are recorded in the general ledger but do not appear on the bank statements,
- \$2 million are wire payments that are recorded in the general ledger but do not appear on the bank statements,
- \$4.3 million are wire payments that appear on the bank statements but not in the general ledger,
- \$1.6 million are returned wire payments that appear on the bank statements but not in the general ledger.

If bank reconciliations were performed monthly, these adjusting items would be identified, investigated and accounted for promptly. They would then not appear in future monthly bank reconciliations.

*Control is lost*

Failure to investigate adjusting items reduces the bank reconciliation process to a mathematical exercise instead of the investigatory and control process that it should be.

*Reconciling items are not investigated*

Two large bank accounts used to deposit monies collected by revenue-generating Departments provide examples of how many adjusting items arise. The revenue-generating Departments themselves deposit the monies to the bank, and submit documents (5A forms) to the Accountant-General's Department which records the revenue and deposits in the Government's general ledger. When monthly bank reconciliations are eventually attempted (usually much later), many deposits recorded in the general ledger cannot be matched to the bank statements and, conversely, many deposits on the bank statements cannot be matched to the general ledger. These adjusting items are significant and, as explained above, are often not investigated. The discrepancy brings doubt to the 5A forms as a legitimate recording instrument that correctly documents the amount of funds deposited into the Consolidated Fund. This in turn creates suspicion of possible misappropriation.

*Errors and misappropriations*

It is likely that, if fully investigated, some of the adjusting items that are debits would cancel out some of the adjusting items that are credits. As of March 2008, the \$20 million of uninvestigated adjusting items netted to \$3.2 million. The Department assumes

*could remain undetected*

that over time they will all cancel out. In my view, this is a risky assumption because the situation creates numerous opportunities for misappropriation. For example, an employee could pocket a bank deposit safe in the knowledge that its failure to appear on the bank statement will not be investigated.

Many adjusting items are several years old, and investigating and correcting them now will be difficult or maybe impossible. Yet failure to investigate them may allow misappropriations, and/or accounting errors such as misallocations of revenues and expenditures.

*Audit delays*

Delays in receiving information, the volume of errors found, and adjustments needed to correct year-end bank figures, contributed significantly to the late completion of the 2008 audit.

Appendix 2 to this report contains a recommendation that arose from previous audits that addresses many of the above concerns.

#### **4.2.5 Expenditures and accounts payable**

*There is still scope for improving expenditure records and controls*

Control over expenditures in some Departments has been a problem for years. In addition, the Accountant-General's Department was unable to produce year-end accounts payable figures promptly, or to explain the composition of several of the amounts recorded. The following are examples:

- Some Departments again overspent the monies provided for them by the House of Assembly. Breaching legislated annual expenditure limits (appropriations) in this way means that the overpayments are unconstitutional (see Section 4.2.7 below).
- Considerable difficulty was experienced (and considerable audit resources consumed) establishing amounts owing at year-end for portability subsidy claims for medical treatment abroad, mainly because of processing backlogs and incomplete records at the Department of Social Insurance. Following last year's audit, the Director of Social Insurance promised that the backlog of insurance claims would be eliminated by early 2008. That has not happened.
- Accounts payable at March 2008 includes an amount of \$1,975,000 held in an account used in past years to record trade payables. Most of this amount was recorded many years ago and the Accountant-General's Department cannot explain what it represents. Following last year's audit, the Department stated that a consultant programmer had been hired in April 2007 who would investigate and reallocate this balance. However, that

has not happened and the balance increased during the year by \$137,000.

- Accounts payable at March 2008 includes immigration deposits totalling \$708,000 (\$714,000 at March 2007), many dating from pre-1988 that will probably never be reclaimed. The Accountant-General has not exercised the powers provided by section 130 of the Bermuda Immigration and Protection Act to write these off. Following last year's audit, the Accountant-General's Department stated that the Immigration Department is auditing this list so that the powers under section 130 can be exercised. Very little progress has been made.
- Accounts payable at March 2008 includes \$2 million representing cheques that were sent to suppliers but have not cleared the Government's bank accounts (stale-dated cheques). Despite the requirement in Financial Instructions that cheques like these must be investigated by contacting the payee, neither the Accountant-General's Department nor the originating Department has done so.
- In addition to the concerns above, there is also uncertainty about the accuracy of other accounts payable figures at March 2008. Despite it being a requirement legislated in Financial Instructions, almost all Departments do not reconcile their month- or year-end accounts payable balances to suppliers' statements. In addition, the Accountant-General's Department could not reconcile the accounts payable listing at March 2008 to the balance in the general ledger, and has not done so since March 2006.
- The Accountant-General's Department continued to make material changes to the March 2008 accounts payable figures up to nine months after the year-end. This reflects adversely on the processes used to compile the figures, and on the accuracy of the records and accounting controls. It also contributed to delays in completing the audit.
- The review by the Accountant-General's Department of payments made after March 2008 to identify unrecorded accounts payable was performed late. It then took numerous reminders by audit staff before the additional identified payables were recorded. The audit also detected further unrecorded payables.
- And as explained in section 4.2.6 below, there were also problems with the recording of year-end wage accruals.

#### *Audit delays*

Many of the above problems contributed to delays in completing the audit and necessitated additional audit work.

#### 4.2.6 Payroll expenditures

##### Salary overpayments

*Salary cheques were issued to ex-employees*

The Government's computerized payroll system automatically issues monthly payments to salaried employees until their salaries are altered on the system, or their status is changed to "inactive". Last year I reported that delays in changing employees' status resulted in a number of salary payments being processed for terminated employees. Most were detected before the payments were processed, but two (totalling \$12,700) were not and the amounts were not subsequently recovered.

*A control weakness still exists*

The 2008 audit detected one instance of an employee who received a salary payment for a period after his termination date, and another who was overpaid in her final salary payment. In both instances the overpaid amounts were recovered. These two instances were in a sample of salary payments selected for audit (so there were probably others) and show that the previously reported control weakness has not been eliminated.

##### Vacation entitlements carried forward

*Failure to take vacations can facilitate fraud*

Some Departments are still allowing staff to accumulate vacation entitlements in excess of the 20 day limit imposed by Government policy, without obtaining the necessary approval by the Head of the Civil Service. This is a longstanding problem. It is a concern because experience shows that employees who perpetrate frauds often do not take vacations lest their dishonesty be discovered by the person who assumes their duties.

##### Duplicated wages accrual

The audit detected what appeared to be a duplicated accrual for year-end unpaid wages of \$1.7 million. Despite numerous reminders and eight e-mails over a two month period requesting that this be investigated, the matter was not investigated although the amount was removed.

*Audit delays*

Payroll was another area where delays in receiving requested information contributed to delays in completing the 2008 audit.

#### 4.2.7 Unapproved expenditures

*Legislated*

Some Departments and Legislative Offices again exceeded the

#### 4. AUDIT OBSERVATIONS & RECOMMENDATIONS

*expenditure limits  
are being ignored*

limits imposed on their annual expenditures by the House of Assembly.

Each year the House passes an Appropriations Act that provides funding for Government Ministries and Departments. Overspending these appropriations is prohibited by the Bermuda Constitution Order unless a “supplementary estimate” is approved by the House prior to any additional spending being incurred. Overspending an appropriation, therefore, without first obtaining a supplementary estimate, is not a mere budget variance; it is unconstitutional.

*Several  
Departments  
incurred  
unapproved  
expenditures*

For 2008, 16 (14 in 2007) Departments collectively overspent by more than \$34 million (2007 - \$13 million) the appropriations provided for them by the House, without first obtaining the necessary supplementary estimates or viring budgets (see below).

At March 31, 2008, the following had overspent their current appropriations by the amounts shown. These amounts are over and above the amounts covered by approved supplementary estimates and virements made in anticipation of overspending their original appropriations:

	Police Services	\$11,581,326
1	Accountant-General’s Department	6,053,151
1	Department of Social Insurance	5,885,224
2	Department of Works and Engineering	2,910,537
	Department of Labour, Home Affairs and Housing	1,741,030
1	Department of Tourism	1,731,412
2	Department of Education	933,743
2	Ministry of Finance - Interest on debt	858,177
1,2	Department of Child and Family Services	830,290
2	Department of Youth, Sport and Recreation	595,398
1	Department of Airport Operations	413,181
	Information Technology Office	283,275
1,2	Department of Marine and Ports	260,983
2	Registrar of Companies	19,338
1	Department of Environment Headquarters	14,206
	Public Service Commission	4,690
	Total unapproved operating expenditures	<u>\$34,115,961</u>

1 These Departments also incurred unapproved expenditures for 2007.

2 These Departments also incurred unapproved expenditures for 2006.

There is a process by which Departments can avoid current over-spending without obtaining supplementary estimates. Legislation allows unused current budget allocations to be vired (transferred) from one Department to another within the same Ministry with the written approval of the Minister concerned and the Minister of Finance. The fact that some Departments do not even bother to do this supports my view that breaching legislated expenditure limits is of little concern to them.

#### Capital expenditure appropriations

*Legislated capital expenditure limits also continue to be breached*

Several Departments also overspent expenditure limits imposed by the House in capital expenditure appropriations. These over-spending totalled more than \$7 million in 2008 (2007 - \$1.7 million). These are unauthorized expenditures similar to those listed above.

*The Ministry of Finance needs to intensify its efforts to re-confront these problems*

In 2002, the Ministry of Finance impressed on Departments the seriousness of over-spending appropriations. This included requiring Departments to submit formal explanations for their over-spending, and threatening sanctions against those that exceeded their spending limits for two consecutive years. For a while, matters improved. It appears, however, that the Ministry needs to reinforce its message to offending Departments and perhaps carry through on its threat of sanctions.

#### Ministry of Finance response

The Ministry of Finance agrees that Departments should be discouraged from overspending their appropriations, but more recently stated that it *disagrees that in all circumstances Supplementary Estimates should be made in advance of incurring additional expenditures*. This disagreement is based on the Ministry's interpretation of Section 96 of the Constitution which states that supplementary estimates shall be obtained *showing the sum required or spent* (my emphasis).

In my opinion, the words "or spent" are intended to provide a post-event remedy for dealing with a Constitutionally prohibited act similar, for example, to that provided in legislation for traffic offences. In my opinion, the provision of a remedy does not make the originally prohibited action permissible. For example, the provision of fines for going through stop signs does not make the offence permissible or legal.

This matter was reviewed by the Attorney-General's Chambers in

*The Public Accounts Committee believes that overspending appropriations renders the budgetary process ineffective*

1998 which concluded that only in very unusual circumstances could supplementary estimates be obtained after the spending of the funds. Furthermore, in a report tabled in the House in December 2006, the Parliamentary Standing Committee on the Public Accounts expressed concern about these overspendings and stated *failure to rectify this process renders ineffective the entire budgeting process, and compromises the House of Assembly's ability for proper oversight and approval.*

*Supplementary Appropriation Bills are six years in arrears*

Section 96(4) of the Bermuda Constitution Order requires a Supplementary Appropriation Bill to be introduced in the House as soon as practical after year-ends to cover that year's overspendings. No such Appropriation Bills appear to have been introduced for fiscal 2002 and succeeding years.

**Recommendation No. 6**

The Ministry of Finance should prepare Supplementary Appropriation Bills to agree approved expenditures with actual amounts per the financial statements for 2002 and succeeding years.

*Audit delays*

Unapproved expenditures was another area where the late (almost five months) provision of information suspended audit work and thereby contributed to delays in completing the 2008 audit.

#### **4.2.8 Revenues and accounts receivable**

The 2008 audit of revenues and accounts receivable focused primarily on those Departments that collect the majority of the Consolidated Fund's \$928 million revenues. The following were among the concerns noted:

##### Office of the Tax Commissioner

The Office of the Tax Commissioner collects a major portion of the Consolidated Fund's annual revenues. These include payroll tax (\$338 million), land tax (\$45 million) and hotel occupancy tax (\$13 million).

##### Tax collecting

*Collection of some payroll and land taxes are seriously in arrears*

In Section 2.7 of this Report, I express concern about the amount of payroll and land taxes owing and past-due. Payroll taxes are payable by employers within 15 days of the end of each quarter, and land taxes are payable in April and September. \$35 million of these taxes were more than 90 days past-due at June 2008.

The Tax Commissioner's collection efforts continue to be, to some



*An outdated and inefficient computer system has been a problem for years*

extent, constrained by seriously outdated and inefficient computer systems. Among the systems' many problems are that they cannot match taxes collected with individual assessments or penalties, and cannot calculate all the penalties provided for by the Taxes Management Act. If a taxpayer fails to submit a return and an automatic assessment is generated, the systems only levy penalties to the date of the automatic assessment, not for subsequent periods.

The systems also cannot provide the taxes receivable information needed by the Accountant-General's Department at year-ends until one month after it is needed. Further, the system that generates the value of unfiled tax returns is unreliable, costly to run, and requires major clerical intervention.

*The Public Accounts Committee endorses the need for a better computer system*

The Tax Commissioner has for years, with my support, requested upgrades to these computer systems. The Parliamentary Standing Committee on the Public Accounts also recommended that a new system be brought online by March 2007. Despite this, I was informed in December 2007 that work on upgrading the current systems had stopped because funding was withdrawn. More recently I was informed that some funding to restart the work is in the 2008-09 budget, and it is hoped that funding will be provided in the following year to begin design on new systems.

Registering consultants

During the 2008 audit, it was noted that an investigation by the Tax Commissioner had revealed that approximately 30% of the consultants retained by the Government are not registered and paying payroll taxes as required by the Payroll Tax Act 1995. This represents a significant loss of Government revenue.

Appendix 2 to this report contains recommendations that address some of the above and related concerns.

H. M. Customs

Most customs duties (\$230 million in 2008) are collected and processed at the Department's Hamilton and Airport offices (longrooms). At both locations, there remained weaknesses in the controls for ensuring that all duty levied and collected is accounted for and deposited.

*Controls are needed to ensure that all customs*

At both the longrooms, receipts were not issued for all monies received with Customs Declaration forms. Providing receipts for all monies received is Government policy (*Financial Instructions*). If (pre-numbered) receipts were issued for all monies received, each

*duties collected are accounted for and banked*

day the value of receipts issued could be agreed to the monies recorded and deposited in the bank. Absent this control, monies received could be misappropriated with little chance of detection. A misappropriation of \$1,300 occurred in 2006 and the perpetrator was never identified.

Since then, cash handling controls have been strengthened but there is still no assurance that all monies received are accounted for and deposited in the bank each day. As such, there is still scope for misappropriations to occur with little chance of detection.

*Controls can be circumvented*

There are other control procedures designed to help ensure that customs duties are appropriately levied and collected. For example, staff are required to record monies received on a spreadsheet. Also, after customs duties are paid and the goods released, the Customs Declaration forms are processed through a computer system that checks the correctness of the duty levied, and generates daily reports that are agreed to the bank deposit slips. These controls would be useful were they not capable of being circumvented.

For example, there is no way of ensuring that all transactions are recorded on the spreadsheet, and daily totals are not agreed or reconciled to the reports generated by the system that processes the Customs Declaration forms. As well, staff can manually override the customs duty calculated by the system, and therefore manipulate the totals on the reports it generates.

*The Accountant-General's Department does not investigate differences*

Furthermore, no individual reconciles the totals on these reports to the Summary (5A) forms that are sent to the Accountant-General's Department as support for the amounts banked. This control weakness is important because the bank account is one of those mentioned in Section 4.2.4 above for which the Accountant-General's Department performs monthly reconciliations many months in arrears and makes ineffective effort to investigate the many and material reconciling adjustments the process eventually identifies.

There are similar control weaknesses with the collection of passenger tax for people arriving and departing Bermuda by yacht. The receipts issued for passenger tax are not reconciled daily to the amounts banked to ensure that all amounts received are banked.

*You can't go on waiting for CAPs*

Appendix 2 to this Report contains a recommendation that HM Customs take steps to eliminate the control weaknesses in its procedures for handling and recording customs duty receipts. In

*to solve all the problems*

response to this recommendation, and two others made in 1998, HM Customs has stated each year that the new Customs Automated Processing system (CAPS) will be implemented soon and will remedy all the problems. CAPS was originally to be implemented in 2001, but I understand that full implementation of the system is not expected to be before December 2008. The system still has serious problems and is not fully implemented.

I sympathize with Customs officers and staff whose efforts to control and account for revenues are hampered by antiquated computer systems unsuited to current-day procedures and needs. But if further delays in implementing CAPS appear likely, consideration should be given to further strengthening existing controls in the interim.

#### Registrar of Companies

The Registrar of Companies collected fees totalling more than \$55 million during 2008.

*The Registrar needs to verify that company fees collected are correctly calculated*

Legislation requires exempt companies based in Bermuda to pay annual fees based on their assessable capital (i.e. the value of certain net assets). Local companies' fees are based on their issued share capital. The legislation, however, does not empower the Registrar to require companies to provide reliable evidence (e.g. audited financial statements, an auditor's certificate) to determine whether the fees that are paid are based on the correct figures.

In 2007, the Registrar asked a number of companies to provide suitable evidence, but very few did, apparently because there is no legal requirement to do so. I suggested that the Registrar, through the Minister of Finance, seek a legislative amendment to require companies based in Bermuda to provide credible documentary evidence of the basis for calculating annual fees. In response to a similar audit concern during the previous audit, the Registrar agreed to raise the matter with the Minister of Finance, but it appears that the matter has not been taken up.

#### **4.2.9 Inter-Fund accounts**

The Consolidated Fund operates inter-fund accounts with other Government funds and quangos. In a properly controlled accounting environment, an inter-fund account in the books of the Consolidated Fund should agree with the corresponding inter-fund account of the other fund or quango. In practice they rarely do.

*There were material unresolved differences on inter-fund accounts*

At year-ends, the Accountant-General's Department spends considerable time and effort trying to agree the Consolidated Fund's inter-fund accounts with the accounts in the books of the other funds and quangos. This task is rendered more difficult because the accounting records of many of the Funds are significantly in arrears. At March 2008, there were material unresolved differences in several of these inter-fund accounts. These year-end problems could be mitigated if the Accountant-General's Department agreed (or reconciled) all inter-fund balances monthly and, where necessary, provided guidance to accounting staff at the funds and quangos on how to maintain accurate inter-fund accounts.

I have been informed by the Accountant-General that her attempt to work with quangos to ensure that inter-organization account balance has, in some cases, been rebuffed - in the name, I suppose, of turf protection. If this is true, this ill-founded attitude needs to be eliminated at once. Quangos are in no position to refuse to cooperate with the Accountant-General. During the audits of their inter-organization balances, they will need the cooperation of the Accountant-General. Ultimately, of course, there is but one entity, the Government of Bermuda, and it is simply unacceptable that one part would refuse to cooperate with the others. The Accountant-General will continue her efforts to reconcile the inter-organization balances. I hope that this exposure of uncooperative activity within the Government entity will be sufficient to put an end to it. If not, the Minister of Finance may need to issue an official reprimand.

#### **4.2.10 Capital assets**

*Insufficient quotes are being obtained for some capital expenditures*

Capital assets was the only area where accounting had materially improved compared to the previous year. However, a large number of adjustments were made late in the audit process. In addition, some Departments are still not complying with the Government requirement (*Financial Instructions*) to obtain at least three quotations when purchasing goods with a value in excess of \$5,000. No evidence was available to show that three quotations had been obtained for 56% of a sample of capital asset expenditures selected for audit examination.

#### **4.2.11 Public Service Superannuation Fund**

The Ministry of Finance still does not budget and account for annual deficits of the Public Service Superannuation Fund (PSSF)

in the manner required by the Public Treasury (Administration and Payments) Act 1969 (the Act).

*Prior legislative approval is needed for Government contributions to PSSF*

The Act requires all payments from the Consolidated Fund to be authorized before they are made, either by statute (usually an annual Appropriation Act) or by a pre-authorized supplementary estimate. Section 10 of the Act specifically states that *the Minister (of Finance) shall pay into the (PSSF) any amounts which may be authorized by the Legislature* (my emphasis) *from time to time as Government's contribution to (PSSF)*. All of this means that prior approval of the House of Assembly is needed before the Consolidated Fund can make contributions to the PSSF.

PSSF expenditures for pension benefits and receipts for premium contributions are transacted through the Consolidated Fund bank account. They are then channelled through inter-fund accounts to PSSF. This arrangement is sanctioned by Section 23 of the Act which authorizes temporary inter-fund advances.

*\$88 million was contributed to PSSF without prior legislative approval*

For years, PSSF's pension benefits paid exceeded its income from premium contributions, usually by about \$11 million a year. This caused the inter-fund accounts to accumulate large balances owing to the Consolidated Fund. To prevent these balances becoming excessive, the Ministry established the practice of periodically forgiving them, i.e. the Consolidated Fund wrote them off. In March 2001 it wrote off \$36 million and in March 2005 it wrote off a further \$52 million. In effect these were contributions by the Consolidated Fund to PSSF, i.e. they were actual net cash expenditures from the Consolidated Fund. The problem is they were not pre-approved by the Legislature as required by Section 10 of the Act (see above). Of more concern, perhaps, at the date of this Report supplementary estimates have still not been obtained for either the \$36 million or the \$52 million that have been paid out of public funds.

**Recommendation No. 7**

The Ministry of Finance should prepare a Supplementary Appropriation Bill for \$88 million in respect to monies paid out of the Consolidated Fund in excess of that received on behalf of the PSSF and subsequently forgiven in the form of grants.

*Further contributions will likely be needed*

PSSF's pension premiums were increased for 2007 and 2008, and will increase again for 2009. These increases will help reduce, but will not eliminate, the accumulation of inter-fund indebtedness. At March 2007, PSSF's indebtedness to the Consolidated Fund had accumulated to \$22 million. The PSSF paid this by selling investments worth \$21 million.

### 4.3 AUDITS OF GOVERNMENT-CONTROLLED ORGANIZATIONS

I audit Government-controlled organizations pursuant to Section 6 of the Audit Act, and the statutes under which the organizations operate. Organizations are deemed Government-controlled if Government has, by whatever means, the power to require their affairs to be conducted in accordance with the Government's wishes.

The 13 Government-controlled organizations operating at March 31, 2008 were:

- Bermuda Arts Council,
- Bermuda College,
- Bermuda Hospitals Board,
- Bermuda Health Council,
- Bermuda Housing Corporation,
- Bermuda Housing Trust,
- Bermuda Land Development Company Limited,
- Bermuda Small Business Development Corporation,
- Board of Trustees of the Golf Courses,
- CedarBridge Academy,
- Pension Commission,
- Trustees of the National Sports Centre, and
- West End Development Corporation.

At the date of this report (February 2009), the following organizations had not issued audited financial statements for the fiscal years indicated:

- Bermuda Arts Council (2008),
- Bermuda College (2005, 2006, 2007 and 2008),
- Bermuda Hospitals Board (2008),
- Bermuda Land Development Company Limited (2008),
- Bermuda Small Business Development Corporation (2008),
- Board of Trustees of the Golf Courses (2006, 2007 and 2008),
- CedarBridge Academy (2008), and
- Pension Commission (2007).

The reasons why the above organizations have not issued audited financial statements are explained below. The following are matters that arose from audits of Government-controlled organizations completed since my last Annual Report (January 2008) that I believe warrant the attention of the House of Assembly:

### 4.3.1 Bermuda Arts Council

*Financial reporting  
is a year in arrears*

The audited financial statements of the Bermuda Arts Council for the years ended March 2006 and 2007 were issued in January 2009.

*Qualified audit  
opinions*

My auditor's reports on both statements contain qualified opinions because the Council receives donation revenue which, by its nature, cannot be audited satisfactorily. This qualification does not necessarily reflect adversely on the Council's financial records.

The following were among the other matters reported to the Council at the conclusion of the 2006 and 2007 audits.

#### Inadequate accounting records

*Accounting records  
were inaccurate and  
incomplete*

As in previous years, both audits were complicated and delayed by inaccurate or incomplete accounting records, unavailable supporting documentation and slow responses by management to requests for information. For example:

- no applications could be located to support the payment of several of the grants selected for audit examination (2006 – for 38 of 53 payments; 2007 – for nine of 62 payments),
- no approval letters could be located to support the payment of some of the grant payments selected for audit examination (2006 – eight of the 53 payments; 2007 – two of the 62 payments),
- there was no discussion or approval in the Council's minutes for two of the grants paid each year,
- a few of the grants paid were for different amounts than were approved in the Council's minutes,
- an increasing number of grants are being paid to organizations with which Council members are associated, yet the Council has not adopted conflict of interest policies,
- suppliers' invoices were not available to support a number of non-grant expenditures selected for audit examination during both years. Some of these payments differed from the amounts approved in the Council's minutes. Two invoices totalling \$2,320 were paid twice in 2005. By March 2007 the amounts overpaid had still not been recovered. As well, throughout both years, there was still no contract to verify that the rates charged for accounting services were correct, and
- in both years, the minutes for six of the Council's meetings were not formally approved.

Legislative non-compliance

*Legislated  
accountability  
reporting  
requirements are  
not being met*

The Council is still not complying with Section 7 of the Bermuda Arts Council Act which requires it to report to the Minister “*on the exercise and performance by them of their functions during that year and as to their policy and programme*”. This prevents the Minister from complying with the requirement in the Act to table these reports in the House, together with the audited financial statements.

At the conclusion of the 2006 and 2007 audits, I made a number of detailed recommendations to the Council, some dating back to 2003, to address the above and other accounting problems revealed by the audit.

Status of 2008 audit

The audit will begin after the Council makes the 2008 accounts available for audit.

**4.3.2 Bermuda College**

*Financial reporting  
still four years in  
arrears*

Annual financial reporting by Bermuda College is still seriously in arrears. The audited financial statements for the year ended March 2004 were issued in January 2009.

*Audit delays*

The 2004 audit was delayed by uncertainties about the financial impacts of an agreement under which the College leased the former Stonington Beach Hotel property to a private company in May 2003. I described these uncertainties in a Special Report to the House of Assembly dated April 2004. Staff turnover at the College and poor accounting records caused further delays. The audit was discontinued and resumed several times because needed information and documentation were not available. The College, therefore, is not complying with Section 5 of the Bermuda College Act which requires it to *cause proper accounts of the financial affairs of the College to be maintained*.

*Qualified audit  
opinion*

My auditor’s report on the College’s 2004 financial statements contains a qualified opinion because several of the assets, liabilities, revenues and expenses in the statements were not susceptible of satisfactory audit verification. For example:

*Significant  
inaccuracies*

- Audit testing revealed significant inaccuracies and lack of documentation to support reported expenditures. A statistical extrapolation of errors detected estimated total errors of almost



\$200,000.

*Lack of information*

- Management was unable to provide satisfactory explanations for material variances in budget and year-on-year variances for many expenditure categories.
- There was no documentation to support the appropriateness of a \$17,000 amortization of capital contributions, or explanations for budget and year-on-year variances on certain revenue categories.

*Lack of information*

- No documentation or other support was available to verify the appropriateness of more than \$41,000 of accounts payable at year-end. In addition, the College had not obtained an actuarial valuation for its obligation associated with continued pay after retirement for long-services employees.

*Lack of information*

- No support or information was available to explain almost \$15,000 apparent differences in the balances on several scholarship and similar Funds.

The following were among other concerns reported to the College at the conclusion of the 2004 audit:

#### Purchasing

Despite having implemented a new purchasing system and related policy manual, the audit revealed numerous control weaknesses and failures to comply with procedural requirements. For example:

*Control weaknesses  
in purchasing  
procedures*

- purchase orders were not being used on a regular basis;
- purchase orders were being generated after receipt of the invoice;
- there was often no evidence that goods or services were received,
- invoices were paid without evidence that payment was authorized;
- invoice payments and purchase orders were authorized by the same person; and,
- payments were made without invoice support on file.

#### Restricted funds

The College has no monitoring or other procedures in place to ensure that it receives all the income to which it is entitled for almost \$600,000 of “restricted funds” held by an investment broker. Further, it lacks procedures to ensure that restricted funds are used only for the purposes prescribed by the donors.

Capital assets

The College does not maintain a capital assets register or similar record to exercise physical and financial control over its capital assets.

Payroll

*Control deficiencies  
in payroll procedures*

There are serious control deficiencies in the College's payroll function. Staff who prepare and process payroll can also access and change data on the computerized Human Resources system master files. This combination of functions creates potential for payroll fraud.

Audit testing revealed a number of errors in payroll records. These included staff paid at normal and overtime rates that differed from collective agreements or employee contracts, and personnel files that lacked important pay-increase or promotion documentation. As well, staff were allowed to carry forward unused vacation entitlement in excess of amounts mandated in the Government's Conditions of Employment and Code of Conduct.

Legislative non-compliance

*Accountability in  
arrears*

Section 8 of the Bermuda College Act requires that *The Board shall...not later than four months after the close of their accounting year submit an annual report to the Minister on the activities of the College.* Section 8(2) states that *The Minister shall...lay such report before both Houses of the Legislature.* The College is not complying with these legislative requirements.

Status of audits in arrears

The 2005 accounts were received in January 2008. At the date of this report (February 2009), work is proceeding on the College's 2005 audit. Accounts for 2006, 2007 and 2008 have not been received.

At the conclusion of the 2004 audit, I made a number of detailed recommendations to the Board of the College to address the above issues and other accounting problems revealed by the audit. The following summarizes those recommendations:

**Recommendation  
No. 8**

To improve accountability and financial management, the Board of Bermuda College should strengthen its accounting records and controls, and bring its financial and account-ability reporting up-to-date as required by legislation.

### 4.3.3 Bermuda Health Council

The Bermuda Health Council is mandated to ensure the provision of essential health services for Bermudians by regulating health services and health service providers.

The Council's audited financial statements for the two years ended March 2007 and 2008 were issued in January 2009. None of the matters reported to the Council at the conclusion of the two audits warrants the attention of the House of Assembly.

### 4.3.4 Bermuda Hospitals Board

The last audited financial statements issued by the Bermuda Hospitals Board were for the year ended March 2007, and those were issued in 2007.

At the date of this report (February 2009), the Board's 2008 audit was substantially complete but was awaiting certain documentation and information needed to finalize the audit.

### 4.3.5 Bermuda Housing Corporation

The following were among matters reported to the Bermuda Housing Corporation at the conclusion of the 2008 audit:

#### Computer system and data risks

*A vital computer system is old, unreliable and unable to meet all operational needs*

The Corporation's custom-built central (general ledger) accounting system is 25 years old. Its deficiencies include limited data storage capacity and reporting capabilities, and poor access control features. All data must be purged from the system each year, thereby preventing it generating longer-term management reports. Even most monthly reports must be prepared by downloading data onto other systems then adjusting post-closing entries manually. These processes are clerically inefficient and increase the likelihood of errors. As well, the system's poor security features limit the effectiveness of controls to prevent inappropriate access to data, and to ensure proper segregation of staff duties.

*Inadequate system support is also a*

Another major concern is that only one contractor has comprehensive knowledge and experience of the system. For the operation of such an important accounting system to be dependent

*concern*

on the continuing availability of one person is, in my view, an unacceptable business risk.

Information technology and disaster recovery practices

The Corporation's business is highly dependent on the smooth operation and continued availability of its computer systems and information. A major processing interruption or loss of critical computer resources for an extended period could seriously disrupt the Corporation's operations.

*The information technology environment has changed*

The changes made to the Corporation's information technology resources and practices have not yet been formally documented and made available to staff. Similarly, the Corporation still does not have a complete and formally approved recovery and business resumption plan in the event that its computer equipment, programs or data are lost in a fire or similar disaster. I am aware that Management has in place some arrangements and procedures to address the risks associated with loss of data or processing capacity. I also understand that a more comprehensive business continuity and resumption plan is being developed, and has been for more than two years.

*More urgency is required*

In view of the seriousness of the risks involved, I believe that greater importance should be attached to finalizing, testing and communicating to staff a comprehensive business continuity and recovery plan. Critical elements of the disaster recovery arrangements should be tested periodically.

Completeness of asset ownership records

The Corporation's largest asset is a varied portfolio of real property acquired over the years valued at more than \$75 million. These are rental properties purchased by the Corporation or by the Government and transferred to the Corporation. Some transfers were effected by conveyance of the properties and others by Government vesting orders.

*The Corporation does not have title documents for all of its properties*

To ensure that the Corporation has good title to these properties, the Corporation should have, or have control of, the title deeds or vesting orders. However, many of these documents are, or are assumed to be, in the possession of the Ministry of Works and Engineering.

I acknowledge that identifying and assessing the adequacy of documentation for all properties owned and rented by the

Corporation will be a difficult and time-consuming process. I also acknowledge that the adequacy of documentation is being established for properties on which development is undertaken. However, until the necessary documentation is assessed and under its control, the Corporation cannot be assured that its property rights are secure.

Mortgage documentation

*Important  
documentation  
is missing*

Some of the Corporation's mortgage files, relating back to years when management controls were inoperative, lack all the necessary documentation to show that business was conducted in accordance with approved practices. This situation could hinder the Corporation's ability to protect its interests in the event of future legal or other problems.

Missing documents include documentation relating to option confirmations obtained from banks, mortgage-officer sign-offs and Board approvals. Without these, there is insufficient evidence that loans were made in conformity with the Corporation's established business practices and that appropriate security is in place. A few documentation deficiencies were also noted in more recent files.

Mortgages receivable management

*Management of  
mortgage arrears  
is weak*

The Corporation needs better collection policies and procedures to manage effectively its \$11.5 million portfolio of mortgages receivable. During the year ended March 2008, the Corporation allocated insufficient staff resources to handle and follow-up situations where property-owners are behind with their mortgage payments.

In addition, the Corporation does not provide for uncollectible mortgage loans on the assumption that the value of the property is sufficient collateral. In my view, today's economic environment, where scarcity of credit is eroding property values, could render this assumption invalid.

Appendix 2 to this report contains four recommendations that address most of the above concerns

**4.3.6 Bermuda Housing Trust**

My auditor's report on the 2008 financial statements of the Bermuda Housing Trust contains a qualified opinion for two

reasons:

- There is insufficient evidence to verify the reasonableness of management's estimate of the total amount of rents repayable to former tenants whose rents were increased in 1997 without the approval of the Rent Commissioners.
- The Trust receives donation revenue which, by its nature, cannot be audited satisfactorily. This qualification does not necessarily reflect adversely on the Trust's financial records.

#### **4.3.7 Bermuda Land Development Company Limited**

The last audited financial statements issued by the Bermuda Land Development Company Limited were for the year ended March 2007, and those were issued in 2007.

At the date of this report (February 2009), the Company's 2008 audit was substantially complete but was awaiting certain documentation and information needed to finalize the audit.

This is the first time that the financial statements of BLDC fall into the delinquent category and, as such, it is a surprise. Management has promised not to find itself here again.

#### **4.3.8 Bermuda Small Business Development Corporation**

*Financial reporting  
is a year in arrears*

The audited financial statements of the Bermuda Small Business Development Corporation for the year ended March 2007 were issued in January 2009. The following were among the matters reported to the Corporation at the conclusion of the audit:

##### Accounting deficiencies

The following accounting and control deficiencies were noted during the audit:

- Monthly bank reconciliations were not performed and approved promptly.
- Cheques required only one signature.
- There were no management review and approval procedures to ensure the accuracy and completeness of payroll, overtime, vacation and sick day records.
- Invoices to support expenditures were difficult, and sometimes impossible, to find due to the lack of a proper filing system.
- Inconsistent receipting of certain revenues created a control weakness and potential for misappropriations.

Legislative non-compliance

*Accountability reporting is years in arrears*

Section 18 of the Bermuda Small Business Development Corporation Act requires the Corporation, *inter alia*, to present its financial statements for audit within six months of its year-ends, and to provide the Minister (of Finance) with annual reports on the operations of the Corporation. No such reports appear to have been prepared for 2002 and succeeding years, which means that the Minister is unable to comply with Section 19 of the Act which requires her to table such reports in the House.

Status of the 2008 audit

At the date of this Report (February 2009), the 2008 accounts had not been made available for audit.

**4.3.9 Board of Trustees of the Golf Courses**

*Financial reporting is still three years in arrears*

The financial reporting of the Board of Trustees of the Golf Courses (the Board) continues to be in arrears. The 2005 audited financial statements were issued in January 2008.

*Financial reporting has been in arrears for a variety of reasons*

The Board has a history of inadequate and late financial reporting. Annual financial statements for the three years to March 2002 all received qualified audit opinions because some of the information therein could not be audited. Major delays occurred because the Board was often inordinately slow to respond to requests for information, documentation and signatures needed to finalize those audits. I am pleased to acknowledge that that has not been a problem in recent years. The Board is making concerted efforts to bring its reporting up-to-date, albeit that the legacy of poor accounting records affected the 2003, 2004 and 2005 audits.

Denied audit opinion

*Denials of audit opinions*

My auditor's report on the Board's 2005 financial statements contains a denial of opinion because, as explained below, the appropriateness and accuracy of many figures in the statements could not be verified. My auditor's reports on the Board's 2003 and 2004 financial statements contained denials of opinions for similar reasons.

The main reasons for the denial of opinion for 2005 were as follows:

- There were no detailed breakdowns of the recorded operating

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*Operating expenses could not be verified*

expenses for some golf courses for various periods, or invoices or other supporting documentation to verify the appropriateness of many transactions.

*Employee files were missing or incomplete*

- There were no employee files for some employees, and many available files lacked information about approved wage rates and terms of employment needed to verify the accuracy and validity of payroll expenses. Employment contracts could not be located for some employees.

*Inventory valuations could not be verified*

- The absence of information about approved wage rates also prevented the verification of the value of accrued employee vacation pay at year-ends.

- Although there were year-end inventory listings, invoices or similar documentation were not available to determine whether inventories were valued appropriately. This is likely to be a problem until March 2007.

*Delayed annual audits can increase the risk of fraud*

Although financial statement audits are not designed to detect fraud, prompt audits can deter fraud because staff believe that audits might uncover dishonest behaviour. They also know that when audits are years in arrears, and important records are not available for audit, any chance of uncovering dishonest behaviour is virtually eliminated.

The following other concerns were reported to the Board at the conclusion of the 2005 audit:

- Purchase orders, invoices and payment approvals were not available to support the acquisition of some capital assets.
- Minutes of many of the Board of Trustees' meetings were not signed and approved.
- Annual reports on the exercise and performance of the Board's functions, required by Section 13 of the Golf Courses Act, have never been submitted to the Minister for tabling in the House of Assembly.

#### Status of the years in arrears

As of the date of this Report (February 2009) the 2006 audit is in progress. We believe the 2007 and 2008 accounts would be available to us when we ask for them.



#### 4.3.10 CedarBridge Academy

The last audited financial statements issued by CedarBridge Academy were for the year ended March 2007, and those were issued in 2007.

At the date of this report (February 2009), the Academy's 2008 audit was substantially complete but was awaiting certain documentation and information needed to finalize the audit.

#### 4.3.11 National Drug Commission

The 2005 and 2006 audited financial statements of the National Drug Commission were issued in January 2009.

The Commission was dissolved in February 2006 with the understanding that the Commission's management remain accountable for its affairs prior to that date. The Commission's operations were transferred to the Department for National Drug Control which is now under the Ministry of Culture and Social Rehabilitation.

##### Background

*Accounting records and management co-operation have been poor*

The 2001 audit was completed in 2003. For several years thereafter, despite frequent requests, management could not or would not provide accounting records for audit, or co-operate with the audit process. When records were eventually made available, they were found to be unbalanced, incomplete, unsupported and generally inadequate. Audits also revealed an almost total absence of internal and accounting controls, and Board oversight.

*Denials of audit opinions*

Whether this was due to managerial incompetence, or a purposeful unwillingness to maintain proper books of account, or an attempt to conceal improper conduct, is unclear. But in such circumstances professional auditing standards clearly require that I deny my audit opinion on the Commission's financial statements for 2002, 2003 and 2004. This is a very, very serious situation since it establishes that no officer has been held accountable for the expenditure of \$11.8 million over the three years.

##### Audits completed this year (2005 and 2006)

As the following paragraphs illustrate, lack of documentary and other evidence made it impossible to audit most of the

*Denials of audit opinions*

Commission's assets, liabilities, net assets, revenues and expenses. Deficiencies in internal controls were so serious and pervasive that I could not determine whether property entrusted to the Commission had been properly managed. I am also not satisfied that all revenues and expenses were recorded, or whether those that were recorded were proper. Hence I again issued denials of opinion for 2005 and 2006. Once again, no officer has been held accountable for the expenditures during 2005 and 2006 – this time for \$8.4 million. The total over the five years equals \$20.2 million that were expended out of public funds without any accountability.

Auditors issue denials of opinion only in very serious situations. Professional standards call for denials where deficiencies in accounting records and controls are so significant and pervasive that they limit the scope of the auditor's work to the extent that there is no basis for the expression of an opinion.

The following were among the matters reported to the Department for National Drug Control at the conclusion of the 2005 and 2006 audits. Most of these contributed to my denials of opinions.

Misappropriation and apparent misappropriations

*Fraud*

During the year ended March 2005, the Commission's Executive Secretary fraudulently secured payment of \$3,290 for airfares for her relatives. How or by whom this payment was approved could not be determined.

*Credit card were used for personal expenses and wrongly accounted for*

In addition, there were 90 credit card transactions totalling \$13,000, almost all of which were not recorded in the Commission's general ledger, that were suspect as to their legitimacy. Many were charges to vendors that provide goods or services not normally used by the Commission, e.g. Victoria's Secret. For half of all credit card payments, no statements or other valid documentation could be provided to substantiate their validity. As a result, the correctness of the accounting for many of the credit card payments recorded in the general ledger could not be verified, and several appeared to be wrong.

*Personal expenses have not been recovered*

Many of the same problems persisted throughout the period ended February 2006. Several credit card charges appear to be personal rather than business related. In addition, throughout the two years most credit card bills were paid late resulting in substantial late fees and finance charges. As of the date of this report, the Department for National Drug Control had not identified nor attempted to recover credit card charges that were personal in nature.

Bank accounts

*It is unclear how many bank accounts were operated and how much some of them contained*

There were significant, unreconciled differences in the Commission's bank accounts at the end of both years. No bank statements could be provided for some accounts, yet a few statements were seen for accounts not in the general ledger. For example, no statements or confirmation could be provided for an account in the general ledger showing a balance of \$8,172. Audit enquiries at local banks uncovered accounts, one containing \$13,700, that were not recorded in the Commission's books.

Management was unsure exactly how many bank accounts the Commission had, in which bank they were opened, or the purpose and nature of the accounts. For the above and related reasons, it was impossible to verify the accuracy of the cash figures on the Commission's balance sheets at both year-ends.

Capital assets

*Capital asset figures were not reconciled or supported*

It was impossible to verify the accuracy of capital asset figures on the balance sheets at the end of both years, or for many of the additions during those years. The capital asset costs per the trial balance at both year-ends differed from the figures on the balance sheet by more than \$100,000, a difference that predates 2002.

*Internal controls were deficient and many acquisitions were unsupported*

Internal control over capital asset acquisitions was deficient in that the same individual could request, authorize and receive an asset. During 2005, a Sony laptop was purchased that cannot now be located. There were no invoices to support 80% of the assets purchased during 2006, and one acquisition for \$3,500 was paid for twice.

Accounts payable

*Accounts payable could not be balanced or verified*

The general ledger accounts payable figures did not agree to the accounts payable sub-ledger at March 2005 or 2006 (the difference at March 2006 was \$16,000). No invoices or other documentary evidence could be provided to verify the accuracy of virtually any of the amounts included in accounts payable at either year-end. Following previous audits, management stated that accounts payable were being reconciled monthly, but that was obviously untrue.

Payroll expenditures

*Payroll figures were*

Payroll records could not be reconciled to the general ledger for either year. In addition, personnel files often lacked information

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*not reconciled and were poorly supported*

such as employee contracts, start and finish dates, and salary rates and increases. Supporting schedules provided by management contained conflicting and inaccurate information. An effort by audit staff to test the reasonableness of total payroll expenses resulted in an unexplained difference of \$67,000.

*Merit awards were paid without proper approvals*

There was little documentation supporting the basis for, and approval of, merit awards paid to staff (totalling \$48,000 in 2005 and \$81,800 in 2006). The personnel files of most recipients of these awards did not even contain performance appraisals, even though some of these awards were supposed to be based on appraised performance. Three staff received performance awards of approximately \$9,000, each and the CEO received awards totalling \$11,000.

##### Revenues and accounts receivable

Management was unable to provide adequate supporting documentation to demonstrate the accuracy and completeness of several revenue accounts for both years. Examples in 2005 were donations - \$6,300; rentals - \$86,300; miscellaneous income - \$22,500.

##### Grant payments

*The Commission does not know if the grants it disbursed were used appropriately*

During 2005 and 2006, the Commission disbursed grants totalling \$1.4 and \$1.1 million respectively to various organizations. For most of this money, the Commission was unable to provide documentary evidence that appropriate applications had been received, assessed or approved. For most, there was no evidence that grant recipients had signed contracts setting out accountability responsibilities, or that the Commission had attempted to determine whether the grants were used for the purposes intended. This is contrary to the requirements of *Financial Instructions* and best practice.

##### Operational expenditures

*Expenditures were inadequately supported*

57% in 2005 and 86% in 2006 of operational expenditure payments examined during the audit lacked documentation to verify that the goods or services had been ordered, or were proper or appropriate, or were received and paid appropriately, and with proper authority. These included missing purchase orders, missing invoices, and missing or inappropriate approvals. Control over ordering and expenditures for both years was grossly inadequate and offered numerous opportunities for misappropriation of public money and

other assets.

Travel expenses

*No receipts for travelling expenses*

It was impossible to verify the accuracy of travel expenses, partly because supporting documentation was inadequate and incomplete, and partly because there were indications that some travel expenses were charged to other account codes. The Commission's Audit Committee established a policy requiring receipts to be submitted for all travel costs and for unused travel advances to be refunded. This policy was not followed. As well, minutes were not available to determine whether some travel expense claims had been approved by the Executive Committee.

Consultant's report

*Consultant's recommendations were largely ignored*

In early 2002, the Commission obtained (for \$12,000) a consultant's report on the adequacy of its accounting policies, procedures and controls. The report contained 22 recommendations for improvement, many of which were similar to recommendations that arose from previous annual audits. The report indicated that the Commission had responded that it had already implemented, or would implement, most of the recommendations. It had not done so, and did not do so at a later time.

Inappropriate segregation of duties

*There was considerable potential for fraud*

Throughout the two years, the Commission's Administrative Officer had access to unused cheques, monies received, bank statements, returned cheques, purchase orders and, as well, was responsible for recording transactions in the accounting records. In addition, as reported above, several employees often prepared purchase orders, received the goods and approved the related invoices for payment. With this combination of duties, the people involved could easily commit and conceal fraud, or alternatively, would be the prime suspect if someone else committed a fraud in these areas. This state of affairs persisted up until the Commission was dissolved in 2006.

Legislative non-compliance

*Late accountability reporting*

Section 21 of the National Drug Commission Act 1993 required the Commission to submit to the Minister, within six months after the end of each financial year, audited financial statements, and the Minister is required to table them in the House of Assembly. These legislative requirements were never met.

Board of Directors oversight

*The Board of Directors failed in its legislated responsibilities*

The deplorable state of the Commission's accounting records and financial controls demonstrates clearly that the Board of Directors failed in its fiduciary responsibility to *devise and execute the policy of the Commission and to administer and manage its affairs* as required by Section 8(1) of the National Drug Commission Act. More perplexing still is that the Board created an Audit Committee to monitor these matters. How the many and pervasive deficiencies in accounting controls, records and reports could have persisted year after year if the Audit Committee understood its oversight responsibilities is difficult to understand.

Section 10 of the Act makes the *Chief Executive Officer...responsible for the day to day management of the Commission and, subject to the directions of the Board of Directors...responsible for carrying out the functions of the Commission*. Whether the Board was unaware of the sorry state of the Commission's affairs, or whether it was aware and chose to do nothing about it, is unclear. But patently, the Board failed in its responsibility to ensure that the CEO was performing his functions properly.

*The Board was out-of-touch*

Just one example of how out-of-touch the Board was with the Commission's financial affairs is provided by the minutes of a Board meeting in January 2005. The minutes show that the Board and the Audit Committee discussed how some bonds purchased many years previously should be recorded and how many were purchased. In fact, the bonds they were discussing were redeemed in July 2003 and the redemption recorded in fiscal 2004.

A further indictment of how unprofessionally the Board conducted its affairs is provided by the incomplete state of the minutes of its meetings. During 2005 and 2006, minutes were not available or were incomplete for 15 of the Board's meetings.

Accountability

In view of the appalling state of the Commission's records and controls described above, it is appropriate to revisit the statement made at the beginning of this subsection, viz., *The Commission was dissolved in February 2006 with the understanding that the Commission's management remain accountable for its affairs prior to that date*. There now appears to be ample evidence for the Ministry of Culture and Social Rehabilitation to begin holding senior management and Board members accountable. A police

investigation should be launched and the Permanent Secretary of Culture and Social Rehabilitation should make a complaint against those parties responsible for the proper control and expenditure of public monies, assuming the findings will support it.

Recommendation  
No. 9

The Permanent Secretary of Culture and Social Rehabilitation should ask the Police Services to investigate the affairs of the National Drug Commission.

If findings of the investigation warrant, the Permanent Secretary of Culture and Social Rehabilitation should file a complaint against officers of the National Drug Commission as identified by the investigation.

#### **4.3.12 Pension Commission**

The last audited financial statements issued by the Pension Commission were for the year ended December 2006, and those were issued in 2007.

At the date of this report (February 2009), the Commission's December 2007 audit was substantially complete but we were awaiting certain documentation and information needed to finalize the audit.

#### **4.3.13 Trustees of the National Sports Centre**

None of the matters reported to the Trustees of the National Sports Centre at the conclusion of the March 2008 audit warrant the attention of the House of Assembly.

#### **4.3.14 West End Development Corporation**

The audited financial statements of West End Development Corporation for the year ended March 2008 were issued in January 2009.

##### Disaster recovery and business resumption plan

*A disaster recovery plan should be implemented*

As reported last year, the Corporation needs to review the adequacy of its disaster recovery and business resumption arrangements. Such arrangements should be incorporated into a formal plan, approved by the Board, communicated to staff, and tested

periodically for adequacy. Similarly, it should have a comprehensive information policy and procedures manual.

Legislative non-compliance

*Legislated budgeting and reporting requirements are not being met*

The Corporation is not complying with the Section 18 of the West End Development Corporation Act which states that the Corporation “*shall at least three months before the beginning of each financial year submit to the Minister for his approval the Corporation’s estimates of its income and expenditure ... for that financial year*”.

#### 4.4 AUDITS OF PUBLIC FUNDS

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

The eleven Public Funds operating at March 31, 2008 were:

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

At the date of this report (February 2009), the following Funds had not issued audited financial statements for the fiscal years indicated:

- Bermuda Department of Tourism North America Retirement Plan (2007 and 2008),
- Confiscated Assets Fund (2007 and 2008),
- Contributory Pension Fund (July 2005, 2006, 2007 and 2008),
- Government Employees Health Insurance Fund (2006, 2007 and 2008),
- Government Reserves Fund (2008),
- Hospital Insurance Fund (2005, 2006 2007 and 2008),
- Ministers and Members of the Legislature Pensions Fund



(2007 and 2008),

- Mutual Re-insurance Fund (2005, 2006, 2007 and 2008), and
- Public Service Superannuation Fund (2007 and 2008).

Why these Funds have not issued audited financial statements is explained in the sub-sections below.

Matters arising from the 2008 audit of the Consolidated Fund are dealt with in Section 4.2 of this Report. The following are matters that arose from audits of the other Public Funds completed since my last Annual Report (January 2008) that I believe warrant the attention of the House of Assembly:

#### **4.4.1 Bermuda Department of Tourism North America Retirement Plan**

*Financial reporting is two years in arrears*

The Bermuda Department of Tourism North America Retirement Plan is a pension fund for staff of the Department of Tourism's North American offices. The last audited financial statements issued by the Plan were for the year ended March 2006, and those were issued in January 2008.

##### Status of audits in arrears

At the date of this Report (February 2009), work on the 2007 audit has been on hold since early December 2008 awaiting documentation from the Accountant-General's Department. The 2008 accounts were received in November 2008. At the date of this Report we had not determined that the accounts as presented are auditable.

#### **4.4.2 Confiscated Assets Fund**

*Financial reporting is two years in arrears*

The Confiscated Assets Fund holds monies detained and forfeited by Court Orders under the Proceeds of Crime Act 1997 and the Misuse of Drugs Act 1972. Forfeited monies are expended for purposes authorized in legislation. The last audited financial statements issued by the Fund were for the year ended March 31, 2006, and those were issued in November 2007.

##### Status of audits in arrears

The 2007 audit was substantially complete in April 2008 but, at the date of this report (February 2009), is in abeyance pending receipt

of documentation from the Accountant-General's Department. The 2008 accounts were received in December 2008. At the date of this Report, we had not determined whether the accounts as presented are auditable.

#### **4.4.3 Contributory Pension Fund**

*Financial reporting  
is two years in  
arrears*

The Contributory Pension Fund receives pension premiums from people working in Bermuda, and pays retirement pensions. The last audited financial statements issued by the Fund were for the year ended July 2004, and those were issued in January 2008.

##### Audit delays

*Audit delays*

Following the 2003 and 2004 audits, I objected to delays in receiving documentation and information needed during audits, and in particular, the documents and signatures needed to finalize audits. For example, the 2004 audit was substantially complete in October 2007 and draft statements etc., were forwarded to the Accountant-General's Department for final approvals and signatures. Despite numerous reminders, and requests for the Financial Secretary and the Head of the Civil Service to intervene, the approvals and signatures were not received until January 2008.

##### Status of audits in arrears

The 2005 audit began in 2008 and proceeded intermittently because of the usual delays in receiving information requested. The 2005 audit is far from completion as of the date of this Report (February 2009). The 2006 and 2007 accounts were received in December 2008. At the date of this Report we had not determined whether the accounts as presented are auditable. The 2008 accounts have not been received.

#### **4.4.4 Government Borrowing Sinking Fund**

The Government Borrowing Sinking Fund receives and holds monies that may be used in future to reduce or cancel public debt. The Fund's audited financial statements for the year ended March 2008 were issued in January 2009.

*\$750,000 calculation error*

The audit found that the amount paid into the Sinking Fund from the Consolidated Fund under Section 12 (2) of the Government Loans Act 1975 was calculated incorrectly, resulting in an underpayment to the Sinking Fund of \$750,000.

#### **4.4.5 Government Employees Health Insurance Fund**

*Financial reporting is three years in arrears*

The financial reporting of the Government Employees Health Insurance Fund (GEHI) continues to be in arrears. The 2005 audited financial statements were issued in January 2009.

##### Background

*There are a variety of reasons why financial reporting continues to be in arrears*

GEHI's financial reporting is in arrears for a variety of reasons. These include accounting records and draft statements being unavailable for audit until long after year-ends, poor accounting records and inadequate or missing documentation to support financial transactions. Further delays are often the result of management being slow to produce the last few items of information and documentation needed to finalize audits.

*Increased potential for fraud*

Delayed audits are a matter of serious concern. Although financial statement audits are not designed to detect fraud, they can deter fraud. When audits are as far in arrears as those of GEHI, this deterrence is lost. Weak internal and accounting controls and delayed audits create opportunities for misappropriation and fraud to occur and remain undetected. Staff who might consider improper behaviour will recognize that any chance of uncovering dishonest behaviour is virtually eliminated if, as is the case with GEHI, important records are mislaid or are otherwise unavailable for audit examination.

*There is a regrettable history of inadequate financial reporting*

Inadequate accounting records are a longstanding concern that has resulted in a succession of qualified audit opinions. Annual financial statements for 1997 through 2005 all received qualified audit opinions because there was insufficient documentation or other evidence available to audit one or more important numbers in the statements. And, before that, matters were worse, resulting in denials of opinions for the 1995 and 1996 financial statements.

##### 2005 audit

The following were among the matters reported to the Accountant-General's Department, the Ministry of Finance and the Chairman of the GEHI Management Committee at the conclusion of the 2005 audit. Most were also reported following previous annual audits:

Qualified audit reports

*Qualified audit opinion*

My auditor's report on GEHI's 2005 financial statements again contains a qualified opinion because, as explained below, management was unable to provide documentation to demonstrate the appropriateness and accuracy of many medical insurance claims paid during the year, and claims payable at the end of the year.

Incomplete support for medical insurance claims

*Documentation cannot be located*

At more than \$30 million, medical insurance claims is easily the largest figure on GEHI's Statement of Revenues and Expenses. Audit procedures include examining a sample of claims paid to ensure that they were properly assessed, authorized and paid under proper authority. The accounting records were such that claim payments for parts of the year could not be selected, and for those that were selected, adequate supporting documentation was unavailable. This lack of documentary evidence also made it impossible to verify the accuracy of claims payable at year-ends (\$6.4 million at March 2004 and \$5.8 million at March 2005).

Some of the needed documents were unavailable because they had been sent to the Government's archive facility, and the archive log could not be located. When the log was eventually located, many of the documents were missing.

Audit examination of documentation that was available to support claims paid indicated that some claims had been overpaid, and others had been paid twice. However, it was impossible to determine whether all such overpaid and duplicated payments were subsequently recovered.

This illustrates what can happen when financial reporting is allowed to fall seriously in arrears. Staff turnover in the intervening years often means that no one who was there at the time these irregularities occurred was available to provide explanations.

Pharmacy claims not checked

*Pharmacy claims also need better support*

Claims from pharmacies for prescription drugs supplied to people insured by GEHI are submitted electronically with details of the prescriptions filled and the costs. GEHI pays these claims without checking that they are for insured people who have been prescribed the drugs, or that the amounts charged are appropriate. This increases the risk that inflated or otherwise erroneous claims can be paid.

Incorrect or uncertain premium rates charged

GEHI lacks procedures to ensure that premiums are adjusted when a dependent child becomes an adult even though its database contains birth dates of dependents. Similarly, incorrect premiums can be charged if insured people do not notify GEHI when an adult child ceases to be a dependent.

It is also unclear whether on-call substitute teachers are being assessed the correct premiums because of difficulties tracking the differing hours and days they work.

*Incorrect premium rates used*

The audit also revealed that from June 2004 to March 2005, GEHI charged police, fire service and prison employees using incorrect premium rates, apparently because GEHI failed to implement approved premium rate increases. The total amount undercharged was approximately \$250,000.

*Write-offs not properly approved*

The 2003 audit revealed that GEHI had written off uncollectible premiums totalling \$121,000 without obtaining the required legislative approval. That approval has still not been obtained.

Legislative non-compliance

Section 7 of the Government Employees (Health Insurance) Act 1986 requires the GEHI Management Committee to make to the Minister an annual report containing such information as the Minister may require. It appears that the Committee does not submit reports of this nature to the Minister.

Appendix 2 to this report contains recommendations that summarize numerous individual audit recommendations, some of which date back to the 1992 audit, that address the above and other problems.

Financial reporting in arrears

*Greater efforts are needed to expedite annual audits and to bring financial reporting up-to-date*

Since 1994, GEHI's annual financial statements have received qualified audit opinions, and were issued many years late. Bringing GEHI's financial reporting up-to-date continues to be hampered by management's futile attempts to find the numerous and long-missing documents that might obviate the need for qualified audit reports. This occurred again during the 2005 audit which was substantially complete in January 2008 but was not finalized until January 2009. I have been informed by the Accountant-General that there has been an improvement in the approach of her Department in respect to this sorry state of affairs and we shall notice the effects of this change in the 2008 audit.

Status of audits in arrears

The 2006, 2007 and 2008 accounts have not been received at the date of this Report.

**4.4.6 Government Reserves Fund**

*Financial reporting  
is a year in arrears*

The Government Reserves 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. The Fund's audited financial statements for the year ended March 2007 were issued in January 2009.

*Audit delays*

Audit delays occurred because the Accountant-General's Department was slow to provide information requested by my auditors. For example, documents requested in September 2007 were finally provided in September 2008. There was also a long delay in obtaining the reports and signatures needed to finalize the audit. The following was among the matters reported to the Accountant-General at the conclusion of the audit:

Legislative non-compliance

*Late accountability  
reporting*

The Public Treasury (Administration and Payments) Act requires the Accountant-General each year to provide to the Minister a report on the operations of the Government Reserves Fund within six months of its year-end. A copy of the report must also be sent to the Auditor General within seven months of the year-end. This was not done for 2006, 2007 or 2008.

Status of the 2008 audit

The 2008 accounts were received in December 2008. At the date of this Report, we had not determined whether the accounts as presented are auditable. The audit is expected to start shortly.

**4.4.7 Hospital Insurance Fund**

*Financial reporting  
is four years in  
arrears*

The Hospital Insurance Fund is administered by the Department of Social Insurance which is part of the Ministry of Finance. The Fund's financial reporting continues to be seriously in arrears. The financial statements for the year ended March 2004 were issued in January 2009.

Background

*Inadequate records and lack of management cooperation delayed previous audits*

The Fund's financial reporting has been in arrears for many years. Reasons for this include antiquated manual accounting systems, inaccurate and incomplete accounting records, and lack of supporting documentation. Another major factor that contributed to late financial reporting has been management's consistent inability to provide promptly the information and documentation needed to perform and complete annual audits.

It appears that the Fund's accounting and processing arrears are affecting the operations of local businesses, and people insured by the Fund. Claims by medical service providers are paid late and are not accompanied by details supporting the amounts paid. The Bermuda Hospitals Board, for example, cannot allocate claim payments it receives to the accounts of the patients on whose behalf the claims were submitted. It appears that some medical service providers, experiencing the same thing, have begun billing patients directly, rather than having to wait for their claims to be paid or identified. This is an unnecessary inconvenience to both medical service providers and to people insured by the Fund.

*The situation is serious*

Considerably greater effort and commitment by management will be needed to bring the financial accountability of the Hospital Insurance Fund up-to-date. As I have stated in previous annual reports, although financial statement audits are not designed to detect fraud, they can deter fraud. When financial statement audits are as far in arrears as those of the Hospital Insurance Fund, this deterrence is lost. Weak internal and accounting controls and delayed audits create opportunities for misappropriation and fraud to occur and remain undetected.

*The Public Accounts Committee has expressed concern*

The Parliamentary Standing Committee on the Public Accounts expressed concern about the Fund's accounting and accountability deficiencies. In a report to the House tabled in December 2006 the Committee stated: *Your Committee recommends that progress in improving the administration and accounting systems of the Social Insurance Department should be a priority for the Ministry of Finance.*

*Qualified audit opinions*

I qualified my auditor's reports on the Fund's 2001, 2002 and 2003 financial statements because adequate documentation was not available to verify the appropriateness and accuracy of premium revenues or claims during those years.

The 2004 audit

*Denial of audit opinion*

My auditor's report on the Fund's financial statements for the year ended March 2004 contains a denial of opinion because the lack of sufficient evidence to audit both premium revenues and claims was pervasive.

Premium and other revenues, and medical claims paid

*Supporting documentation was unavailable*

Premium and reimbursement revenues, and medical claims paid, at \$7.7 million and \$5.9 million respectively, are the two largest figures in the Fund's Statement of Revenues and Expenses. Neither could be audited satisfactorily. For premium revenues, there was insufficient documentary evidence to show that premiums had been received for all the individuals for whom claims were paid. There was also no documentary support for \$982,000 of prescription drug benefit reimbursement revenues due from the Government. And for many of the medical claims selected for audit examination, there was insufficient documentary evidence that the claims paid were for active policyholders.

The accounting deficiencies described above also cast doubt on the accuracy of premiums and reimbursements receivable (\$1.2 million) and claims payable (\$2.0 million) at the end of the year.

Other audit concerns

*Accounting and financial control deficiencies persist*

At the conclusion of the March 2004 audit, the following were among other matters reported to the Director of Social Insurance:

- Failure to provide draft financial statements and supporting schedules and analyses until long after the years to which they relate.
- Significant delays in providing, and in responding to auditors' requests for documents and information needed to perform and complete audits.
- Failure to collect licensing fees from insurance companies and plans that operate in Bermuda.
- The information supplied to verify the accuracy of portability claims paid and payable at the year-end was seriously deficient.
- Inability to locate certain group files that had been sent to the Government archives.
- Failure to provide the Minister with annual reports on the operations of the Fund as required by Section 17 of the Hospital Insurance Act.

Appendix 2 to this report contains a recommendation addressed to



the Department of Social Insurance that summarizes individual audit recommendations made over the years (some dating back to 1993) that address the Fund's accounting and control deficiencies.

The Department of Social Insurance needs to find a solution to these long-outstanding problems. If it cannot do so soon, the Ministry of Finance might begin considering outsourcing the responsibilities of Department of Social Insurance.

Status of audits in arrears

Accounting records for 2005, 2006 and 2007 have been presented for audit but work cannot begin until records are changed to reflect significant adjustments resulting from the previous years' audits. As noted above, the 2004 financial statements were released in January 2009, and adjustments as a result of the audit now need to be taken into consideration and the 2005 accounts resubmitted. This process, of course, follows year upon year.

**4.4.8 Ministers and Members of the Legislature Pensions Fund**

*Financial reporting is two years in arrears*

The audited financial statements of the Ministers and Members of the Legislature Pensions Fund (the Pension Fund) for the year ended March 2006 were issued in January 2009. The following were among the matters reported to the Accountant-General's Department at the conclusion of the audit:

Unfunded liability for future pension obligations

*The Plan is underfunded*

The Fund's actuary reported that the unfunded portion of the Pension Fund's obligations for future pension payments at March 2006 was in excess of \$7 million, an increase of almost \$2 million since March 2005. The actuary also reported that the current contributions level is insufficient to reduce the unfunded liability or even to maintain the present level of under-funding.

Non-compliance with legislation

The following instances of non-compliance with the Ministers and Members of the Legislature (Salaries and Pensions) Act 1975 were observed during the audit:

- If a person ceases to be a member of the pension plan before becoming eligible for a pension, that person can receive a refund of pension contributions he/she made to the plan. When that happens, Section 15C (2) of the Act requires the Accountant-General to also refund the Government's

(matching) contributions to the Consolidated Fund. That has not been happening since 2002. As a result, at March 2006 the Pension Fund owed the Consolidated Fund \$483,000 plus interest of \$143,000.

- Section 15D of the Act states that where a person retires after April 1, 1988, his/her pension that relates to service before that date shall be charged to the Consolidated Fund. The Accountant-General's Department does not prorate pension benefits strictly in accordance with this requirement, and is inconsistent in the way it does so. Strict compliance with the Act would have resulted in about \$5,400 more being charged to the Consolidated Fund.
- Due to an apparent misunderstanding of how the Act requires pensions to be calculated in respect of additional salaries received by Members of the House, a new pensioner in 2005 was overpaid by \$5,300. Left unchanged, the overpayment in future years will be \$6,600.
- Section 8 (6) of the Act requires the Accountant-General to have the accounts ready for audit by June 30 following the end of the Pension Fund's financial year. That has not happened for many years.

#### Status of the 2007 audit

The 2007 audit was completed in January 2009, but not in time to be included in this Report. The 2008 audit will begin shortly.

#### **4.4.9 Mutual Re-insurance Fund**

*Financial reporting  
is four years in  
arrears*

The Mutual Re-insurance Fund is administered through the Department of Social Insurance which is part of the Ministry of Finance. The Fund's financial reporting continues to be seriously in arrears. The audited financial statements for the year ended March 2004 were issued in January 2009.

#### Background

*Audits delays*

The accounting records of the Fund are maintained by the same staff at the Department of Social Insurance who maintain the financial records of the Hospital Insurance Fund. This is why the reasons for financial reporting arrears of the Mutual Re-insurance Fund are similar to those described in Section 4.4.7 above. In

particular, management's consistent inability to provide promptly the information and documentation needed to perform and complete annual audits has contributed to the history of late financial reporting.

*Potential for fraud*

Delayed audits are a serious concern. Although financial statement audits are not designed to detect fraud, they can deter fraud. When audits are as far in arrears as those of the Mutual Re-insurance Fund, this deterrence is lost. Weak internal and accounting controls and delayed audits create opportunities for misappropriation and fraud to occur and remain undetected.

The Parliamentary Standing Committee on the Public Accounts has expressed concern about this situation. In a report to the House tabled in December 2006 the Committee stated: *Your Committee recommends that progress in improving the administration and accounting systems of the Social Insurance Department should be a priority for the Ministry of Finance.*

At the conclusion of the March 2004 audit, the following were among the matters reported to the Director of Social Insurance:

Insurance premiums

The Council does not obtain reasonable assurance that the premiums the Fund collects are correct.

*The Fund does not verify that the insurance premiums it receives are correct*

The Hospital Insurance Act requires all licensed insurers, and employers who operate approved schemes, to pay the Fund a set amount of their premiums, based on the number of people employed. In practice, certifications by insurance companies of employee numbers are accepted virtually without question, even though there is evidence that companies use a variety of bases, including estimates, to determine the numbers. The Fund has no procedures for verifying the reliability of these numbers, nor has it established policies or a consistent methodology for calculating them. This has been noted as a concern since the 1999 audit.

*Premiums are sometimes received late*

Insurance companies are required to remit premiums to the Fund within 15 days of each month-end. This requirement, however, is not enforced. Several insurance companies remit premiums well beyond the 15 day limit, some by many months. These amounts are material and adversely affect the Fund's cash flows and investment opportunities.

Insurance claims

*Claims are paid without determining whether they are valid*

Medical claims are paid without first ensuring that premiums were received for the patients who received the medical treatments. Instead, after claims are paid, the Fund Administrator asks the insurance company or employer to confirm (not validate) that the claimant was appropriately insured. Without wishing to impugn the integrity of insurance companies or employers, in my view such confirmations do not constitute reasonable verification.

*\$30,000 was paid out by mistake*

The risk that the control deficiency described above can result in incorrect claims being paid was evidenced in 2004. My Office found that a claim paid in 2004 included \$30,000 for a kidney transplant that had previously been included (for \$20,000) in a 2001 claim. After this was brought to the attention of management, the \$30,000 was refunded by the insurance company.

*There are solutions to the problem*

This control deficiency is a longstanding problem and could be dealt with in several ways. For example, the Fund could periodically select a sample of claims and examine the insurance companies' records to determine their validity. A better solution would be to maintain an electronic record of insureds and, as premiums are received, record the periods covered. It would then be possible to quickly determine whether insurance coverage exists before claims are paid.

It was also noted during the audit that the Fund was paying valid claims months, and sometimes years, in arrears. For a legitimate claimant, this would be an intolerable delay.

Legislative compliance

*Administration fee lacks legislative authority*

The Hospital Insurance Act authorizes the Consolidated Fund to charge the Hospital Insurance Fund an annual administration fee. The Mutual Re-insurance Fund is charged a similar fee, even though the Act does not provide authorization to do so. Following previous audits, the Commission undertook to seek advice from the Attorney-General's Chambers on the legality of this charge and, if necessary, seek a legislative amendment to sanction it. That has not yet happened.

Status of audits in arrears

At the date of this Report (February 2009), the accounting records for 2005, 2006 and 2007 have been made available for audit but work cannot begin until records are changed to reflect significant

adjustments resulting from the previous years' audits.

**4.4.10 Public Service Superannuation Fund**

*Financial reporting is two years in arrears*

The last audited financial statements issued by the Public Service Superannuation Fund were for the year ended March 2006, and those were issued in January 2008.

Status of the 2007 audit

The accounts for 2007 were received in September 2008 and the audit was started. At the date of this Report (February 2009), audit work has been delayed pending receipt of needed information.

**4.5 AUDITS OF PARISH COUNCILS**

I audit Bermuda's nine Parish Councils pursuant to the Parish Councils Act 1971, as well as Section 6 of the Audit Act.

*Financial reporting for most Councils is seriously in arrears*

The quality and timeliness of the accounting and accountability of Parish Councils are unacceptable, and have been for many, many years.

At the date of this report (February 2009), only Paget Parish Council had issued audited statements for 2008. As explained below, many Councils were several years in arrears with their financial reporting.

*Efforts over the years to address accounting problems have been unsuccessful*

The history of efforts to address these problems is an exercise in futility. Seven years ago the Ministry of Health and Family Services engaged a bookkeeping company to provide administrative and accounting help for the five largest Parish Councils. Neither the accounting records nor the availability of financial information improved. Then in 2004 a firm of Chartered Accountants was engaged to provide accounting services to all Parish Councils, except Pembroke, and to bring their financial reporting up-to-date. Again there was no improvement. The underlying problems are undoubtedly with the Councils themselves and with their dysfunctional operating and management systems.

By late January 2009, the following Parish Councils had not issued audited financial statements for the years indicated:

Devonshire Parish	2007, 2008
Hamilton Parish	2006, 2007, 2008
Pembroke Parish	2003, 2004, 2005, 2006, 2007, 2008
Sandys Parish	2007, 2008

Smith's Parish	2007, 2008
Southampton Parish	2006, 2007, 2008
St. George's Parish	2006, 2007, 2008
Warwick Parish	2007, 2008

I have commented repeatedly in past annual reports on the lack of accountability this situation represents. I also explained that, in many cases, I was unable to express an auditor's opinion on the statements because the records were absent or incomplete. It is not possible to ascertain whether this represents a lack of commitment or incompetence, or whether it masks mismanagement or even fraud.

Delayed audits are a serious concern. Although financial statement audits are not designed to detect fraud, prompt audits can deter fraud because staff know that such audits might uncover dishonest behaviour. They also know that when important records are not available for audit, any chance of uncovering dishonest behaviour is virtually eliminated.

*The Minister of Finance threatened to withhold funding*

In a report to the House of Assembly in February 2007, the Minister of Finance stressed the importance of up-to-date financial reporting. She stated that *Those organisations that do not respond in a timely manner will be at risk of having funding withheld until their financial records are current.* In my view, several Parish Councils should have their funding withheld and their responsibilities should be transferred to the Ministry of Health and Family Services.

In response to my concerns last year, the Ministry informed me that a Parish Councils Coordinator (Consultant) had been hired to work directly with Parish Councils to improve their financial reporting practices. The Ministry also stated that all Parish Councils should be up-to-date with their financial reports by the end of the 2009 fiscal year. In my view, this is highly optimistic.

*Things are getting worse*

During the 13 month ended February 2009, six sets of financial statements were issued by Parish Councils. This compares with ten sets issued during the previous year. Of the six sets issued this year, two received unqualified audit opinions, one received a qualified audit opinion, and three received denials of opinion. This and the lateness of the statements further demonstrate the deplorable and worsening state of accounting and reporting by Parish Councils.

#### 4.5.1 Devonshire Parish Council

*Financial reporting  
is two years in  
arrears*

Devonshire Parish Council issued financial statements for the year ended March 2006 in January 2009.

*Denials of audit  
opinions*

My auditor's report on the Council's March 2006 financial statements states that I was unable to express an opinion (i.e. a denial) on the statements for the reasons explained below. 2006 was the sixth consecutive year that I have denied an opinion on Devonshire Parish Council's annual financial statements.

*Serious and  
widespread  
accounting and  
control deficiencies*

I denied an audit opinion on the 2006 statements because of serious deficiencies in the Council's systems of internal control and accounting records. The Council was unable to provide documentary or other evidence to verify the accuracy and completeness of many of the figures in the financial statements. In particular:

- there were no documented accounting policies or practices,
- accounting records and invoices were not available to verify the accuracy or completeness of all revenues and year-end accounts receivable,
- accounting records and invoices were not available to verify the accuracy or completeness of most expenditures and year-end accounts payable, and
- no approved minutes of Council meetings were available for periods following the year-end.

The matters described in Section 4.5.10 below were also reported to the Council at the conclusion of the 2006 audit.

Appendix 2 to this report contains two recommendations relating to Devonshire Parish Council. They encourage the Council to take urgent and immediate action to eliminate the serious accounting deficiencies described above, and suggest that the Ministry of Culture and Social Rehabilitation should set a deadline for achieving this and, if not met, should result in withholding public funding and the transfer of the Council's responsibilities to the Ministry.

#### 4.5.2 Hamilton Parish Council

*Financial reporting  
is three years in  
arrears*

The last audited financial statements issued by Hamilton Parish Council were for the year ended March 2005, and those were issued in January 2007.

**Recommendation No. 10**      **Hamilton Parish Council should take urgent and immediate action to bring its annual financial reporting up-to-date as required by legislation.**

#### **4.5.3 Paget Parish Council**

Audited financial statements for Paget Parish Council for the years ended March 2007 and 2008 were issued in January 2009.

Except for the matters described in section 4.5.10 below, none of the matters reported to the Council at the conclusion of these two audits warrant the attention of the House of Assembly.

#### **4.5.4 Pembroke Parish Council**

*Financial reporting is six years in arrears*

The last financial statements issued by Pembroke Parish Council were for the year ended March 2002, and those were issued in 2007. Because no accounting records were made available, my notice to reader on those statements states that I compiled them based on information provided by management. I could not perform an audit, nor did I review or otherwise attempt to verify the accuracy or completeness of such information. Accordingly, I expressed no assurance on the financial statements.

Pembroke Parish Council has a history of unsatisfactory financial reporting. For 1997, 1998 and 1999 the financial statements were unauditible compilations similar to 2002, and for 1996, 2000 and 2001 the statements received qualified audit opinions.

Despite periodic requests for draft financial statements and accounting records for the ensuing years to be made available for audit, there has been no response from the Council. Accountability, therefore, for the seven years ended March 2002 was totally inadequate and, since then, there has been no accountability at all. In this situation, I believe the Council should immediately be relieved of its responsibilities and funding.

Appendix 2 to this report contains a recommendation made last year that the Ministry of Culture and Social Rehabilitation withhold annual funding from the Council and transfer its responsibilities to the Ministry.



#### **4.5.5 Sandys Parish Council**

*Financial reporting  
is two years in  
arrears*

Sandys Parish Council issued audited financial statements for the year ended March 2006 in January 2009.

*Qualified audit  
opinion*

My auditor's report on the Sandys Parish Council's March 2006 financial statements contains a qualified opinion because I was unable to obtain sufficient audit evidence to support the accuracy and completeness of certain expenses. In addition, I could not be sure of the accuracy of accounting balances brought forward from the prior year because I had denied an audit opinion of that year's financial statements. In fact, I denied audit opinions on the Council's financial statements for 2005 and the previous four years.

At the conclusion of the 2006 audit, I reported to the Council that the qualified audit opinion was due to the lack of evidence to support certain expenditures. I also reported that minutes of Council meetings and certain other documentation were provided only after numerous requests and lengthy delays. This is not conducive to bringing the Council's financial reporting up-to-date.

The matters described in Section 4.5.10 below were also reported to the Council at the conclusion of the 2006 audit.

Appendix 2 to this report contains two recommendations relating to Sandys Parish Council. They encourage the Council to take urgent and immediate action to eliminate the serious accounting deficiencies described above, and suggest that the Ministry of Culture and Social Rehabilitation set a deadline for achieving this goal, which, if not met, should result in withholding public funding and the transfer of the Council's responsibilities to the Ministry.

#### **4.5.6 Smith's Parish Council**

*Financial reporting  
is two years in  
arrears*

The last audited financial statements issued by Smith's Parish Council were for the year ended March 2006, and those were issued in January 2008.

#### **4.5.7 Southampton Parish Council**

*Financial reporting  
is three years in  
arrears*

The last financial statements issued by Southampton Parish Council were for the year ended March 2005, and those were issued in September 2007.

*Denials of audit opinions*

My auditor's reports on the Council's financial statements for the three years ended March 2005 all contained denials of opinion because there was insufficient (often non-existent) evidence to determine whether revenues, accounts receivable, expenses and related liabilities were accurately recorded therein.

Appendix 2 to this report contains a recommendation made following previous audits that the Council take urgent and immediate action to eliminate the serious accounting and reporting deficiencies described above.

**4.5.8 St. George's Parish Council**

*Financial reporting is three years in arrears*

The last financial statements issued by St. George's Parish Council were for the year ended March 2005. For 2003, the Council was unable to produce any accounting records or draft financial statements for audit. Accordingly no financial statements will be issued for that year.

*Denials of audit opinions*

My auditor's report on the Council's financial statements for the years ended March 2004 and 2005 both contain denials of opinion because of serious deficiencies in the Council's system of internal control and accounting records as a result of which I was unable to verify the accuracy and completeness of most of the figures in the financial statements. All annual financial statements issued by the Council since 1994 received either a qualified or denied audit opinion.

The opening in January 2007 of the St. George's Rest Home considerably increases the Parish Council's responsibilities and the amount of public money it administers. I had hoped that these increased responsibilities would bring a heightened awareness of the need for better accounting records and more up-to-date accountability reporting. Indications to date suggest otherwise.

**Recommendation No. 11**

**St. George's Parish Council should take urgent and immediate action to bring its annual financial reporting up-to-date as required by legislation.**

**4.5.9 Warwick Parish Council**

*Financial reporting*

Financial statements for Warwick Parish Council for the years

*is two years in arrears*

ended March 2005 and 2006 were issued in January 2009.

*Denials of audit opinions*

My auditor's reports on both sets of statements state that I am unable to express an opinion (i.e. a denial) on the statements because of serious deficiencies in the accounting records of the Council and in the system of internal controls. As a result, I was unable to satisfy myself that all assets, liabilities, revenues and expenses of the Council had been recorded, nor was I able to satisfy myself that recorded transactions represented valid transactions of the Council.

For example, no invoices or other credible documentation was available to verify the accuracy or completeness for virtually every figure in the financial statements. The matters described in Section 4.5.10 below were also among the detailed concerns reported to the Council at the conclusion of the 2005 and 2006 audits.

*Serious lack of accountability*

My audit reports on the Council's financial statements for the three years ended March 2004 also contained denials of opinion for the same reasons. No statements at all were issued for the previous five years because the accounting records were so incomplete and unreliable that meaningful financial statements were impossible to prepare. So, the situation is that accountability for the five years ended March 2006 was totally inadequate, and before that, there was no accountability at all.

Appendix 2 to this report contains two recommendations relating to Warwick Parish Council. They encourage the Council to take urgent and immediate action to eliminate the serious accounting deficiencies described above, and suggest that the Ministry of Culture and Social Rehabilitation set a deadline for achieving this which, if not met, should result in withholding public funding and the transfer of the Council's responsibilities to the Ministry.

The current Council conveyed its extreme displeasure with these comments because it does not take into consider the tremendous strides it has made in addressing these matters. Unfortunately, my audits of the 2005 and 2006 accounts do not cover the accountability term of the current Council. I understand the first year that we shall enjoy the Council's improvements will be during the 2008 audit. I am sorry I shall not be around to celebrate the occasion but I am happy to bequeath this pleasure to my successor.

Status of audits in arrears

The accounts for 2007 and 2008 were received in July 2008. At the date of this Report, we had not determined whether the accounts as presented are auditable. The 2006 financial statements were issued in January 2009. The 2007 and 2008 audits are now being scheduled.

**4.5.10 Other pervasive problems**

*To varying degrees, Parish Councils are not complying with legislative requirements*

Aside from failing in their accountability responsibilities, virtually all Parish Councils continue to contravene various requirements of the Parish Council's 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. This year, all except Paget contravened the statutory requirement that financial statements be submitted promptly for audit each year. The Parishes 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.

Exactly why so many Parish Councils ignore their legislated responsibilities is unclear. There is evidence that attendance at Council meetings is often so poor they have trouble achieving a quorum, and some Council members attend meetings only infrequently. Over the years my auditors have experienced long delays in obtaining information or Council approvals to finalize audits, which also suggests a lack of commitment by Council members to their responsibilities. In my view, most Parish Councils have become irrelevant and an obstruction to accountability and its companion, good governance.

*Are Parish Councils still needed?*

In my 2002 Annual Report, I questioned whether Parish Councils, operating as they are at present, still serve a useful purpose. Appendix 2 to this report contains a recommendation that addresses this issue. The Ministry of Health and Family Services responded that Cabinet has approved a Board to consider moving the rest homes operated by Parish Councils to a different Ministry, thereby improving management oversight. This has not been done. Parish Councils now fall under the responsibility of the Ministry of Culture and Social Rehabilitation. I seriously doubt, however, whether transferring oversight responsibilities between Ministries will help. In my view, a more effective action for the worst offenders is to withdraw public funding and transfer their

responsibilities and operations to the Ministry.

#### 4.6 AUDITS OF AIDED SCHOOLS' CAPITATION ACCOUNTS

I audit the capitation accounts of Bermuda's four aided schools because I am auditor (pursuant to Section 6 of the Audit Act) of Bermuda's Consolidated Fund, from which capitation accounts receive grants.

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

*Financial reporting of only one school was up-to-date*

At the date of this report (January 2009), financial reporting for St. George's Preparatory School capitation account was up-to-date. Financial reporting for the Berkeley Institute Capitation Account was one year in arrears, the Sandys Secondary Middle School Capitation Account was three years in arrears, and the Whitney Educational Trust was four years in arrears.

*Legislative reporting requirements are being ignored*

As well as failing in their responsibility to provide timely financial accountability to the Minister and to the House of Assembly, three of the 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.

The following are matters that arose from audits of capitation accounts that were completed since my last Annual Report (January 2008) that I believe warrant the attention of the House of Assembly:

##### 4.6.1 Berkeley Institute Capitation Account

*Financial reporting is a year in arrears*

The audited financial statements for the Berkeley Institute Capitation Account for the year ended March 2007 were issued in January 2009.

*Qualified audit opinion*

My auditor's report on the financial statements contains a qualified opinion because no documentation was available to verify the accuracy of accounts receivable of \$293,000 at March 2007 relating to the wireless laptop program.

Among other matters reported to the Institute at the conclusion of the 2007 audit was that, as in previous years, the audit process was delayed because information needed to complete the audits was not provided promptly.

Status of the 2008 audit

The Institute notified my Office in January 2009 that its accounts for the year ended March 2008 were ready for audit. The audit will begin shortly.

**4.6.2 Sandys Secondary Middle School Capitation Account**

*Financial reporting  
is three years in  
arrears*

The last audited financial statements issued for the Sandys Secondary Middle School Capitation Account were for the year ended March 2005, and those were issued in December 2007.

Status of audits in arrears

The School indicated that its accounts for the year ended March 2006 were ready for audit. Our review indicated the accounts as presented were not auditable and they were returned. As the date of this Report the accounts for 2006, 2007 and 2008 have not been received.

**4.6.3 St. George's Preparatory School Capitation Account**

None of the matters reported to the Board at the conclusion of the audit of the St. George's Preparatory School Capitation Account for the year ended March 2008 warrant the attention of the House of Assembly. The other aided schools could learn much from the financial reporting performance of the St. George's Preparatory School.

**4.6.4 Whitney Educational Trust**

*Financial reporting  
is four years in  
arrears*

By virtue of appointment by the Board of Trustees, I am the auditor of the Whitney Educational Trust, not just its capitation account. I congratulate the Trustees for making this appointment because it enables them to receive the benefits of an audit of the entire Trust.

The Trust's audited financial statements for the year ended March 2004 were issued in January 2009.

*The audit report was denied for four reasons*

My auditor's report on the 2004 financial statements contains a denial of opinion for five reasons:

- The Trust could not provide adequate documentary support for \$40,000 of operating expenses and related accounts payable.
- The Trust could not provide a complete set of minutes to enable me to determine whether all decisions taken by the Board were reflected in the financial statements.
- Certain capital assets are not recorded in the Trust's financial statements because neither the Ministry of Works and Engineering nor the Ministry of Education have cost-data for the Trust's capital assets that were paid for years ago by Government (see Section 4.6.5 below). Similarly, \$400,000 of computer equipment provided by the Ministry of Education during 2003 was not capitalized by the Trust.
- The Ministry of Education was unable to provide figures for the amounts paid to substitute teachers on behalf of the Trust for inclusion in the Trust's financial statements.
- The Trust receives donation revenue which, by its nature, cannot be audited satisfactorily.

#### Audit delays

*Delays followed delays*

As in the past, the annual audit was delayed because the accounts were not available for audit until long after the year-end, and there were further delays in receiving information needed to complete the audit. For example, the accounts for 2004 were made available for audit in June 2008 and the audit began soon thereafter. Audit work was substantially complete in early October 2008, but despite several reminders, certain information needed to finalize the audit had not been received by the end of January 2009.

#### Status of audits in arrears

The Trust's accounting records for 2005 have not yet been made available for audit.

### **4.6.5 Other Concerns**

The following concerns relate to all aided schools:

#### Capital costs incurred by Government

Under an unwritten agreement with aided schools, the Government in 1965 assumed responsibility for their capital construction costs. The agreement requires any aided school that leaves the

Government system to refund to the Government the unamortized portion of its capital construction costs.

*The Government cannot identify capital construction costs*

This raises three concerns. First, an agreement as important as this should be legally executed. Second, aided schools should record and amortize in their financial statements the capital construction costs incurred on their behalf since 1965 by Government and the applicable accumulated amortization. However, they are unable to do so because Government cannot provide the necessary cost information. And third, most schools should (but do not) disclose this situation in their annual financial statements.

*There is a solution to this problem*

In a letter to the Ministry of Education in December 2005, I suggested how these last two concerns could be resolved. In 2002, the Government began recording its capital assets on the balance sheet of the Consolidated Fund at amortized cost. To do this, it established historical cost figures for all its capital assets, some of which were acquired decades ago, using a “book value calculator”. In response to my suggestion, the Ministry of Education agreed to use similar methodologies to estimate historical capital costs for assets transferred to aided schools.

*The Ministries appear not to understand the problem*

Appendix 2 to this report contains a recommendation made in past years to address the above concerns. In January 2008 I received the following responses to this recommendation:

- Ministry of Works and Engineering - *The responsibility for aided schools is not under Works & Engineering, currently monitored by Ministry of Education.*
- Ministry of Education – *The Ministry of Education collates expenses separately for Aided Schools and will continue to do so in the future.*

These two responses show a failure to understand the problem. The Ministry of Works and Engineering constructs capital assets for aided schools (e.g. Berkeley) and therefore is the Ministry with knowledge of the asset’s cost. What collating expenses has to do with recognizing capital expenditure costs in the accounts is unclear.

## 4.7 OTHER AUDITS

### **Office of the Bermuda Ombudsman**

I am auditor of the Office of the Bermuda Ombudsman 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. The Ombudsman's audited financial statements to March 2006 were issued during this year. None of the matters reported to the Ombudsman at the conclusion of the audit warrant the attention of the House of Assembly.

#### **Bermuda Monetary Authority**

Until a few years ago, I was auditor of the Bermuda Monetary Authority pursuant to its enabling legislation and the Audit Act. However, the Bermuda Monetary Authority Amendment Act 2001 now 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. The Authority is therefore no longer a Government-controlled organization by definition and by the Audit Act 1990 and, accordingly, there is no conflict between the BMA Amendment Act 2001 and the Audit Act 1990. On the recommendation of the Authority's Board, the Minister of Finance has continued to approve my appointment as auditor of the Authority.

#### **Other audits**

With the approval of the Select Standing Committee on the Office of the Auditor General (see Appendix 11), I have accepted appointment as auditor of the following entities, even though I am not auditor by virtue of the provisions of the Audit Act:

**Bermuda Amateur Boxing Association**  
**Bermuda Cricket Board of Control**  
**Bermuda Football Association**  
**Bermuda Police Association**  
**Bermuda Rowing Association**

All of these entities receive grant funding from the Government of Bermuda.



## 5. OFFICE OF THE AUDITOR GENERAL

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### **Legislative Mandate**

The mandate of the Office of the Auditor General is provided by the Bermuda Constitution Order 1968 and the Audit Act 1990 (Appendices 10 and 13). Pursuant thereto I am auditor of 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. I am also auditor of the Government's pension and other Public Funds, and all Government-controlled entities.

### **Independence**

Section 88 of the Bermuda Constitution Order addresses the appointment, term, dismissal and independence of the Auditor General. Independence is vital to the effectiveness of legislative auditors. Unless legislative auditors are, and are seen to be, completely independent of those whose affairs they audit, their credibility and effectiveness are compromised.

The legislative framework that provides for my independence emanates from the Constitution Order and is supplemented by the Audit Act 1990. A Regulation under the Constitution Order delegates responsibility to me for hiring, employing and disciplining my staff (Appendix 12). Further, Section 50(A) of the Rules of the House of Assembly (Appendix 11) creates a Select Standing Committee of five members of the House of Assembly responsible for reviewing my Office's annual budgets,

staffing needs and salaries, thereby reducing the risk that those I audit can impair my effectiveness by withholding needed resources.

Both the Constitution Order and the Audit Act set out broad principles governing auditor independence. They do not, however, prescribe a framework to ensure independence. Such a framework is established by regulations, rules, understandings and, of course, good faith. For example, both the Constitution and the Audit Act are silent on the provision of office premises for myself and my staff. As previously reported, this became a problem during 2006 when my office was forcibly and haphazardly moved by the Department of Works and Engineering with only 24 hours notice to unprepared premises.

In 2006 I made three recommendations that are needed to protect the independence of the Auditor General. To date no action has been taken. I commented on this inaction in my 2007 Annual Report and I have added to my comments in this report (see Section 2.4).

#### **Audit Mandate and Mission**

The Mission of my Office, which is derived from the legislative mandate, is to add credibility to the Government's financial reporting and *to promote improvement in the financial administration of all Government Departments and controlled 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'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 partly by Performance Audits (PAs). My reporting practice in recent years has been to include PA findings and recommendations in a separate report tabled in the House shortly after my Annual Report. Because the audit of the Consolidated Fund (see Section 4.2 of this Report) and the complexity of the problems we detect during PAs again consumed so much of my Office's resources, I was able to complete only one PA this year (see Section 3 of this Report).

Financial statement audits also generate recommendations for improved financial reporting and control, and are the source of most of the recommendations in this report.

**Reporting Process and Practices**

The Audit Act allows me discretion as to the form and content of my annual reports. My practice is to report matters that I believe are significant and constitute an actual or potential loss of public funds, a lack of financial control, an impairment of accountability, or non-compliance with legislation. I often do not report errors or deficiencies that have been or are being rectified, unless such deficiencies have resulted in loss or I believe that reporting them will be instructive to other Government entities.

All observations and recommendations that arise from audits are discussed with senior management and/or Department Heads, and opportunities are provided for them to correct any inaccuracies or to suggest changes in emphasis.

Appendix 2 to this Report lists recommendations made in this and previous annual reports that have not yet been fully resolved. When reporting a problem that I commented on in a previous annual report, my practice is not to repeat the recommendation but to refer the reader to the recommendation and management responses in Appendix 2.

The following sections of the Audit Act prescribe what I must and can report, to whom I report, and when:

**Section 6 Reports**

Section 6 reports are reports on financial statements. They are similar to the reports that private sector auditors issue on the financial statements of their clients. These reports appear at the front of the financial statements to which they relate. They contain my opinion as to whether the statements present fairly the financial position, results of operations and cash flows of the entity, or the extent to which they do not.

Section 7 of the Audit Act requires me to deliver Section 6 reports to the Ministers responsible for the entities audited. Those Ministers are then responsible for tabling the reports and financial statements in the House of Assembly.

**Section 8 Reports**

Section 8 reports are usually called management letters, and are not public reports. Management letters are used to communicate audit observations and recommendations to management and, in some cases, to the responsible Minister. Management letters also record management's responses to audit recommendations.

Management letters are usually addressed to the Department Head, or to the Chairperson or Chief Executive Officer of government-controlled organizations. In most cases, they are

also copied to the responsible Ministry and to the Ministry of Finance. Most observations and recommendations included in my annual reports to the House are first communicated to management in management letters.

### **Section 9 Reports**

Section 9 reports are my annual reports to the House of Assembly. This Annual Report is my Section 9 report for 2008.

Annual reports are on the work of my Office. In practice, my annual reports focus on the audits completed since the issue of my previous annual report. These reports contain only those audit observations and recommendations that I believe warrant the attention of the House of Assembly.

Section 9 reports are addressed to the Speaker of the House of Assembly. I also send copies to the Governor and the President of the Senate. Before doing so, however, drafts of these reports are reviewed by the Ministry of Finance and an Audit Committee established under Section 5 of the Audit Act. Pertinent extracts are also sent to Heads of Departments, Chairpersons and/or Chief Executive Officers to elicit final responses. The purpose of these communications is to avoid misunderstandings and to acquaint Government and senior administrators with the contents of my public reports before they are issued.

### **Section 12 Reports**

Section 12 reports are emergency or special reports. They are reports to the House on matters which, in my opinion, should not be delayed until my next annual (Section 9) report. In past years I have often used Section 12 reports to report findings and recommendations arising from PAs. This year I used a Section 12 report to report on the reasons why I qualified my opinion on the 2008 financial statements of the Consolidated Fund.

Like annual reports, Section 12 reports are addressed to the Speaker of the House of Assembly, and are forwarded to the Governor and the President of the Senate. Drafts of Section 12 reports are also reviewed by the Audit Committee and forwarded for comment to relevant Government Ministries, Departments and Government-controlled organizations.

### **Accounting Principles and Auditing Standards**

The work of my Office is conducted in conformity with the professional auditing standards promoted by the Institute of Chartered Accountants of Bermuda as prescribed by the Canadian Institute of Chartered Accountants.

These auditing standards are designed to promote compliance with generally accepted accounting principles as prescribed and promoted respectively by the Institutes of Chartered Accountants of Canada and Bermuda. As well, the Public Sector Accounting Board of the Canadian Institute publishes accounting and auditing recommendations to guide government accounting and auditing. Because of an agreement between the Canada and Bermuda accounting institutes, these recommendations apply in Bermuda.

### **Accounting principles generally accepted in Bermuda**

Accounting principles generally accepted in Bermuda provide the basis for the fair and consistent disclosure of financial information in financial statements. They encompass specific accounting rules, practices and procedures, as well as broad principles and conventions of general application. The recommendations of the Public Sector Accounting Board recognize the unique and changing circumstances that sometimes warrant alternative accounting disclosures for governments and public sector organizations.

### **Generally accepted auditing standards**

Generally accepted auditing standards are used by auditors to 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.

These standards require auditors 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 accounting principles used, any significant estimates made by management, and the overall financial statement presentation. Generally accepted auditing standards recognize that management is responsible for preparing financial statements, and that auditors are responsible for expressing opinions on those statements based on their audits.

### **Reporting Controls**

The matters reported in my annual reports undergo a rigorous process to ensure that all concerned or affected parties have prior knowledge of, and opportunities to challenge or respond to, those matters.

Management of entities audited are invited to meet to discuss matters arising from their audits. Minutes of these meetings are prepared to record management's responses and concerns. By circulating these minutes to those who attended the meetings, my staff attempt to minimize the risk of misunderstandings.

Audit observations and recommendations considered important enough to warrant the attention of senior management are then incorporated into management letters (Section 8 reports) which are normally addressed to the Chairpersons, Chief Executive Officer and/or the Accountant-General.

Matters considered important enough to warrant the attention of the House of Assembly are then selected from management letters for inclusion in my annual reports. Draft annual report sections are circulated for comment to affected Ministries, Departments, government-controlled organizations, parish councils, aided schools, and to the Ministry of Finance, with invitations to provide responses or to update previously included responses. And finally, before the report is printed, it is reviewed by the Government's Audit Committee which can inform Cabinet of any matters in the report which, in its opinion, ought to be brought to Cabinet's attention so that there will be no surprises.

**Organization Chart**

Appendix 14 contains the organization chart for the Office of the Auditor General. It shows that two additional temporary posts have been added to the establishment of the Office of the Auditor General. These posts have been established to help audit the backlog of accounts that have been promised.

**Standing Committee**

I wish to thank the Standing Committee on the Office of the Auditor General and the Ministry of Finance for supporting these temporary additions to my establishment during a period of belt tightening. Unfortunately, a great portion of these additional resources were absorbed in the Consolidated Fund audit because extended audit procedures were often called for as a consequence of control weaknesses discovered during the normal audit process. And, of course, the temporary staff often merely compensated for staff vacancies. As a result, the backlog of audits has actually increased from last year.

**Resource Requirements**

Accordingly, I have instructed my management team to revisit our resource requirements. I know from experience that unless we have sufficient resources to be pro-active in getting auditable accounts with the necessary supporting documentation to us for audit, we shall see only marginal improvement, if any, in this



area. I accept the challenge that if I expect additional resources in this economic environment, I need to make a well supported case.

### 2008 Operations

The following is the actual/budget statement of operations of the Office of the Auditor General for the year ended March 31, 2008:

	<i>Actual</i>	<i>Budget</i>	<i>(Over)/Under</i>
<b>CURRENT ACCOUNT EXPENDITURES</b>	\$	\$	\$
Salaries, training and recruiting	1,508,048	1,603,791	95,743
Professional services	906,856	854,300	(52,556)
Rentals	260,171	270,000	9,829
Annual report and compilation	60,206	45,000	(15,206)
Commonwealth Auditors' Conference 2008	39,725	41,568	1,843
Materials and supplies	19,390	19,000	(390)
Travel and hospitality	22,257	19,900	(2,357)
Maintenance	16,448	21,900	5,452
Communications	10,591	19,600	9,009
Small equipment purchases	7,281	6,200	(1,081)
	<u>2,850,973</u>	<u>2,901,259</u>	<u>50,286</u>
<b>CAPITAL ACQUISITIONS</b>			
Office furniture and equipment	<u>19,603</u>	<u>19,800</u>	<u>197</u>
<b>REVENUES</b>	<u>692,200</u>	<u>512,000</u>	<u>(180,200)</u>

#### Expenditures

The budget figures above reflect an approved transfer of \$294,000 from salaries to professional services. The majority of this transfer was anticipated because staff vacancies necessitated contracting for professional services from accounting firms. The \$96,000 salaries under-spending of the 2008 budget was also caused by staff vacancies. Had more of the vacancies been anticipated, a further amount could have been transferred to professional services.

#### Revenues

Revenues comprise audit fees charged to the organizations that legislation or the Select Committee has directed shall be billed

for audit services provided by the Office of the Auditor General during the year. The schedule shows that we billed \$180,000 more than we had anticipated.

## APPENDICES

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## **APPENDIX 1**

### **2008 Annual Report Recommendations**

*The following recommendations appear in this report in the sections indicated. My reporting policy is to include in the body of annual reports only new recommendations. Matters in this report that are addressed by recommendations made in previous annual reports are cross referenced to Appendix 2 which lists all unresolved recommendations, including the following:*

#### **2.7 Pension Contributions and Taxes in Arrears**

- No. 1** The Ministry of Finance should formally remind senior management in all Ministries and Government-controlled Organizations of their responsibility to comply with Section 8.2 of *Financial Instructions* which, in effect, prohibits doing Government business with companies that are in arrears with their payroll tax and pension contribution obligations.

#### **2.11 Confidentiality Agreements**

- No. 2** Confidentiality agreements should include a clause that the confidentiality does not apply to those who have a Constitutional or legal right to know or have access to the information they contain.
- No. 3** The Attorney-General's Chambers should develop and obtain Cabinet approval for guidelines for the use of confidentiality agreements with ex-civil servants, together with a mechanism by which the guidelines are monitored by an independent officer of the Legislature.

#### **3.1 Faith-Based Tourism**

- No.4** The Permanent Secretary of the Ministry of Tourism and Transport and/or the Director of BDOT should ask the Police Services to investigate the affairs of Harvest Investment Ltd.

If the investigation supports charges of criminal activity, the Permanent Secretary of the Ministry of Tourism and Transport and/or the Director of BDOT should make a complaint against the President of Harvest Investment Holdings Ltd.

- No. 5** The Head of the Civil Service should bring a complaint against those public officers who failed to carry out their oversight responsibilities in respect to the Faith-Based Tourism project.

#### **4.2.7 Unapproved Expenditures**

- No. 6** The Ministry of Finance should prepare Supplementary Appropriation Bills to agree approved expenditures with actual amounts per the financial statements for 2002 and succeeding years.

#### **4.2.11 Public Service Superannuation Fund (PSSF)**

- No. 7** The Ministry of Finance should prepare a Supplementary Appropriation Bill for \$88 million in respect to monies paid out of the Consolidated Fund in excess of that received on behalf of the PSSF and subsequently forgiven in the form of grants.

#### **4.3.2 Bermuda College**

- No. 8** To improve accountability and financial management, the Board of Bermuda College should improve its accounting records and controls, and bring its financial and account-ability reporting up-to-date as required by legislation.

#### **4.3.11 National Drug Commission**

- No. 9** The Permanent Secretary of Culture and Social Rehabilitation should ask the Police Services to investigate the affairs of the National Drug Commission.

If findings of the investigation warrant, the Permanent Secretary of Culture and Social Rehabilitation should file a complaint against officers of the National Drug Commission as identified by the investigation.

#### **4.5.2 Hamilton Parish Council**

- No. 10** Hamilton Parish Council should take urgent and immediate action to bring its annual financial reporting up-to-date as required by legislation.

#### **4.5.8 St. George's Parish Council**

- No. 11** St. George's Parish Council should take urgent and immediate action to bring its annual financial reporting up-to-date as required by legislation.

## **APPENDIX 2**

### **Status of Outstanding Audit Recommendations**

*The recommendations in this appendix are from my public reports (including this report) that have not been addressed satisfactorily. After each recommendation I indicate the year in which it, or a recommendation much like it, first appeared. Ministry responses have not been audited. At the end of this appendix I list recommendations from previous public reports that have been removed from this appendix this year, and explain why.*

	<b>Recommendations</b>
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RECOMMENDATION	RESPONSES AND CURRENT STATUS
<b>Consolidated Financial Statements</b>	
<p>1. To provide a full and understandable overview of the Government's financial results and affairs, and to comply with reporting standards for governments, the <b>Ministry of Finance</b> should prepare and publish annual consolidated financial statements for the Government. (1992)</p>	<p><i>Consolidation cannot be accomplished until the current accounting system is upgraded. (January 2002)</i></p> <p><i>We agree there are benefits to issuing consolidated financial statements, but this cannot be accomplished until legislation is amended making consolidated statements a statutory requirement and giving the Accountant-General authority over the accounting systems of all Government-controlled organizations. (January 2004 &amp; December 2005)</i></p> <p><i>The Accountant-General's Department will be working to recruit the resources to put this process in place within two years pending budget approvals. (January 2007)</i></p> <p><i>The Accountant-General has identified a dedicated resource to lead this initiative and consolidated financial statements should be issued by March 2010. (January 2008)</i></p> <p><i>The Accountant-General is leading discussions with Controllers etc., aimed at consolidation in 2010. (January 2009)</i></p>
<p>2. To enable consolidated financial statements to be prepared for Government, the <b>Accountant-General's Department</b> should:</p> <ul style="list-style-type: none"> <li>• improve the accounting for inter-departmental transactions, capital assets, other revenues, and total external debt,</li> <li>• give priority to removing the obstacles currently hindering the preparation of consolidated statements, and</li> <li>• develop a plan for the consolidation process that sets out the responsibilities and timelines of all parties involved in the process.</li> </ul> <p><i>(This summarizes recommendations from 1995 to 2001)</i></p>	<p><i>Significant strides have been made. Most capital assets are disclosed on the Consolidated Fund balance sheet at March 2003. Inter-departmental and inter-quango transactions are also disclosed in the 2003 statements. Elimination of related revenue and expense amounts is planned for 2004. Until legislation is amended, we cannot proceed further with preparing of consolidated financial statements. (January 2004)</i></p> <p><i>Infrastructure costs will be disclosed in the financial statements in the coming fiscal year. (November 2004)</i></p> <p><i>Infrastructure costs were not capitalized in the 2005 statements due to delays in the obtaining software needed to calculate historical costs. These costs will be capitalized in 2006. (December 2005)</i></p> <p><i>We are working to add all remaining capital assets to the financial statements for the year ended March 2007. (January 2007)</i></p> <p><i>The remaining capital assets will be in the financial statements at March 2008, except for infrastructure which will be added at March 2009 (January 2008)</i></p> <p><i>The Accountant-General is leading discussions with Controllers etc., aimed at consolidation in 2010. (January 2009)</i></p>
<p>3. To enable consolidated financial statements to be prepared, the <b>Ministry of Finance</b> should seek legislative authority:</p> <ul style="list-style-type: none"> <li>• for the preparation and issuance of consolidated financial statements, and</li> <li>• to enable the Accountant-General to require all Government-controlled Organizations (quangos) to provide the information needed. (2003)</li> </ul>	<p><i>Consideration must be given to resources, accounting systems, management roles and other factors that are critical in the accomplishment of this task. This is not a simple legislative fix. (January 2004)</i></p> <p><i>Whilst legislative changes are required, they are only one aspect of a complex approach required to achieve this accounting objective. Whereas accounting standards call for consolidated statements, the Ministry of Finance believes there are associated issues that first need addressing before consolidation can progress. Once these issues are addressed, the consolidation process can be progressed. (December 2005 and January 2007)</i></p> <p><i>The Accountant General has identified a dedicated resource to lead this initiative and Consolidated Financial statements</i></p>



RECOMMENDATION	RESPONSES AND CURRENT STATUS
	<p><i>should be issued by March 2010. (January 2008)</i></p> <p><i>The Accountant-General is leading discussions with Controllers etc., aimed at consolidation in 2010. (January 2009)</i></p>
<b>Accountability</b>	
4.	<p>To improve financial management, governance and accountability, the <b>Ministry of Finance</b> should use its authority to require Government (and Government-controlled) entities to bring their accounting up-to-date and, to make their annual financial statements available for audit in a timely manner. (1996)</p> <p><i>The Accountant-General's Department uses its quarterly meetings with financial controllers to communicate the importance of timely financial statements. (January 2002)</i></p> <p><i>Efforts are ongoing to encourage Government-controlled entities to produce annual financial statements at the earliest opportunity. (January 2004)</i></p> <p><i>The Ministry continues to encourage entities towards timely completion of year-end financials. (November 2004)</i></p> <p><i>The Ministry will do all in its power to ensure that entities accounting is brought up-to-date. The importance of completing audits of their accounts promptly will continue to be stressed to these entities. (December 2005).</i></p> <p><i>This matter has been discussed at the Civil Service Executive level and Permanent Secretaries have been directed by the Cabinet Secretary to constantly monitor this problem within their respective Ministries and to use their authority to ensure that accounts are brought up to date. (January 2007).</i></p> <p><i>The Ministry of Finance has been closely monitoring this situation and can report that steady progress is being made. (January 2008)</i></p> <p><i>Ongoing meetings and discussions are held to emphasize the importance of the timely preparation of year-end financial information. (January 2009)</i></p>
5.	<p>To improve accountability, governance and operational effectiveness of Government-controlled Organizations and Public Funds, the <b>Ministry of Finance</b> should publish guidelines requiring Boards and Management Committees to establish and operate under terms of reference that call for comprehensive stewardship roles and responsibilities. (2002)</p> <p><i>The Ministry of Finance supports this recommendation and in conjunction with the Accountant-General will review the existing terms of reference used by Boards and Management Committees and, where appropriate, amendments will be made to improve corporate governance. (January 2004)</i></p> <p><i>The Ministry of Finance supports this recommendation and has recently conducted a governance review of the Public Funds Investment Committee which resulted in improved policies, procedures, and documentation, providing better governance and better control for the Public Funds. (December 2005)</i></p> <p><i>The Ministry of Finance will continue to advise members of Boards and Management Committees of their roles and responsibilities. (January 2007 &amp; 2008)</i></p>
6.	<p>The Permanent Secretary of the Ministry of Tourism and Transport and/or the Director of BDOT should ask the Police Services to investigate the affairs of Harvest Investment Ltd.</p> <p>If the investigation supports charges of criminal activity, the Permanent Secretary of the Ministry of Tourism and Transport and/or the Director of BDOT should make a complaint against the President of Harvest Investment</p>

RECOMMENDATION		RESPONSES AND CURRENT STATUS
	Holdings Ltd. (2008)	
7.	The Head of the Civil Service should bring a complaint against those public officers who failed to carry out their oversight responsibilities in respect to the Faith-Based Tourism project. (2008)	
8.	To improve accountability and financial management, the Board of Bermuda College should improve its accounting records and controls, and bring its financial and account-ability reporting up-to-date as required by legislation. (2008)	
<b>Financial Management</b>		
9.	The Ministry of Finance should prepare Supplementary Appropriation Bills to agree approved expenditures with actual amounts per the financial statements for 2002 and succeeding years. (2008)	
10.	The Ministry of Finance should prepare a Supplementary Appropriation Bill for \$88 million in respect to monies paid out of the Consolidated Fund in excess of that received on behalf of the PSSF and subsequently forgiven in the form of grants. (2008)	
11.	The <b>Ministry of Finance</b> should consider disciplinary action, including written warnings, penalties, and in significant or continuing situations, dismissals of Chief Executive Officers, Chief Financial Officers, Controllers, and Accounting Officers whose entities receive qualifications or denials of opinion in auditor's reports on their financial statements due to the unavailability of evidential documentation supporting disbursements of public funds. (2007)	<i>The Ministry of Finance will continue to advise members of Boards and Management Committees of their roles and responsibilities. (January 2008)</i>
12.	The <b>Accountant-General's Department</b> should enforce better compliance by Ministries and Departments with the contract tendering requirements in <i>Financial Instructions</i> , and the <b>Ministry of Finance</b> should require Government-controlled Organizations (quangos) to adopt procurement and tendering standards at least equal to those contained in <i>Financial Instructions</i> . (2002)	<i>Financial Instructions deal with the Consolidated Fund. The Accountant-General does not have jurisdiction over Quangos. (January 2004)</i> <i>The Accountant-General's Department will review this process to ensure that effective controls are in place. (December 2005)</i> <i>The Ministry of Finance will continue to advise members of Boards and Management Committees of their roles and responsibilities. This has been included in the latest release of the Financial Instructions. ( January 2007)</i> <i>The Accountant-General's Department has contacted all Quangos stating that Financial Instructions form the minimum</i>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
	<i>requirement and will automatically apply where they do not have other controls in place. (January 2008)</i>
13. The <b>Accountant-General's Department</b> should include in <i>Financial Instructions</i> guidelines for who should be notified (including the Auditor General) and other courses of action to be followed or considered, when fraudulent activities are detected or strongly suspected. (2003)	<p><i>Financial Instructions address the notification of irregularities or system deficiencies. If fraud or suspected or detected, the department head or accounting officer is responsible for notifying the Accountant-General, who can then advise others of the results of the investigation. (January 2004)</i></p> <p><i>An internal audit section is being established and guidelines developed for how to best disseminate this information. (January 2007)</i></p> <p><i>A decision on this is in abeyance pending separation of the Internal Audit function from the Accountant-General's Department. (January 2009)</i></p>
14. The <b>Ministry of Finance</b> should consider seeking "whistleblower" legislation to encourage public employees to report apparent malpractice or other wrongdoings, and to protect employees who do so. The legislation should be supported by practices that demonstrate that reported malpractices are investigated fully without fear or favour that whistleblowers are protected, and that perpetrators of misappropriations and fraud are dealt with firmly. (2004)	<p><i>The recently passed Ombudsman Act 2004 provides for redress for "whistleblowers" through the Human Rights Act. This recognizes that persons who complain should feel free to complain without suffering discrimination of any kind. At present, there has not been a decision taken whether or not to proceed. With an independent Whistleblowers Act. (December 2004)</i></p> <p><i>The comment above still applies. (December 2005, January 2007 and 2008)</i></p> <p><u>Auditor General's comment:</u> The Ombudsman Act 2004 provides neither opportunity nor protection for whistleblowers.</p>
15. To reduce the risk of inaccuracies and delays in producing pension liability valuations, the <b>Accountant-General's Department</b> should periodically reconcile the information on pension plan databases and perform other procedures to ensure that the information is reliable and complete. (2004)	<p><i>The deficiencies in the database are recognized and a new section within the Accountant-General's Department has been proposed. (November 2004)</i></p> <p><i>This section has been approved and staffing should be completed in the upcoming months. (December 2005)</i></p> <p><i>A new benefits section has been created and information has now been entered in to JDEdwards and an RFP issued for a pension database. Actuaries have been engaged to conduct annual data reconciliations. (January 2007)</i></p> <p><i>The RFP has been completed for a new pension system and a vendor has been selected. The anticipated date of implementation is March 2009. (January 2008)</i></p>
16. Through its regular meetings with Ministry controllers or by other means, the <b>Accountant-General's Department</b> should spearhead the strengthening and efficient operation of internal controls in other departments. (2005)	<p><i>Controls are discussed with controllers at quarterly meetings. Spearheading the strengthening and efficient operation of internal controls throughout Government Departments is a mandate of the newly re-established Internal Audit Section. We agree with this recommendation but full implementation is dependant on resources available. (December 2005 &amp; January 2007)</i></p> <p><i>We are rescheduling internal control training and recommending that a section on Financial Instructions be included in orientation for new employees (January 2008)</i></p>
17. Without further delay, the <b>Accountant-General's Department</b> should bring monthly reconciliations of all bank accounts up-to-date and maintain	<i>Staff shortages and revamping business processes contributed to delays monthly bank reconciliations to the agreed standard of 30 days after month's end. Revised procedures are being introduced. The new supervisor is addressing the problems</i>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
<p>reconciliations in compliance with the requirements of section 21 of <i>Financial Instructions</i>. (2005)</p>	<p><i>identified in the special audit, and is implementing enhanced procedures and controls including system changes in the financial reporting system. With a full staff complement and revised processes, timely monthly reconciliations of all bank accounts should be achieved by October 2005.</i></p> <p><i>Efforts are currently ongoing and high priority is placed in this area to ensure accounts are reconciled within 30 days after the month end. (2005)</i></p> <p><i>High priority has been placed on reconciliations and additional resources seconded from audit firms to bring the October reconciliations current by November 30<sup>th</sup>. By then, all reconciliations were substantially complete except for two accounts. The outstanding points are being addressed and we are working to stay current. (December 2005)</i></p> <p><i>A Management Services review was conducted in 2006 which recommended four additional staff for this section. Three additional temporary staff have been hired. High priority is placed in this area to ensure accounts are reconciled within 30 days after the month end. (January 2007 and January 2008)</i></p>
<p>18. To improve security over access to data stored on computer systems, and to promote appropriate access and restrictions to access by users, the <b>Information Technology Office</b> should:</p> <ul style="list-style-type: none"> <li>• develop, approve, communicate and implement formal policies, standards, guidelines and procedures governing its program and data security practices,</li> <li>• configure its main processing equipment at a higher security level,</li> <li>• establish more rigorous password protocols, and</li> <li>• institute periodic monitoring to determine the appropriateness of user profiles and to identify and remove disabled profiles. (2006)</li> </ul>	<p><i>The Information Technology Office (ITO) responded that a formal IT security policy has been approved by the Civil Service Executive and a communication scheme containing guidelines and procedures for individual users and department management is being development and will be initiated during the first quarter of 2007. (January 2007)</i></p> <ul style="list-style-type: none"> <li>• <i>The security policy remains in effect. The training package has been developed but was rescheduled to 2008 to coincide with implementation of the complex password policy.</i></li> <li>• <i>Complete as of November 2007 with installation of new I-Series.</i></li> <li>• <i>Self-help password management technology that will facilitate practical implementation of complex passwords has been procured and tested. Beta testing and full rollout is scheduled for 2008. The roll out was delayed from 2007 to allow concentration on the I-series installation project.</i></li> <li>• <i>User profiles are updated on a weekly basis. Annual reconciliations with departments was initiated during the first quarter of 2007 with some success. The second annual reconciliation will be carried out during 2008 with a revised process ( January 2008)</i></li> </ul>
<p>19. To increase the probability of a successful recovery and business resumption following a major disaster, the <b>Information Technology Office</b> should:</p> <ul style="list-style-type: none"> <li>• complete the development of a disaster recovery plan, communicate it to all concerned, then test it and the related back-up processing arrangements,</li> <li>• execute a service level agreement to confirm the responsibilities of the offsite data storage facility and back-up data centre, and</li> </ul>	<p><i>Proposals are being considered to address these points. (January 2007)</i></p> <ul style="list-style-type: none"> <li>• <i>Disaster Recovery exercises were conducted for the Accountant-General and e-mail. Plans are being developed to extend the number of departments based on a real time recovery DR site currently being implemented.</i></li> <li>• <i>A new Disaster Recovery location is being brought on stream during 2008 supporting a real time back up model. A Standard SLA is in place, but details to support specific Government processes need to be developed.</i></li> <li>• <i>Offsite storage is visited on weekly basis when tapes are delivered. New processes and technology based on real time model will be introduced during 2008 (January 2008)</i></li> </ul>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
<ul style="list-style-type: none"> <li>monitor the activities of the off-site storage operation. (2006)</li> </ul>	
<p>20. To prevent unauthorized changes to computer programs, the <b>Information Technology Office</b> should:</p> <ul style="list-style-type: none"> <li>establish procedures that prevent programmers having access to the production environment, and</li> <li>collect information from user Departments on the results of their testing of maintenance changes.</li> </ul>	<p><i>Proposals and modifications are being considered to address these points. (January 2007)</i></p> <ul style="list-style-type: none"> <li><i>The Change Process logs and approves implementation of changes into production, but it is not practical to fully prevent programmer access to the production environment due to resource constraints and diversity of systems. The Change Process is being refined to reduce programmer involvement to an exception basis and the granting and revocation of access will be recorded as events in the change log.</i></li> <li><i>Requests for Changes are approved and filed by departments. The Request for Change Form will be modified to include a statement that the sponsoring department has tested and approves the implementation of the change. (January 2008)</i></li> </ul>
<p>21. Confidentiality agreements should include a clause that the confidentiality does not apply to those who have a Constitutional or legal right to know or have access to the information they contain. (2008)</p>	
<p>22. The <b>Attorney-General's Chambers</b> should develop and obtain Cabinet approval for guidelines for the use of confidentiality agreements with ex-civil servants, together with a mechanism by which the guidelines are monitored by an independent officer of the Legislature. (2008)</p>	
<b>Central Payroll System</b>	
<p>23. Through the work of the FIMS Steering Committee, or by other means, the <b>Accountant-General's Department</b> should establish an ongoing process to identify opportunities for automating processes and reducing clerical inefficiencies, and thereby ensure the full and efficient use of the central payroll system. (2000)</p>	<p><i>Opportunities to automate processes and reduce inefficiencies have been identified. Management is moving to an upgraded version of the computer software that will allow workflow, streamlining and more efficient processing of information. Interim changes to the process would not be efficient or cost-effective before a new system is implemented. When the new system is in place, systems and procedures will be enhanced etc. as necessary. (January 2002)</i></p> <p><i>In-depth testing and investigation of the capabilities of JDE are planned. It was found that basic hours can be pulled into payroll system, but when amendments are made to that time card, all information is lost for that individual and re-entered. The investigation will determine whether this process can be done effectively. (January 2004)</i></p> <p><i>Testing on this function is still pending. Hopefully this will be implemented in 2005. (November 2004)</i></p> <p><i>A system review is currently underway and should be completed by March 31, 2006, with any revisions required taking place in the subsequent months. (December 2005)</i></p> <p><i>The review noted above is still ongoing due to staffing and other system issues. In addition, funding has been requested to</i></p>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
	<p>move to the new server and upgrade the JDEdwards system to utilise certain features in the new release (version) of the software. (January 2007)</p> <p>We are currently reviewing JDEdwards and comparing it to three other ERP systems. Part of this project will be to identify opportunities to improve internal controls and make tasks and procedures more efficient. We will be looking for ways to automate tasks where appropriate. This is a multiphase project that will take at least two years (January 2008)</p>
<b>Debt Collection (particularly payroll taxes and pension contributions)</b>	
24.	<p>The <b>Office of the Tax Commissioner</b> should continue to develop initiatives and intensify efforts to encourage delinquent employers to remit past-due taxes, including ensuring that legislated penalties are levied promptly. (This recommendation, first made in 1998, has been modified to reflect recent Government-wide initiatives to assist with the collection of tax arrears)</p> <p><i>The Debt Enforcement Unit (the DEU) has had a significant impact on our ability to collect outstanding receivables. The timely processing and publicizing of writs has seen a significant increase in our collections for the first seven months of this fiscal year. (December 2005)</i></p> <p><i>The Office continues to develop initiatives to encourage taxpayers to pay their outstanding taxes. Cabinet has considered and approved recommendations to; (1) establish a Tax Court, (2) outsource the collection of land tax and (3) allow for a Payroll Tax Amnesty whereby taxpayers are permitted to pay their outstanding tax liability without penalty. (January 2007)</i></p> <p><i>The Tax Court (TC) has been approved by Cabinet but has not yet been established. Needless to say, the TC will greatly assist to the Tax Commissioner in the collection of outstanding debt. The outsourcing of collections from the most difficult tax offenders has been temporarily put on hold. We have drafted an agreement with a Collection Agency but have not finalized an agreement. We are currently reviewing the success of writing to tenants of delinquent landlords. The payroll tax amnesty has not yet been approved by Finance (January 2008)</i></p>
25.	<p>The <b>Director of Social Insurance</b> should intensify efforts to encourage delinquent employers to remit past-due pension contributions. (This recommendation, first made in 2002, has been modified to reflect recent Government-wide initiatives to assist with the collection of tax arrears)</p> <p><i>As a result of the establishment of the DEU, to date, \$670K has been collected and directly attributed to the efforts of the DEU. This has proven to be effective in encouraging delinquent employers to remit past due contributions. In addition, excellent Departmental liaisons with TCD and the Department of Immigration have also proven to be quite effective in collecting arrears and continue to be improved. (December 2005)</i></p> <p><i>Several strategies have been implemented to make the debt recovery process more aggressive and efficient including: 1.Installing Debt Management Software (TIGER) to better manage the debt collection process. 2.Reorganizing the DOSI Compliance and Contributions Sections to more effectively f/u delinquent employers. Contributions section is now responsible for 30 and 60 day delinquencies. Compliance is responsible for over 60 day delinquencies. DEU utilized for legal action, and 3.DOSI is in the process of hiring a senior debt collector to coordinate the debt recovery process. We expect the person to start in March 2008 (January 2008)</i></p>
26.	<p>The <b>Ministry of Finance</b> should formally remind senior management in all Ministries and Government-controlled Organizations of their</p>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
responsibility to comply with Section 8.2 of <i>Financial Instructions</i> which, in effect, prohibits doing Government business with companies that are in arrears with their payroll tax and pension contribution obligations. (2008)	
<b>Identifying taxpayers</b>	
27. The <b>Office of the Tax Commissioner</b> should retain evidence of the nature, extent and results of procedures used to identify potential taxpayers. Consideration should be given to establishing common identifier numbers or similar for all people and organizations that have dealings with Government, and using them to identify those who are not on the register of taxpayers. Computer comparisons/matching should be used wherever possible. (1998)	<p><i>It is agreed that the Office is responsible for identifying potential taxpayers. Establishing taxpayer ID numbers would enable checking that vendors to Government are registered taxpayers and have valid payroll tax ID numbers. (October 2000)</i></p> <p><i>Newspapers and other publications are vetted daily to identify potential taxpayers, which leads to new registrations. Information is provided from Departments and sources and is acted upon. Significant progress in identifying potential taxpayers can only be achieved once a register of all businesses is set up, as recommended by the Tax Commissioner many years ago. (January 2003).</i></p> <p><i>The Director of Consumer Affairs and the Tax Commissioner have discussed recently the establishment of a business registry. (November 2004)</i></p> <p><i>The Bermuda Small Business Development Corporation has agreed to host and maintain the Business Registry. A draft Cabinet Paper has been prepared and approval is pending. (December 2005).</i></p> <p><i>The Business Registry proposed by the Bermuda Small Business Development Corporation does not meet our needs because its focus is primarily on small businesses. As such, we have recently partnered with the Department of Social Insurance and the Statistics Department to merge and match our respective databases. This will allow us to identify potential and unregistered taxpayers. Further enhancements to the Business Registry will be addressed during the re-engineering of our computer systems. (January 2007)</i></p> <p><i>A registry that will meet the needs of the Tax Commissioner, Social Insurance and other departments has not been established. The business registry established by The Bermuda Small Business Development Corporation does not meet the needs of the Office and we have not had any further discussions with the Social Insurance Department with respect to the merger of our databases. The Office is in the process of procuring funds for the reengineering of our computer system (January 2008)</i></p>
<b>H.M. Customs</b>	
28. <b>H.M. Customs</b> should have better procedures to ensure that the true value of imported goods is assessed consistently and in accordance with the Revenue Act 1898. Since Bermuda is a signatory to the GATT Agreement (through the United Kingdom), the	<p><i>A new automated process (CAPS) will be implemented in January 2001 and GATT amendments will be introduced in the summer of 2001. (October 2000)</i></p> <p><i>Due to delays in implementing CAPS, replacement valuations will be enacted in 2002. Meanwhile a notice will be issued to advise customers of current valuation rules. The target date</i></p>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
<p>procedures established should encompass the valuation guidance contained in the GATT Agreement. (1998)</p>	<p><i>for the amendments is summer 2002. (January 2002)</i></p> <p><i>The CAPS project recommenced in November 2002. Legislation has been drafted to implement the GATT valuation rules and is expected to be enacted in February 2003. (January 2003)</i></p> <p><i>Due to delays in the legislative process, the GATT valuation rules are being presented for enactment in February 2004. (January 2004)</i></p> <p><i>GATT valuation rules were enacted in 2004 and will be implemented in March 2005. Training for staff and traders will be conducted from September 2004 to February 2005. (November 2004)</i></p> <p><i>The CAPS will be implemented in the Arrivals Hall in February 2005 and in the commercial areas later this year. (January 2005)</i></p> <p><i>The CAPS was implemented in the Arrivals Hall in February 2005 and will be implemented in the commercial areas in September 2005. (June 2005)</i></p> <p><i>The CAPS was implemented in the Hamilton Commercial Operation area as a pilot program in December 2005. Due to several traders not having electronic capabilities, the date of the full roll out is unknown (December 2005).</i></p> <p><i>The CAPS is still in the pilot program phase due to AS400 constraints. ITO have been mandated to up-grade the system, in order to meet our requirements. The anticipated full roll out of Phase 1 is unknown at this time. (January 2007)</i></p> <p><i>CAPS is still in the pilot program phase. ITO has fulfilled their mandate by completing their upgrade of the AS400 system. The full roll out of Phase 1 of CAPS, is expected in December 2008. (January 2008 and 2009)</i></p>
<p>29. To safeguard the collection of duties, <b>H.M. Customs</b> should ensure compliance with all legislative requirements and procedural policies relating to the administration of bonded warehouses, particularly those relating to setting and periodically reviewing bonds, and ensuring that warehouses are appropriately licensed. H.M. Customs' information system should be expanded to capture and provide the current information needed to monitor and control the movement of inventory on which duty is payable. (1998)</p>	<p><i>H.M. Customs is nearing the end of a two-year project to review all practices and procedures at bonded warehouses and oil docks. New procedures will be introduced in 2001. (October 2000)</i></p> <p><i>Due to delays in implementing CAPS, the new bonded procedures have not been enacted. The new target date is summer 2002. (January 2002)</i></p> <p><i>The CAPS project recommenced in November 2002. Revisions to the bonded warehouse procedures are now planned for 2003 and 2004. We plan a full external audit of the major bonded operators in the spring of 2003. (January 2003)</i></p> <p><i>Phase 1 of the CAPS project is due for implementation in April 2004. Phase 2 (bonded operations) is scheduled for implementation in 2005-06. The audit of the major bonded operators was not done in 2003 due to budget restraints. Funding has been requested for 2004. (January 2004)</i></p> <p><i>Phase 1 of the CAPS project was postponed and is due to go live in April 2005. Phase 2 (bonded operations) is scheduled for development in 2006-07. Funding for an audit of the major bonded operators was not granted, but the Department has reviewed all bonded operators to ensure that their warehouses are appropriately licensed. (November 2004)</i></p> <p><i>CAPS will be implemented in the Arrivals Hall in February</i></p>



RECOMMENDATION	RESPONSES AND CURRENT STATUS
	<p>2005 and in the commercial areas later this year. (January 2005)</p> <p>The CAPS was implemented in the Arrivals Hall in February and will be implemented in the commercial areas in September 2005. (June 2005)</p> <p>CAPS was implemented in the Hamilton Commercial Operation area as a pilot program in December 2005. Due to several traders not having electronic capabilities, the date of the full roll-out is unknown.(December 2005)</p> <p>CAPS is still in the pilot program phase due to AS400 constraints. ITO has been mandated to up-grade the system, in order to meet our requirements. The anticipated full roll out of Phase I is unknown at this time. (January 2007)</p> <p>CAPS is still in the pilot program phase. ITO has fulfilled their mandate by completing their upgrade of the AS400 system. The full roll out of Phase I of CAPS, is expected in December 2008 (January 2008 and 2009)</p>
30.	<p><b>HM Customs Department</b> should take urgent steps to eliminate the serious control weaknesses in its procedures for handling and recording customs duty. (2006)</p> <p>This matter will be addressed when the CAPS is implemented in the near future. (January 2007)</p> <p>This matter will be addressed when CAPS is implemented in December 2008. (January 2008 and 2009)</p>
<b>Department of Financial Assistance</b>	
31.	<p>The <b>Department of Financial Assistance</b> should accelerate the development and implementation of the new Financial Assistance Information System, and mitigate the difficulties that caseworkers and others will face delivering the new program before the new system is implemented. (2002)</p> <p>The Department knows the shortcomings of its information systems and will continue to do everything to ensure that operating and information needs are satisfied. (January 2003)</p> <p>Prospective vendors are short-listed and are being interviewed for final selection. (2004)</p> <p>The contract for the new IT system was signed in November and the Department is revamping existing forms to minimize/eliminate difficulties experienced by workers. This should take between 10-12 months. Meetings with the Department and Gateway will commence in December 2004. (November 2004)</p> <p>The Department has been involved in ongoing meetings with Gateway re. the building and implementation of our new IT system. We anticipate the system being operational in early 2006. (December 2005)</p> <p>Many unforeseen delays have the Department awaiting testing of our new system in February, 2008. We are anticipating going live shortly thereafter.(January 2008 and 2009)</p>
32.	<p>In preparation for the new Financial Assistance Act and Regulations, and the proposed new Financial Assistance Review Board, the <b>Department of Financial Assistance</b> should continue to plan for the related operational changes as well as assess the adequacy of human resources (particularly caseworkers) to carry out all its legislated duties and responsibilities. (2002)</p> <p>Agreed. Recovery of overpayments has improved with the appointment of the Investigations Officer, who is also helping to ensure that recoveries remain active. (January 2003)</p> <p>Changes in policy and procedures, mandatory home visits and a greater vigilance in monitoring public monies point to a need for additional staff. Based on a recent feasibility study, the Department seems likely to be the Government's official assessor of need. (2004)</p> <p>The Department is currently re-establishing the Review Board as mandated by the Financial Assistance Act 2001. This should be in place by the end of December 2004. (November</p>

RECOMMENDATION		RESPONSES AND CURRENT STATUS
		<p>2004)</p> <p><i>The Review Board was selected and gazetted in December 2004. The Department continues to assess its manpower in terms of our mandated role and our ability to carry out our legislated duties. We have requested Management Services to complete a further survey to assess the need for additional workers.(December 2005)</i></p> <p><i>The Financial Assistance Review Board is fully operational. The Department has requested an additional six (6) workers to handle the influx of new cases as a result of closure of the Medical Clinic in April 2007. A subsequent request for space was also made to accommodate the additional workers. (January 2008)</i></p>
<b>Department of Immigration</b>		
33.	The <b>Department of Immigration</b> should expand its documentation of staff duties and responsibilities to cover all revenue-generation and collection processes, and include information to enable staff to understand the controls inherent therein.	<p><i>The documentary example provided by the Audit Office will be a useful guide to document the controls. With the assistance of Management Services, the Department has begun documenting the processes of its various sections and this should be complete by the end of the year. (January 2005 &amp; December 2005)</i></p> <p><i>The production of guidelines with the assistance of Management Services has had to be postponed until the current phase of the IT systems has been implemented. (January 2008 and 2009)</i></p>
34.	To provide assurance that revenues are collected and accounted for, the <b>Department of Immigration</b> should, where possible and cost-effective, reconcile periodically the numbers of licenses, passports and permits issued (or applied for) to the revenues derived from those sources.	<p><i>This will be done immediately for land licenses and passports. However, the volume and varying types of work permits, together with cancellations and refunds, would make monthly reconciliations for these extremely clerically intensive. A new computer system currently planned stage will include the functionality to perform revenue reconciliations. Meanwhile, receipt of fees will continue to be checked before work permits are issued. (January 2005 &amp; December 2005)</i></p> <p><i>Land license fees are periodically reconciled to the 5A forms. Similar reconciliations for other application types are impractical because of the manual work required. The new computer systems currently being developed will have the functionality to perform revenue reconciliations. (January 2008)</i></p>
<b>Ministry of Works and Engineering</b>		
35.	The <b>Ministry of Works and Engineering</b> should update and re-issue its purchasing and procurement policies, and the procedures designed to ensure compliance with those policies should be reviewed. (2002)	<p><i>The Ministry is updating these policies and is seeking to complete this process within the first quarter of 2004. (January 2004)</i></p> <p><i>Policy updating is still in process. (November 2004)</i></p> <p><i>The Ministry has concluded this process and has now undertaken the creation of an on-line tendering web-site as well as the enactment of approved vendor and contractor lists as a result. We expect the new process to be rolled out on or before April 2006. (December 2005)</i></p> <p><i>The Procurement document has been revised and is currently being reviewed by the department heads and will be signed off on by the end of February 2008. (January 2008)</i></p>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
	<i>The procurement document is currently awaiting Ministerial approval. (January 2009)</i>
<b>Contributory Pension Fund</b>	
36.	<p>To help reduce arrears in pension contribution remittances, the <b>Department of Social Insurance</b> should consider seeking legislative amendments to allow it to charge interest on such arrears. (2000)</p> <p><i>The Director of Social Insurance agrees with charging interest on delinquent accounts and will work towards implementing the technical support to process this. (January 2003)</i></p> <p><i>At present, the Department has limited technical resources to implement changes to an already complex system. (January 2004 and November 2004)</i></p> <p><i>The Director will start the process of legislative changes before the end of fiscal 2005-06. (December 2005)</i></p> <p><i>A change in the Legislative Review Committee in early 2006 delayed this exercise. The new Committee completed its findings which were provided to the Director of Social Insurance in December 2006. The results are to be forwarded to the Ministry of Finance for review in early 2007. Included in their recommendations are interest penalties.(January 2007)</i></p> <p><i>Recommended legislative changes have been forwarded to the Ministry of Finance and are expected to be placed before the House in the next legislative session. (January 2008)</i></p>
37.	<p>The <b>Department of Social Insurance</b> should ensure that Government contribution payments are recorded by the Fund on a timely basis, at which time employee contribution records should be updated. The records of the Fund should be reconciled to the Accountant-General's records on a regular basis. (1993)</p> <p><i>Work is ongoing with the Accountant-General's Department to reconcile the Fund's records with the Government account. (February 2001).</i></p> <p><i>Agreed. The Director plans to set up a task force during 2004 to deal with this backlog. Limited resources have prevented the Department from tackling this sooner. (January 2004)</i></p> <p><i>A task force was established in September 2004. An employee from the Accountant-General's Department is assisting with this effort. (November 2004)</i></p> <p><i>The task force decided that the project should be handled in three phases. An official seconded from the Accountant-General's Department worked with us for eight months to October 2005:</i></p> <ol style="list-style-type: none"> <li><i>1. Phase I was to reconcile accounts using a starters, leavers and transfer report with information based on 1995 – 2004 data. All departments and quangos from this phase have been reconciled with the exception of the Ministry of Education.</i></li> <li><i>2. Phase II was to reconcile accounts and quangos with information based on 1985 – 1995 data. To date nineteen accounts have been reconciled. It is expected that this project will take another three to six months to complete.</i></li> <li><i>3. Phase III involves ongoing maintenance following recommendations given.</i></li> </ol> <p><i>Limited staff resources became a problem again when the seconded official left. The Director's intends to try to complete the outstanding items of Phase I and much of Phase II by July 2006. (December 2005)</i></p> <p><i>DOSI and the Accountant-General's Department have jointly engaged a pension software developer to deliver a new pension system that will address this problem. Expected delivery is January 2009. In the interim, the Compensations section of the Accountant-General's Department has agreed to review</i></p>

RECOMMENDATION		RESPONSES AND CURRENT STATUS
		<i>monthly DOSI billings for Government Departments and to provide the required statistical reports to allow a complete reconciliation prior to data migration to the new system. (January 2008)</i>
38.	<b>The Department of Social Insurance</b> should seek amendments to the Contributory Pensions Act 1970 to delete references to superceded methods of contribution collection. Regulations should be issued governing the administration of contributions. (1993)	<p><i>The recommendation has been noted and appropriate action will be taken. (April 1997)</i></p> <p><i>The Director agrees with this recommendation. Efforts will be made to make the necessary amendments with respect to outdated procedures during the fiscal year ending July 2004. (January 2004)</i></p> <p><i>To be pursued during the financial year ending July 31, 2005. (November 2004)</i></p> <p><i>The Director established a Legislative Review Committee for the CP Act 1970 in September 2005 to identify outdated procedures, language, etc. as well as to identify possible anomalies therein, particularly with respect to benefits. Its findings should be available in January 2006. (December 2005)</i></p> <p><i>Recommended legislative changes have been forwarded to the Ministry of Finance and are expected to be placed before Parliament in the next legislative session (January 2008)</i></p>
39.	<b>The Department of Social Insurance</b> should reconcile the Contributory Pension Fund's monthly pension payment reports to the previous month's report to ensure that all necessary additions and deletions have been recorded on the system. (2007)	
<b>Government Employees Health Insurance Fund</b>		
40.	<b>The Accountant-General's Department</b> should take immediate action to address the serious and long-standing deficiencies in the accounting records and controls of the Government Employees Health Insurance Fund, to bring the Fund's financial reporting and accountability responsibilities up-to-date, and to comply with all legislated requirements. (2000 and before)	<p><i>The Fund's administrative and accounting issues are currently under review and daily operations are being assessed. (January 2002)</i></p> <p><i>A new accountant started in January 2003, and has undertaken a key IT project that will alleviate long-standing deficiencies in the accounting records and controls of GEHI. (January 2004)</i></p> <p><i>A new GEHI computer system is being developed with a target completion date of April 2005. This system will alleviate many of the accounting and system errors currently experienced. (November 2004)</i></p> <p><i>The new GEHI computer system is being operated simultaneously with the old system to ensure that it has been fully debugged. Draft statements have been prepared for 2005. (December 2005)</i></p> <p><i>Draft financial statements have been prepared for all years through March 2006, but, the Auditor General is only currently working on the 2003 statements. (January 2007)</i></p> <p><i>The audited financial statements for 2004 were issued in January 2008. (January 2008)</i></p> <p><i>The 2005 statements have been audited and the Accountant-General's Department is preparing the statements for 2006 and 2007. (January 2009)</i></p>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
<p>41. The <b>Ministry of Finance</b> should set a deadline by which time the annual financial reporting, with unqualified audit opinions, of the Government Employees Health Insurance Fund should be brought up-to-date and, if the deadline is not met, the Fund's administration and accounting should be contracted out to a service provider. (2007)</p>	
<b>Hospital Insurance Fund</b>	
<p>42. The <b>Department of Social Insurance</b> (Hospital Insurance Commission) should eliminate the numerous accounting and financial control deficiencies that are causing inaccuracies in the Hospital Insurance Fund's accounting records, and delays in its financial reporting. (1993) (This summarizes a number of audit recommendations that target the numerous accounting and control deficiencies identified.)</p>	<p><i>Computerization of the Hospital Insurance Plan's records is planned for 2001. The individual audit recommendations that support this recommendation are now being addressed. (1999)</i></p> <p><i>Limited resources have delayed the computerization of accounting records. A re-organization is underway that will ensure that appropriate resources are allocated. Financial reporting is now more up-to-date and only the Fund's 2000 financial statements are outstanding. (January 2000)</i></p> <p><i>Re-organization was approved by Cabinet in January 2002. A new policyholder maintenance system for HIP was completed in 2001. Procedures are currently underway for the implementation of a claims processing system. Claims processing is currently being done manually.</i></p> <p><i>Un-audited financial statements have been prepared to March 2003. (January 2004)</i></p> <p><i>Current un-audited financial statements continue to be prepared. (November 2004)</i></p> <p><i>The Director of Social Insurance stated that additional permanent staff have been hired and funding for temporary staff have been made available to bring the audits up to date. (January 2007)</i></p> <p><i>All working papers for both HIF and MRF are up to date to the year ended March 2007. Responses to RFPs for the automation and outsourcing of claims processing have already been received and a Cabinet paper has been prepared for discussion in January 2008. The Department is already utilizing an interim software system for certain claims types. In addition, several temporary staff have been hired within the past 6 months to assist in clearing the backlog with significant progress. Implementation of full automation initiatives is expected to start in 2008. (January 2008)</i></p>
<p>43. The <b>Ministry of Finance</b> should set a deadline by which time the annual financial reporting, with unqualified audit opinions, of the Hospital Insurance Fund should be brought up-to-date and, if the deadline is not met, the Fund's administration and accounting should be contracted out to a service provider. (2007)</p>	

RECOMMENDATION		RESPONSES AND CURRENT STATUS
<b>Public Service Superannuation Fund</b>		
44.	If inter-fund indebtedness of the <b>Public Service Superannuation Fund</b> to the Consolidated Fund is to be forgiven, to comply with legislative requirements the Ministry of Finance should include the Fund's anticipated annual cash flow deficits each year in annual appropriations bills (or obtain supplementary estimates) because such a forgiveness represents a Government contribution under Section 10A(2) of the Public Treasury (Administration and Payments) Act 1969. (2000 and before)	<p><i>The Ministry of Finance will consider this recommendation during annual budget submissions.</i></p> <p><i>Agree. Going forward the Ministry of Finance will budget each year for these annual deficits as cash expenditures of the Consolidated Fund (December 2005).</i></p> <p><i>Commencing April 2006, contribution rates were increased and will be increased again in April 2007 and 2008. These increases will enhance the cash flow of PSSF resulting in positive cash flow, thus eliminating annual pension deficits. (January 2007).</i></p> <p><i>In its revised form, this recommendation is accepted. (January 2008)</i></p>
<b>Bermuda Arts Council</b>		
45.	The <b>Bermuda Arts Council</b> should ensure that annual reports are tabled in the House of Assembly as required by legislation. (2003)	<i>A report for 2003 was submitted to Minister Dale Butler in January 2004 and was delivered to the House of Assembly shortly thereafter. (December 2005)</i>
<b>Bermuda College</b>		
46.	To improve accountability and financial management, the Board of <b>Bermuda College</b> should improve its accounting records and controls, and bring its financial and account-ability reporting up-to-date as required by legislation. (2008)	
47.	The Board of <b>Bermuda College</b> should enable the Minister to table annual reports in the House of Assembly as required by legislation. (2003)	<p><i>The College's Annual Reports are submitted to the Ministry of Education. (January 2004)</i></p> <p><i>Noted. (November 2004 and December 2005)</i></p> <p><i>The Bermuda College submits its report to the Ministry of Education on an annual basis to be tabled. (January 2008 and 2009)</i></p> <p><u>Auditor General's comment:</u> Since the College's financial reporting is four years in arrears, these reports must be of limited value</p>
<b>Bermuda Housing Corporation</b>		
48.	The <b>Bermuda Housing Corporation</b> should review its organizational, accounting, reporting and control needs as a basis for replacing its antiquated and unstable general ledger accounting system. (2005)	<p><i>The need for a new system is recognized. Resource availability is a concern but we are assessing the suitability of similar systems being implemented by other Quangos to determine whether their pricing and functionality could meet the Corporation's needs. (2005)</i></p> <p><i>The Corporation continues to progress replacing its software. Options are being assessed jointly with the Bermuda Land Development and the West End Development Corporations. All three are involved in property rental, maintenance and development and could share training and support opport-</i></p>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
	<p><i>unities. We expect a replacement system to be identified by the end of fiscal 2007. The needs assessment recommendation has been incorporated into the ongoing selection process. (January 2007)</i></p> <p><i>The Corporation has purchased a new operating and financial system software (MRI-IRES) which is currently being implemented with parallel testing to begin in May 2008. (January 2008)</i></p> <p><i>Parallel testing is pending; it is very comprehensive. (January 2009)</i></p>
49.	<p><b>The Bermuda Housing Corporation</b> should develop a disaster recovery and business resumption plan to address the loss of critical computer equipment, programs or data. This should include arrangements to use servers and other vital equipment, and off-site storage of programs and data. The plan should be updated and tested periodically, communicated to relevant staff, and training should be provided where appropriate. (2005)</p> <p><i>Most processing is performed at the Government's main data centre, over which the Corporation has no control. Back-up in the event of loss of the Corporation's server, however, is a continuing concern, and additional hardware and software protection is being provided. A bank safe deposit is being rented to store back-up tapes and DVDs. (2005)</i></p> <p><i>Steps have been taken to ensure adequate backup processes are followed and that the backup media is protected offsite in addition to in-house storage. The formal documentation and regular testing of a disaster recovery plan is being incorporated in the contract to re-house the Corporation's server. (January 2007)</i></p> <p><i>The Corporation has developed a disaster recovery and business resumption plan that addresses these issues. This plan is in draft form and a simulated test run will be conducted by the end of February 2008. Once completed the plan will be reviewing for effectiveness and any necessary changes will be made. Once this process has been completed this plan will be formally approved by the Corporation's Board. It is anticipated that this will be completed by the end of the current fiscal year March 2008. (January 2008)</i></p>
50.	<p><b>The Bermuda Housing Corporation</b> should systematically investigate and either obtain title deeds or vesting orders for all real assets recorded on its balance sheet. (2005)</p> <p><i>Documentation in this area is a long-term problem with its origins in history and the recent period when management controls were inoperative. It is a problem that will be addressed, but not in the short-term, due to the complexities involved and the resources currently available. (2005)</i></p> <p><i>The asset files and supporting vesting orders and deeds are a long term problem. This problem cannot be successfully addressed within the short term with current staffing, financial and physical resources. Steps have been taken to ensure that proper title and any encumbrances are established prior to developing any property. (January 2007)</i></p> <p><i>As part of the implementation process, a review of all properties owned and rented by the BHC will be undertaken and a list of properties which lack adequate documentation will be intensified and an action plan for resolution will be made. This problem will be very time consuming and can only be addressed within the current staffing, financial and physical resources of the Corporation. The Corporation has requested a significant operating grant from Government for the next budget year. This request included an increase for staffing levels including the hiring of a full time in-house lawyer whose responsibilities would include investigating and resolving vesting orders and title deeds that are missing or are in</i></p>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
	<p><i>dispute. In the interim, steps have been taken to ensure that proper title and any encumbrances are established prior to developing any property within the Corporation's portfolio. The only risk is that vested properties will be withdrawn from the portfolio by Government after design or development has begun or that political interest will alter any Capital program established by the Corporation. The ownership records of the Corporation continue to be researched as resources allow and with some limited success. (January 2008)</i></p>
51.	<p>To reduce the risk of failing to obtain or retain critical documentation relating to property management contracts, property leases and mortgage loans, the <b>Bermuda Housing Corporation</b> should establish post-closing file review practices and documentation retention policies. (2005)</p> <p><i>Inadequate documentation in files often reflects non-compliance with documentation standards in past years. The Board has been informed of these concerns and management is reviewing its documentation practices with a view to further developing practices to deal with the noted problems. (2005)</i></p> <p><i>Existing documentation still reflects the age of the underlying application system and past practices. Significant effort has been expended reorganizing but management accepts that further effort is required. The Board has been informed of this concern and is committed to replacing outdated information and filing systems. The document retention issue remains a particular concern with the limited archival and filing space available to the Corporation. (January 2007)</i></p> <p><i>The process of maintaining rental files remains a challenge at this time and is a primarily a result of the legacy process (see above). The process is manual and given the growth in the number of clients and properties without a corresponding increase in staffing levels it has been difficult for all files to be complete and up to date given the complexity of the work that is required (i.e. legal agreements between multiple parties who are not all necessarily all residing in Bermuda and are under differing terms and conditions).</i></p> <p><i>The solution to these problems has, however, been addressed as the new operating and financial system software that is being implemented for the BHC has software modules to electronically track rental clients, agreements, expiration dates of leases and agreements, etc. The files will be electronic and procedures whenever possible will be embedded into the system to create the standards of documentation, review processes and other controls to improve the completeness and timeliness of rental file documentation. As part of the implementation process a review of the documentation of all clients and properties will be completed in order to transfer the data into the new system. Any shortfall in the documentation will be identified at this time and appropriate action will take place to obtain the necessary information (January 2008).</i></p>
<b>Bermuda Hospitals Board</b>	
52.	<p>To improve financial management and control, the <b>Bermuda Hospitals Board</b> should strengthen or establish procedures to control and protect the assets and resources under its stewardship. (1997) <i>(this summarizes a number of audit recommendations that target accounting</i></p> <p><i>The Board has maintained steady progress in recent years in improving internal controls and, in March 2005, initiated an Internal Audit function. We anticipate the completion of three internal audits by the end of March 2006. Each year we expect to complete three audits and this, along with the external audit, will help the Board focus on addressing key financial management and control issues. (December 2005)</i></p> <p><i>The Board continues to address its control deficiencies through</i></p>



RECOMMENDATION		RESPONSES AND CURRENT STATUS
	<i>and control deficiencies identified)</i>	<i>the introduction of an Internal Audit function in March 2005. Since that time five internal audits have been completed and the implementation of the recommendations continues. (January 2008)</i>
<b>Bermuda Post Office</b>		
53.	The <b>Bermuda Post Office</b> should review its legislation and regulations and, where necessary, seek updates to reflect current requirements and practices. (2004)	<p><i>Agreed. Legislation will be reviewed and complied with or amendments sought as necessary. (April 2004, November 2004 &amp; December 2005)</i></p> <p><i>Draft amendments to the Post Office Act and Regulations were submitted to the Ministry of Finance for review in September 2006. (January 2007)</i></p> <p><i>In November 2007, the Bermuda Post Office was transferred from the Ministry of Finance to the Ministry of Public Safety and Housing. Draft amendments to the Post Office Act and Regulations were re-submitted to the new ministry for review in October 2007. Effective December 2007 the Post office was transferred to the Ministry of Labour, Home Affairs and Housing, but retained the same Minister and Permanent Secretary. The review of draft amendments to the Post Office Act and Regulations should continue uninterrupted following the latest ministerial move. (January 2008)</i></p> <p><i>The amendments are drafted but have not yet been tabled. (January 2009)</i></p>
<b>CedarBridge Academy</b>		
54.	To limit the impact of continuing operating losses of the Ruth Seaton James Auditorium on the financial resources of <b>CedarBridge Academy</b> , the reasons for such losses should be investigated and cost-saving measures implemented where possible. Alternative funding arrangements for the Auditorium should also be pursued. (2005)	<p><i>A feasibility study of alternative funding arrangements for the Auditorium is nearing completion and controls over cash revenues have been improved. (2005)</i></p> <p><i>The feasibility study is complete and has been reviewed by the Board of Governors, which has forwarded its recommendations to the Ministry of Education for a final decision as to the future funding and management of RSJ. (January 2008)</i></p>
<b>Aided Schools</b>		
55.	<p>The <b>Ministry of Education or the Ministry of Works &amp; Engineering</b> should establish systems to record and control capital costs expended for the four aided schools, and the liability for unamortized construction costs of the schools. (1995)</p> <p>In this regard, the <b>Ministry of Education</b> should explore the practicality of using the Ministry of Works and Engineering's "book value calculator" methodology to establish estimates of capital costs for assets that were paid for by Government and transferred to aided schools. (2005)</p>	<p><i>The Ministry of Finance agrees and will request the Ministry of Education to establish such a system, with appropriate information provided by the Ministry of Works and Engineering. (November 1998)</i></p> <p><i>No progress has been made on this issue. (January 2001, 2002, 2003 &amp; 2004)</i></p> <p><i>Following discussions with W&amp;E, no capital costs are expended on a regular basis for aided schools. In cases such as Berkeley (a new construction) costs are recorded as WIP by the Accountant-General until they are capitalized, and then amortized in line with government amortization policy. (November 2004)</i></p> <p><i>Moving forward, we have put systems in place to capture capital cost to aided schools by coding the expenses in a separate account. (December 2005)</i></p>

RECOMMENDATION	RESPONSES AND CURRENT STATUS
<b>Parish Councils</b>	
<p>56. The <b>Ministry of Culture and Social Rehabilitation</b> should consider dispensing with Parish Councils for parishes that traditionally have shown little interest in local issues. (2001)</p>	<p><i>The Ministry will review the role of Parish Councils to align their role with the needs of the community. (January 2003)</i></p> <p><i>A proposed Rest Homes Board will be established and Parish Councils will be relieved of the administration and financial management of Rest Homes. (January 2004)</i></p> <p><i>Cabinet has approved the establishment of a Rest Homes Board to oversee the Parish Council Rest Homes and move the Parish Councils proper, under the Ministry of Community Affairs and Sport. This would put a layer of trained Management in place that did not previously exist and should complete the two-pronged approach that was missing. (January 2005)</i></p> <p><i>The Ministry of Health and Family Services makes every effort to appoint individuals who are committed to the community involvement. The Cabinet decision to move the Parish Councils to the Ministry of Community Affairs and Sports is still pending. (December 2005)</i></p> <p><i>Responsibility for Parish Councils was transferred to the Ministry of Community and Cultural Affairs as of November 2006. However, the administration of the Rest Homes is still being reviewed. (Jan 2007)</i></p>
<p>57. With respect to parish councils to which it pays annual grants, the <b>Ministry of Culture and Social Rehabilitation</b> should heed the comments of the Minister of Finance who stated in a report to the House of Assembly in February 2007, “For accountability purposes it is important that organisations which receive grant funding from Government have their financial records up to date ... and those organisations that do not respond in a timely manner will be at risk of having funding withheld until their financial records are current.” (2007)</p>	
<p>58. <b>Devonshire Parish Council</b> should take urgent and immediate action to address the serious deficiencies in its accounting records and controls so that future annual financial statements can be audited and issued promptly in accordance with legislated requirements. (2006)</p>	<p><i>The Council agrees that immediate action is needed to address the above and other deficiencies revealed by the audit. (January 2007)</i></p>
<p>59. The <b>Ministry of Culture and Social Rehabilitation</b> should give <b>Devonshire Parish Council</b> a deadline for the setting up of internal control systems that protect public money and other property, the establishment of proper accounting records and supporting documentation, and the issuance of up-</p>	

RECOMMENDATION	RESPONSES AND CURRENT STATUS
60.	
61.	
62.	<p><i>Most of the deficiencies raised by the audit were the responsibility of the bookkeeping firm employed by the Ministry to maintain the Council's financial records. (January2007)</i></p> <p><u>Auditor General's comment:</u> Employing a contractor does not relieve the Council of its legislated responsibilities to maintain accounting records and be accountable for the financial resources it receives and consumes.</p>
63.	
64.	
65.	<p><i>The Council will make every effort to provide supporting documentation for the Auditor General's Office and our accountants going forward. (January2007)</i></p>

RECOMMENDATION		RESPONSES AND CURRENT STATUS
	(2006)	
66.	<b>Warwick Parish Council</b> should take urgent and immediate action to address the serious deficiencies in its accounting records and controls so that future annual financial statements can be audited and issued promptly in accordance with legislated requirements. (2006)	<i>The Council accepts the denial of opinion as stated. This is viewed very seriously and action is being taken to address this and other recommendations put forward by the auditors. We are confident that our 2004-05 fiscal year will be much better as we are working closely with newly appointed accountants. (December 2006)</i>
67.	The <b>Ministry of Culture and Social Rehabilitation</b> should give <b>Warwick Parish Council</b> a deadline for the setting up of internal control systems that protect public money and other property, the establishment of proper accounting records and supporting documentation, and the issuance of up-to-date annual financial statements that enable unqualified audit opinions. The Parish Council should be informed that failure to meet this deadline will result in withholding public funding and the transfer of responsibilities to the Ministry of Culture and Social Rehabilitation. (2007)	
<b>Office of the Auditor General</b>		
68.	To enhance and help safeguard the Constitutional independence of the Office of the Auditor General, the <b>Ministry of Finance</b> should assign authority to the Office to establish and operate its own bank account and payments and payroll processing systems. Eventually this authority should be enshrined in legislation. (2006)	<i>The Ministry of Finance fully understands that independence is a vital safeguard for the Office of the Auditor General in fulfilling its responsibilities objectively and fairly. The statutory independence of the Auditor-General is clearly enshrined in legislation via the Constitution of Bermuda and the Audit Act which enables the Auditor to carry out its mandate independently of the government and its administration. The Ministry considers that the preconditions for the functional independence of the Auditor-General are currently in place with the current legislative framework. These are:</i> <ul style="list-style-type: none"> <li>• <i>personal independence in relation to appointment and tenure;</i></li> <li>• <i>a wide legislative mandate empowering the Auditor-General to audit the complete spectrum of government functions;</i></li> <li>• <i>audit independence, including freedom to determine the audit programme, and to decide the nature and scope of audits to be conducted;</i></li> <li>• <i>unrestricted access to information in performance of the audit function together with the right to report any findings to Parliament, and</i></li> <li>• <i>adequate resourcing to fulfill audit functions effectively.</i></li> </ul> <i>(January 2008)</i> <u>Auditor General's comment:</u> see section 2.3 of this report for my comments on this.
69.	To enhance and help safeguard the Constitutional independence of the Office of the Auditor General, the	

RECOMMENDATION	RESPONSES AND CURRENT STATUS
<p><b>Ministry of Works and Engineering</b> should formally assign authority to the Office to negotiate and be responsible for its own accommodation arrangements. Eventually this authority should be enshrined in legislation. (2006)</p>	
<p>70. To provide a legal framework for independence for the operations of the Auditor General, the <b>Minister of Finance</b> is hereby requested to seek legislation to establish the Office of the Auditor General as a legal, independent entity. (2006)</p>	<p><i>The Ministry of Finance fully understands that independence is a vital safeguard for the Office of the Auditor General in fulfilling its responsibilities objectively and fairly. The statutory independence of the Auditor-General is clearly enshrined in legislation via the Constitution of Bermuda and the Audit Act which enables the Auditor to carry out its mandate independently of the government and its administration. The Ministry considers that the preconditions for the functional independence of the Auditor-General are currently in place with the current legislative framework. These are:</i></p> <ul style="list-style-type: none"> <li>• <i>personal independence in relation to appointment and tenure;</i></li> <li>• <i>a wide legislative mandate empowering the Auditor-General to audit the complete spectrum of government functions;</i></li> <li>• <i>audit independence, including freedom to determine the audit programme, and to decide the nature and scope of audits to be conducted;</i></li> <li>• <i>unrestricted access to information in performance of the audit function together with the right to report any findings to Parliament, and</i></li> <li>• <i>adequate resourcing to fulfill audit functions effectively.</i></li> </ul> <p>(January 2008)</p> <p><u>Auditor General's comment:</u> see section 2.3 of this report for my comments on this.</p>

RECOMMENDATION	REASON FOR REMOVAL
----------------	--------------------

### **Audit Recommendations removed from Appendix 2 this year**

<p>The <b>Department of Education</b> should establish procedures to identify problem student loans, to ensure that uncollect-ible loans are written off promptly, and to set up appropriate allowances for doubtful accounts at year ends. (2006)</p>	<p>This concern has now been addressed.</p>
<p>The <b>Bermuda Post Office</b> should intensify its efforts:</p> <ul style="list-style-type: none"> <li>• to implement, at the earliest possible time, all operational and control aspects of its Point of Sale computer system,</li> <li>• to ensure ongoing technical support for the system,</li> <li>• to establish related control and reporting procedures that take advantage of the information the system can produce, and</li> <li>• to develop policy and procedures to ensure integrity and security over system data (data control and back-up, and business resumption plans). (2004)</li> </ul>	<p>The system that addresses these concerns is now largely in place.</p>
<p>To enable proper physical control of capital assets and the reliable reporting of capital asset costs, <b>CedarBridge Academy</b> should upgrade its capital asset records by:</p> <ul style="list-style-type: none"> <li>• eliminating the programming error in the system used to generate periodic amortization charges, and</li> <li>• identifying those assets that were acquired in whole or in part using capital grants and recording for each asset the amount of the capital grant that is amortized to revenue each year. (2005 but modified to reflect progress made)</li> </ul>	<p>The most important parts of this recommendation have now been addressed.</p>

## **APPENDIX 3**

### **Organizations Falling Within the Mandate of the Auditor General**

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<b>Funds</b>	
Bermuda Department of Tourism North America Retirement Plan	March 31
Confiscated Assets Fund	March 31
Consolidated Fund	March 31
Contributory Pension Fund	July 31
Government Borrowing Sinking Fund	March 31
Government Employees Health Insurance Fund	March 31
Government Reserves Fund	March 31
Hospital 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
<b>Government-Controlled Organizations</b>	
Bermuda Arts Council	March 31
Bermuda College	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 Small Business Development Corporation	March 31
Board of Trustees of the Golf Courses	March 31
CedarBridge Academy	March 31
Pension Commission	December 31
Trustees of the National Sports Centre	March 31
West End Development Corporation	March 31
<b>Parish Councils</b>	
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
<b>Aided Schools</b>	
Berkeley Institute Capitation Account	March 31
Sandys Secondary Middle School Capitation Account	March 31
St. George's Preparatory School Capitation Account	March 31
Whitney Educational Trust	March 31
<b>Other</b>	
Office of Ombudsman for Bermuda	March 31

## **APPENDIX 4**

### **Audits Completed during the Reporting Period**

*The following financial statement audits were completed between the effective date of my 2007 Annual Report (January 2008) and this Annual Report (January 2009)*

---

<b>Public Funds</b>	
Consolidated Fund	2008
Government Borrowing Sinking Fund	2008
Government Employees Health Insurance Fund	2005
Government Reserves Fund	2007
Hospital Insurance Fund	2004
Ministers and Members of the Legislature Pensions Fund	2006
Mutual Re-insurance Fund	2004
<b>Government-Controlled Organizations</b>	
Bermuda Arts Council	2006, 2007
Bermuda College	2004
Bermuda Health Council	2007, 2008
Bermuda Housing Corporation	2008
Bermuda Housing Trust	2008
Bermuda Small Business Development Corporation	2007
Board of Trustees of the Golf Courses	2005
National Drug Commission	2005, 2006
Trustees of the National Sports Centre	2008
West End Development Corporation	2008
<b>Parish Councils</b>	
Devonshire Parish Council	2006
Paget Parish Council	2007, 2008
Sandys Parish Council	2006
Warwick Parish Council	2005, 2006
<b>Aided Schools Capitation Accounts</b>	
Berkeley Institute Capitation Account	2007
St. George's Preparatory School Capitation Account	2008
Whitney Educational Trust	2004



## **APPENDIX 5**

### **Payroll Tax Remittances in Arrears**

*Employers who at June 30, 2008 owed more than \$40,000 to the Government  
for Payroll Tax Remittances that were more than 90 days in arrears  
(See commentary in section 2.7 of this report)*

	<b>2008</b>	<b>2007</b>	<b>2006</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Hamiltonian Hotel & Island Club	596,920	584,898	561,854
C & N Construction	426,584	428,584	241,754
Fine Touch Construction & Maintenance Ltd.	410,836	481,801	460,474
Creative Accents Ltd.	299,302	277,581	255,860
Premier Homes	295,562	270,827	246,093
Guardwell Security Services	277,884	240,100	203,129
Bermuda Accounting & Management Services	254,270	-	-
Sea-Land Construction Co. Ltd.	243,344	243,344	243,344
Precision Management & Development Co. Ltd.	206,656	215,614	179,781
Steven Smith	196,066	166,016	124,460
Three Generations Construction	179,546	144,050	120,110
Palmetto Palms Seniors Home	165,622	150,931	131,240
Better Homes Construction	141,097	114,968	108,436
Evoke International Ltd.	136,997	110,990	84,982
Springfield Landscaping Ltd.	136,605	124,091	-
Skyline Realty Limited	134,981	-	-
Paul's Home Improvement	132,600	132,600	132,600
Carlsen Phillip Barristers & Attorneys	132,595	132,595	132,595
Total Environmental Solutions Limited (TES)	130,586	178,586	49,799
Ventura's & Steede's Maintenance	125,872	106,736	87,599
Integrated Systems of Bermuda Limited	120,395	83,730	-
Temple Management Services Ltd.	116,254	60,567	110,809
Cafe Acoreano	114,985	115,040	-
Peter Thornton	108,550	89,700	56,550
Symonds Construction Company	107,143	91,874	76,606
Smith & Co.	100,669	85,858	104,603
Axiom Services Limited	100,429	87,556	136,290
Bermuda Hosts Ltd.	96,784	85,072	107,874
ATM Construction Limited	96,306	-	-
Brilliant Solutions Limited	94,516	47,258	-
Somerset Bridge Recreation Club	93,889	92,242	91,006
Sandcastle Limited	92,992	143,668	-
F2 Property Management Group	88,850	79,009	52,267
Office Cabling Technologies Ltd.	87,504	106,680	91,339
Shabazz Bakery	85,741	88,743	70,647
Creative Accents Supply Limited	80,803	59,841	-
Browne, Scott & Associates	78,891	70,314	61,065
Southside Office Depot Ltd.	76,737	55,530	-
Blue Dragon	76,655	52,150	-
T.C.S. Landscaping	74,996	60,538	-

## Appendix 5

Aptech Granite & Marble	72,726	91,924	93,491
Surf & Turf Restaurant	71,426	72,926	73,506
Bee Line Transport (Bermuda) Ltd	71,015	84,565	84,565
Lynx Lomax Limited	67,741	50,613	-
Bermuda Breads Limited	67,130	59,836	-
ACL Construction Limited	66,342	-	-
Tuscany's Restaurant	65,347	-	-
Bercon Limited	63,081	-	-
Branches Mini Construction & Landscaping	61,910	145,744	130,315
Kalifa Day Care	61,314	50,378	-
Increte Systems Bermuda	60,620	52,143	43,665
St. David's Esso Convenience Centre	57,363	40,455	-
VCG 2 Ltd C/O Don Laurenceo	56,285	47,803	40,320
Sunnyvale Nursing Home	55,730	49,548	44,367
Telford Electric	54,419	-	-
Atlantic Glass & Aluminium Limited	54,169	-	-
Dr. James Brockenbrough	53,660	53,660	53,660
Scott & Scott Management Services Limited	52,747	46,221	-
Design Builders International	51,931	-	-
New Park Laundry	51,156	42,301	-
Foran Specialties	49,915	43,546	-
Southampton Rangers Sport Club	49,063	43,337	-
Crawford & MacMillan Limited	48,362	42,211	-
Tienda Da Tabbaca Limited	47,130	-	-
Bermuda Fabricating & Welding	46,924	43,383	-
Astwood Cove Guest Appartments Ltd.	46,239	46,219	46,239
Bermuda Taxi Radio Cabs Limited	45,282	-	-
Investor In People Bermuda Limited	44,321	-	-
BIU Industrial Union Taxi Cooperative Society	42,289	-	-
Ronald E. Lightbourne M.D.	42,051	-	-
Arthur A. Fox	41,546	-	-
Shaw's Building	41,333	50,304	44,451
Salon Designs	40,894	40,828	44,505
	<u>8,318,475</u>	<u>6,857,627</u>	<u>5,022,250</u>
Employers who were eliminating their arrears over periods of years under negotiated agreements	1,992,672	2,534,332	2,418,098
Employers who owed more than \$40,000 that was more than 90 days in arrears in prior years but have since reduced their arrears to less than \$40,000, or have gone into receivership or out of business		1,728,707	3,296,482
	<u>\$10,311,147</u>	<u>\$11,120,666</u>	<u>\$10,736,830</u>

Note: This appendix does not include employers, who have gone into receivership or out of business, who at June 2008 owed total payroll tax arrears of \$5,062,276.

## **APPENDIX 6**

### **Pension Contribution Remittances in Arrears**

*Employers who at July 31, 2008 owed more than \$40,000 to the Contributory Pension Fund  
in respect of Pension Contributions more than 90 days in arrears  
(See commentary in section 2.7 of this report)*

	<b>2008</b>	<b>2007</b>	<b>2006</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Hamiltonian Hotel & Island Club	596,920	584,898	561,854
C & N Construction	426,584	428,584	241,754
Fine Touch Construction & Maintenance Ltd.	410,836	481,801	460,474
Creative Accents Ltd.	299,302	277,581	255,860
Premier Homes	295,562	270,827	246,093
Guardwell Security Services	277,884	240,100	203,129
Bermuda Accounting & Management Services	254,270	-	-
Sea-Land Construction Co. Ltd.	243,344	243,344	243,344
Precision Management & Development Co. Ltd.	206,656	215,614	179,781
Steven Smith	196,066	166,016	124,460
Three Generations Construction	179,546	144,050	120,110
Palmetto Palms Seniors Home	165,622	150,931	131,240
Better Homes Construction	141,097	114,968	108,436
Evoke International Ltd.	136,997	110,990	84,982
Springfield Landscaping Ltd.	136,605	124,091	-
Skyline Realty Limited	134,981	-	-
Paul's Home Improvement	132,600	132,600	132,600
Carlsen Phillip Barristers & Attorneys	132,595	132,595	132,595
Total Environmental Solutions Limited (TES)	130,586	178,586	49,799
Ventura's & Steede's Maintenance	125,872	106,736	87,599
Integrated Systems of Bermuda Limited	120,395	83,730	-
Temple Management Services Ltd.	116,254	60,567	110,809
Cafe Acoreano	114,985	115,040	-
Peter Thornton	108,550	89,700	56,550
Symonds Construction Company	107,143	91,874	76,606
Smith & Co.	100,669	85,858	104,603
Axiom Services Limited	100,429	87,556	136,290
Bermuda Hosts Ltd.	96,784	85,072	107,874
ATM Construction Limited	96,306	-	-
Brilliant Solutions Limited	94,516	47,258	-
Somerset Bridge Recreation Club	93,889	92,242	91,006
Sandcastle Limited	92,992	143,668	-
F2 Property Management Group	88,850	79,009	52,267
Office Cabling Technologies Ltd.	87,504	106,680	91,339
Shabazz Bakery	85,741	88,743	70,647
Creative Accents Supply Limited	80,803	59,841	-
Browne, Scott & Associates	78,891	70,314	61,065
Southside Office Depot Ltd.	76,737	55,530	-
Blue Dragon	76,655	52,150	-
T.C.S. Landscaping	74,996	60,538	-
Aptech Granite & Marble	72,726	91,924	93,491

Appendix 6

Surf & Turf Restaurant	71,426	72,926	73,506
Bee Line Transport (Bermuda) Ltd	71,015	84,565	84,565
Lynx Lomax Limited	67,741	50,613	-
Bermuda Breads Limited	67,130	59,836	-
ACL Construction Limited	66,342	-	-
Tuscany's Restaurant	65,347	-	-
Bercon Limited	63,081	-	-
Branches Mini Construction & Landscaping	61,910	145,744	130,315
Kalifa Day Care	61,314	50,378	-
Increte Systems Bermuda	60,620	52,143	43,665
St. David's Esso Convenience Centre	57,363	40,455	-
VCG 2 Ltd C/O Don Laurencio	56,285	47,803	40,320
Sunnyvale Nursing Home	55,730	49,548	44,367
Telford Electric	54,419	-	-
Atlantic Glass & Aluminium Limited	54,169	-	-
Dr. James Brockenbrough	53,660	53,660	53,660
Scott & Scott Management Services Limited	52,747	46,221	-
Design Builders International	51,931	-	-
New Park Laundry	51,156	42,301	-
Foran Specialties	49,915	43,546	-
Southampton Rangers Sport Club	49,063	43,337	-
Crawford & MacMillan Limited	48,362	42,211	-
Tienda Da Tabbaca Limited	47,130	-	-
Bermuda Fabricating & Welding	46,924	43,383	-
Astwood Cove Guest Appartments Ltd.	46,239	46,219	46,239
Bermuda Taxi Radio Cabs Limited	45,282	-	-
Investor In People Bermuda Limited	44,321	-	-
BIU Industrial Union Taxi Cooperative Society	42,289	-	-
Ronald E. Lightbourne M.D.	42,051	-	-
Arthur A. Fox	41,546	-	-
Shaw's Building	41,333	50,304	44,451
Salon Designs	40,894	40,828	44,505
	<u>8,318,475</u>	<u>6,857,627</u>	<u>5,022,250</u>
Employers who were eliminating their arrears over periods of years under negotiated agreements	1,992,672	2,534,332	2,418,098
Employers who owed more than \$40,000 that was more than 90 days in arrears in prior years but have since reduced their arrears to less than \$40,000, or have gone into receivership or out of business		1,728,707	3,296,482
	<u>\$10,311,147</u>	<u>\$11,120,666</u>	<u>\$10,736,830</u>

Note: This appendix does not include employers, who have gone into receivership or out of business, who at June 2008 owed total payroll tax arrears of \$5,062,276.

## **APPENDIX 7**

### **Land Tax Remittances in Arrears**

*Property-owners who at June 30, 2008 owed more than \$40,000 to the Government for Land Tax Remittances that were more than 90 days in arrears  
(See commentary in section 2.7 of this report)*

	<b>2008</b>	<b>2007</b>	<b>2006</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
Hamiltonian Hotel & Island Club	432,784	388,029	346,408
Bermuda Transportation Co Ltd.	224,477	129,421	40,891
Lorenzo and Sonya Caletti	160,714	123,272	88,462
The Galleria	87,282	66,948	48,018
Hill Air Corporation	71,174	48,376	-
Keith Robert Dunmore	69,187	48,938	-
Altimont Roberts	62,169	-	-
Robert A. Mercer	58,146	47,632	-
Rebecca Zuill & Lawrence Brady	57,940	45,765	-
Voorhees & Ellen Lightbourne	53,728	46,794	-
Arthur Ebbin & Cavon Steede	53,114	-	-
Penelope R. Terceira	51,061	-	-
Rosalind Gail Ray	47,527	40,299	-
Denise Brown-Trew	45,710	40,747	-
Mr. & Mrs. Joseph Trott	44,445	-	-
Willard Burch	44,369	-	-
Nicholas & Carol Faries	44,046	-	-
	<u>44,046</u>	<u>-</u>	<u>-</u>
	<u>\$1,607,873</u>	<u>\$1,026,221</u>	<u>\$523,779</u>



# CONSOLIDATED FUND STATEMENTS

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## **APPENDIX 9**

### **Report on the Parliamentary Standing Committee on the Public Accounts For the Financial year ended March 31st, 2005 and March 31st, 2006**

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:

#### **A. INTRODUCTION**

1. Your Committee is pleased to report that we have reviewed the outstanding Annual Reports of the Auditor General submitted in 2007 and prior, and we are reporting thereon to the Honourable House of Assembly. Our deliberations have been directed to following up on previous findings and concerns of Your Committee and to making inquiries of Department Heads and Managers of various Government Departments and organizations relevant to issues and problems mentioned in the Auditor General's Reports for the Years 2005 and 2006. Your Committee's work is not closed on these audit reports and there will be further review of issues raised in them, particularly respecting the performance bond for the Berkeley Institute Senior School Capital Project and disruptions to the Office of the Auditor General. The last Report of the Committee covering the 2003 and 2004 Reports of the Auditor General was tabled in the House on 1 December 2006, along with a Special Report of the Public Accounts Committee relating to Bermuda College up to March 31, 2005. Since the last report, Your Committee has met on 12 occasions.
2. The Auditor General's 2005 and 2006 Reports were tabled in the Legislature on May 5, 2006 and March 2007, respectively.
3. The concerns of the Auditor General's Report comprised the following main areas: Consolidated financial statements for Bermuda; late financial reporting; unapproved expenditure; government computer environment and controls; fraud and misappropriation of Government funds and resources; pension contribution and tax remittances in arrears; unaddressed Audit recommendations; performance bond for the Berkeley Institute Senior School Capital Project along with Disruptions to the Office of the Auditor General.

## **B. CONSOLIDATED FINANCIAL STATEMENTS**

Your Committee recommends that the necessary legislation be enacted to require the production of consolidated statements. This would enable the Accountant General to possess clear authority to go about acquiring the additional resources and staffing necessary to produce consolidated financial statements. The support behind this recommendation is based upon more stringent GAAPs coming into force over the next 2 or 3 years, which will mandate that the Auditor General qualify the opinions on the Government's Accounts if consolidated financial statements are not produced. In previous reports, your Committee has repeatedly called for the implementation of consolidated financial statements.

## **C. LATE FINANCIAL REPORTING**

Your Committee continues to express concern that there are inordinate delays in completing accounts to be presented for audit by many government entities. The absence of timely reporting gives rise to potential for misappropriation of funds and prevents the ability for consolidated accounts to be prepared.

For 2005, most audit schedules were not available when promised, and when they were submitted, there were problems with accuracy or completeness.

For 2006, problems with accuracy were more pronounced, and many schedules were materially inaccurate, causing many post-closing audit adjustments to be booked, which resulted in a disproportionate number of audit hours for completion.

Only 9 of 36 government entities had submitted timely annual financial statements for audit, a further deterioration on the previous year. The most egregious delinquencies for audit of Public Funds were The Hospital Insurance Fund which was in arrears by 5 years (2002-2006), GEHI and Mutual Reinsurance both of which were in arrears by 4 years (2003-2006). Pembroke Parish Council continues to be a challenge with 5 years delinquencies (2002-2006), followed by St. George's with 4 years (2003-2006). Whitney Educational Trust Middle School Capitation Account is also behind by 4 years (2003-2006).

Your Committee notes the progress in reducing the backlog of accounting of Bermuda Hospitals Board, Bermuda Housing Corporation, Bermuda Land Development Company Ltd, CedarBridge Academy, Pension Commission, Trustees of the National Sports Centre, the Consolidated Fund, Government Borrowing Sinking Fund and the St. George's Preparatory School Capitation Account.

Your Committee recommends that an intense effort be undertaken by the Accountant General's Department to ensure that audit files are submitted on a timely and correct basis, and that the entities are held accountable for bringing their outstanding audits up to date.

**D. UNAPPROVED EXPENDITURE:**

Your Committee notes unapproved expenditure for 2005 and 2006 of \$17.7M and \$10.7M respectively. These unapproved amounts show the continuation of a trend in which \$48M was expended from 1998 through 2004, without Parliamentary oversight. Your Committee recommends that the Ministry of Finance makes a greater effort to properly budget expenditure in the statement of Revenue and Expenditure. The experience of the last few years suggests a fundamental weakness in the budgetary process.

**E. FRAUD AND MISAPPROPRIATION OF GOVERNMENT FUNDS AND RESOURCES**

Your Committee noted that despite repeated earlier warnings from the Auditor General of inadequate control over Government bank accounts which had resulted in major misappropriations, the controls were still unsatisfactory in 2006.

Notwithstanding the approval of recommendations for enhanced control functions from 2004, and the Special Report by the Auditor General in 2005 that accounts be reconciled and approved within 30 days of month-end, the 2006 audit showed that administration of and controls over bank accounts had not improved. Accounts were reconciled late and were not reviewed by senior Department officials, and reconciling adjustments totaling \$9.9M were required to correct reconciliations.

In addition, deposits were made during 2006 that were not recorded in the general ledger, and in some instances, missing documentation restricted identification of such deposits. Furthermore a \$26M estimate for the environmental clean up of the bases has not been revised for at least 4 years.

Your Committee recommends that detailed attention be given to ensuring bank accounts are reconciled on time, that documentation adequacy be addressed, that suspense items be appropriately investigated, and that liabilities be reviewed to determine adequacy.

**F. PENSION CONTRIBUTION & TAX REMITTANCES IN ARREARS**

Your Committee was given an aged analysis of the outstanding tax and pension contributions. It was noted that 90-day past due Land Tax balances increased steadily from 2004 when it stood at \$7.2M, growing to \$8.2M in 2005 and \$10M in 2006. Pension contribution 90-day past due balances increased from \$14.9M in 2004 to \$15.4M in 2005, but showed a \$1M improvement in 2006 when it stood at \$14.4M. Payroll Taxes, however, showed the efforts of collection between 2004 and 2005 when the outstanding balance for 90-day past due amounts went from \$17M down to \$14.5M, but those improvements were negated in 2006 when the comparative balance increased to \$17.8M.

Your Committee notes that some of the balances may have been greater if uncollectible accounts had not been written off. It is important to note that unpaid pension contributions impact on the employee's ability to enjoy full pension benefits.

Your Committee strongly recommends that aggressive action continue in the Debt Collection Unit to ensure the collection of delinquent taxes and pensions, including where necessary, prosecutions by the Attorney-General's Chambers.

## **G. UNADDRESSED AUDIT RECOMMENDATIONS**

The Auditor General has reported that some of his unaddressed recommendations were well on the way to being resolved, resulting in their removal from his report. The improvements were due to the efforts of the Head of the Civil Service who sought assistance from Permanent Secretaries to respond to and correct specific challenges.

As of 2005, there were 61 outstanding recommendations, 16 of which were dropped as stated above.

Your Committee notes the intervention of the Head of the Civil Service and the cooperation of the Permanent Secretaries in resolving these issues.

There were however, 12 new recommendations, leaving a balance of 57 in 2006.

Your Committee notes that many recommendations originated several years ago, and stem from failure to comply with legislation, poor accountability, inadequate management processes and accounting controls. Although management responses year after year indicated that these deficiencies were in the process of resolution, there was no apparent resolution and no closure.

Your Committee strongly recommends that dates-certain be appended to action steps and that such dates become auditable targets for compliance.

## **H. ACCOUNTING STAFF UNDER STRESS IN VARIOUS MINISTRIES**

Your Committee noted the growing problem with cross-Ministry Controllers coming under increasing stress, resulting in a number of the Controllers taking extended medical leave. Accounting work is being negatively affected and some accountants are now leaving government in frustration. This problem has extended to the Office of the Auditor General, where the result is an unacceptable backlog in audits.

The situation is further exacerbated by the inability of certain departments to bring their accounts up to date. For example, the National Drug Commission's accounts seem to be totally out of control. The accounting systems for the Hospital Insurance Fund are very poor and it appears that record-keeping and claims processing are still being done manually and financial statements have not been audited. The Parish Council audits have been so problematic that the task has even been rejected by private sector audit firms.

Although the Financial Secretary has given clearance for temporary staff to be hired, finding appropriately qualified individuals has proved to be challenging.

Your Committee believes that failure to have accounts brought up to date by staff possessing an appropriate degree of professionalism will have serious financial implications, and recommends that the Ministry of Finance give this matter its serious attention.

## **I. COMPUTER SYSTEMS**

Many departments spoke to the issue of inadequate computer systems which precluded effective recording and updating of information. In some cases, new systems were being considered, however your Committee noted that the continuing problem of outdated computer systems have been identified in many of our previous reports.

Departments considering new systems were: the Bermuda Housing Corporation where the anticipated merger of B.H.C., the West End Development Corporation and the Bermuda Land Development Company was imminent; the Tax Commissioner's office; and the Accountant General's office.

Your Committee strongly recommends that the computer systems in all departments be examined with a view to ridding the system of antiquated platforms and all the attendant problems that they bring.

## **J. PUBLIC ACCOUNTS COMMITTEE MEETINGS**

In the last two reports of your Committee, there was unanimous support for the membership of the PAC to be increased to seven members.

**In the Honourable Member's 2006 response, your Committee notes that the Minister of Finance agreed that the number of members of the PAC should be increased to seven. However, this has not yet been effected.**

**Your Committee strongly recommends that in order to ensure that the quorum of three can be met and meetings can proceed in a timely fashion that the additional appointments are made forthwith.**

## **K. CEDARBRIDGE ACADEMY & RUTH SEATON JAMES AUDITORIUM**

Your Committee noted that this was the first ever meeting of the PAC with representatives from the CedarBridge Academy. The problems confronting this entity were the deficiencies in the capital assets register as well as a failure to complete physical asset verification. This shortcoming can cause inaccurate financial reporting. It was noted that the CBA board raised this problem with the Ministry of Education who promised to liaise with the Ministry of Works & Engineering to establish the necessary register.

Your Committee recommends that CBA adopt a tagging system to identify its physical assets, including furnishings, equipment, school and student supplies and such assets be recorded in a register.

Your Committee noted the concern of the CBA Board that the Ruth Seaton James Auditorium was operating at a loss, and furthermore that these cost overruns were borne by CBA. As a result, CBA experienced budgetary shortfalls which impacted its academic programmes.

Your Committee also noted that for a period of time, CBA was required to absorb the overflow of students who were displaced because of the late completion of the Berkeley Institute Senior Secondary School project. The resulting strain on their budget contributed to the CBA operating fund deficit of \$245K. The Board had no indication as to how this shortfall would be eliminated.

Your Committee recommends that the Ruth Seaton James auditorium be regarded as a separate cost centre and that it be incorporated in the budget of the Department of Community and Cultural Affairs. In addition your Committee recommends that the budget of CBA be re-examined to ensure that the school has appropriate and adequate funding.

Your Committee also noted that the CBA Board raised the issue of funding to enable lunches to be provided for needy students as there was a problem with students coming to school without proper nutrition. In addition, there is an issue of school uniforms and other student supplies which some students may not be able to afford.

Your Committee undertook to bring this matter to the attention of the Ministry of Finance for its consideration.

**L. NATIONAL DRUG COMMISSION**

Your Committee learned that the NDC merged into the Ministry of Health and Family Services as provided under the National Drug Commission Repeal Act 2005, and that it now operates as the Department of National Drug Control. As part of this merger, an agreement had been reached that the NDC's bank accounts and assets would be transferred to the control of the Ministry of Health which would keep them separate and distinct from any other Ministry of Health accounts and assets.

Your Committee discovered that due to poor controls and inadequate documentation, fraudulent or criminal behaviour may have been a factor in some NDC expenditures. Management control systems and oversight were simply not working properly, and it appears that there may have been some collusion between certain staff members resulting in fraudulent or improper purchases and transactions. A Police investigation was initiated as a result of the serious problems in the NDC accounts and records, including missing invoices and destroyed documents.

Your Committee noted the inability of certain staff to appropriately handle the accounting functions. Even with the out-sourcing of some projects, the result was still inadequate. Your Committee also noted that the Accountant General had taken the necessary steps to advise the Ministry of Finance regarding the problems, and the resulting denial of opinion on the financial statements.

Your Committee expressed serious concern that performance bonuses were paid to the former Executive Director. Given the state of the accounts and the other apparent financial misappropriations, your Committee believes that these performance bonuses were entirely inappropriate and should be carefully reviewed and reclaimed by Government if necessary.

**M. ACCOUNTING OVERSIGHT OF QUANGOS**

Your Committee heard that many of the boards or committees that have direct responsibility for overseeing the management and operations of quangos simply do not seem to understand the full extent of their duties vis-à-vis management oversight, accounting controls and financial reporting.

Your Committee recommends that the Secretary to the Cabinet should step in to ensure that quango boards and senior civil servants are fully versed in their responsibilities.

**N. CONCLUSION:**

1. Your Committee wishes to record its appreciation of the advice and co-operation of the Auditor General and his staff throughout its deliberations, of the assistance of the various Heads of Department and their staff who appeared before your Committee, and also of the extensive work done on our behalf by the Deputy Clerk to the Legislature, Mr. Clark Somner.
2. Your Committee would also like to acknowledge the contributions of former M.P. George Scott along with Dr. the Hon. E. Grant Gibbons. who served on your Committee and contributed to these deliberations.
3. Your Committee also wishes to advise the Honourable House of Assembly that this report has been shared with former members of your Committee who were integral to the interview process, but who are no longer members – George Scott, Dr. the Hon. E. Grant Gibbons and the Hon. Glenn Blakeney. There were minor observations made by two of these former members, but none that were material that might change the content or presentation of this report.
4. 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

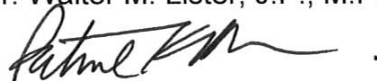


Mr. Everard T. Richards, J.P., M.P. – Chairman



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

Mr. Walter M. Lister, J.P., M.P.



Hon. Patrice K. Minors, J.P., M.P.

Sessions House,  
11<sup>th</sup> March, 2009.



## **APPENDIX 10**

### **Extracts from the Bermuda Constitution Order**

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88. (1) Power to make appointments to the Office of the Auditor General is vested in the Governor acting in his discretion.
- (2) Subject to the following provisions of this section, the Auditor General shall vacate his office when he attains the age of sixty-five years:

Provided that the Governor, acting after consultation with the Premier, may permit an Auditor General who attains the age of sixty-five years to continue in office until he has attained such later age, not exceeding the age of seventy years, as may have been agreed between the Governor and that Auditor General.

- (3) The Auditor General may be removed from office only for inability to discharge the functions of his office (whether arising from inability of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of subsection (4) of this section.
- (4) The Auditor General shall be removed from office by the Governor if the Governor, acting in his discretion, is satisfied that he ought to be removed from office for inability as aforesaid or for misbehaviour.
- (5) During any period when the questions of removing the Auditor General from office for inability as aforesaid or for misbehaviour is being investigated by, or in pursuance of directions given by, the Governor, the Governor, acting in his discretion, may suspend the Auditor General from performing the functions of his office.
- (6) References in subsections (2) to (5) of this section to the Auditor General do not include references to a person appointed to act in the office of the Auditor General during any period when it is vacant or the holder thereof is unable to perform the functions thereof; and the appointment of such a person may be revoked by the Governor, acting in his discretion, at any time before the expiration of that period.

101. (1) There shall be an Auditor General whose office shall be a public office.
- (2) The accounts of the Senate, the House of Assembly, all government departments and offices (including the Public Service Commission) and all courts of Bermuda shall be audited and reported on annually by the Auditor General, and for that purpose the Auditor General or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to such accounts.
- (3) The Auditor General shall submit his reports made under subsection (2) of this section to the Speaker of the House of Assembly who shall cause them to be laid before the House; and the Auditor General shall also send a copy of each report to the Governor and to the President of the Senate and the President shall cause the copy sent to him to be laid before the Senate.
- (4) In the exercise of his functions under the provisions of this section, the Auditor General shall not be subject to the direction or control of any other person or authority.

## **APPENDIX 11**

### **Extracts from the Rules of the House of Assembly**

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#### Section 50(A) Committee on the Office of the Auditor General

- (i) There shall be a Select Committee to be known as the “Committee on the Office of the Auditor General”. This Committee shall be a Standing Committee appointed for the duration of the life of Parliament.
- (ii) The Committee shall consist of five members, inclusive of the Chairman thereof, appointed by the Speaker, who may discharge and replace any member serving on the Committee.
- (iii) The Committee on the Office of the Auditor General shall have the duty -
  - (a) of reviewing annual and any supplementary estimates requested by the Auditor General 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 General 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 General 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 General and his ability to carry out his functions and of recommending how those directions might be amended in their application to the Auditor General.
  - (e) of recommending to the Minister of Finance the basis and circumstances in which the Auditor General should levy fees as income to the Consolidated Fund.
  - (f) where the Auditor General 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 General.
  - (i) of receiving and considering in consultation with the Auditor General the reports of any practice reviews performed on the Office of the Auditor General, such reports to remain confidential to the Auditor General and Members of the Committee.

## APPENDIX 12

BR /2001

### BERMUDA CONSTITUTION ORDER 1968

#### THE PUBLIC SERVICE (DELEGATION OF POWERS) REGULATIONS 2001

##### ARRANGEMENT OF REGULATIONS

- |   |                                   |
|---|-----------------------------------|
| 1 Citation and commencement   | 5 Reference to Commission         |
| 2 Definitions   | 6 Appeals                         |
| 3 Delegation of powers  | 7 Revocation of BR No. 34/1979    |
| 4 Delegated powers to be exercised in accordance with Public Service Commission Regulations | 8 Transitional provision SCHEDULE |

The Governor, in exercise of the powers conferred upon him by section 83(1) of the Constitution and acting in accordance with the recommendation of the Public Service Commission, makes the following Regulations:

##### **Citation and commencement**

1. These Regulations may be cited as the Public Service (Delegation of Powers) Regulations 2001 and come into operation on 2001.

##### **Definitions**

2. In these Regulations—

"the Code" means the Conditions of Employment and Code of Conduct made by the Governor;

"the Commission" means the Public Service Commission for Bermuda established under section 81 of the Constitution;

"Department" means a department of the Government and includes any other organ or branch of the Government;

"Director" means the most senior personnel officer in the Department of Personnel Services;

"disciplinary offence" means misconduct or gross misconduct by a public officer as set out in the Code;

"disciplinary penalty" means a penalty for a disciplinary offence and "misconduct penalty" and "gross misconduct penalty" have the meanings assigned to those expressions in the Code;

"established office" means an office determined by the Governor acting on the advice of the Cabinet to be permanent;

"Head of Department" means the officer who manages and supervises a Department;

"non-established office" means an office that is not an established office;

"office" means a public office within the meaning given to that expression by section 102 of the Constitution;

"officer" means the holder of an office.

### **Delegation of powers**

3. The powers vested in the Governor by section 82 of the Constitution in relation to the offices specified in Column 1 of the Schedule are delegated to the public officer specified in Column 2 of the Schedule to the extent set out in Column 3 of the Schedule and subject to the conditions set out in Column 4 of the Schedule.

### **Delegated powers to be exercised in accordance with Public Service Commission Regulations**

4. The public officer to whom powers are delegated under these Regulations shall, in exercising those powers, act in accordance with the Public Service Commission Regulations 2001 as if references in those Regulations to the Commission were references to the public officer.

### **Reference to Commission**

5. Where any power is by these Regulations delegated to any persons acting jointly, if those persons fail to agree on the exercise of the power the matter shall be referred to the Commission and the Commission shall exercise the power.

### **Appeals**

6. The holder of an established office who is aggrieved by any disciplinary penalty imposed by a person to whom disciplinary powers are delegated by these Regulations may appeal in accordance with the Public Service Commission Regulations 2001:

Provided that where provision is made for an appeal in any statutory instrument specified in Column 4 of the Schedule relating to the exercise of disciplinary control that provision shall apply.

**Revocation of BR No. 34/1979**

7. The Public Service (Delegation of Powers) Regulations 1979 are revoked.

**Transitional provision**

8. Notwithstanding Regulation 7, any matter which is being dealt with under the regulations revoked by that regulation ("the revoked regulations") on the day these Regulations come into force shall be continued under the revoked regulations as if these Regulations had not been made.

**SCHEDULE (Reg. 3)**

<b>Column 1 Public Offices</b>	<b>Column 2 Public Officer to whom Powers are Delegated</b>	<b>Column 3 Extent of Delegation</b>	<b>Column 4 Conditions of Delegation</b>
7. For posts in the Office of the Auditor General below Assistant Auditor	Auditor General	All the powers of the Governor	

**APPENDIX 13**  
**AUDIT ACT 1990**

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**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.

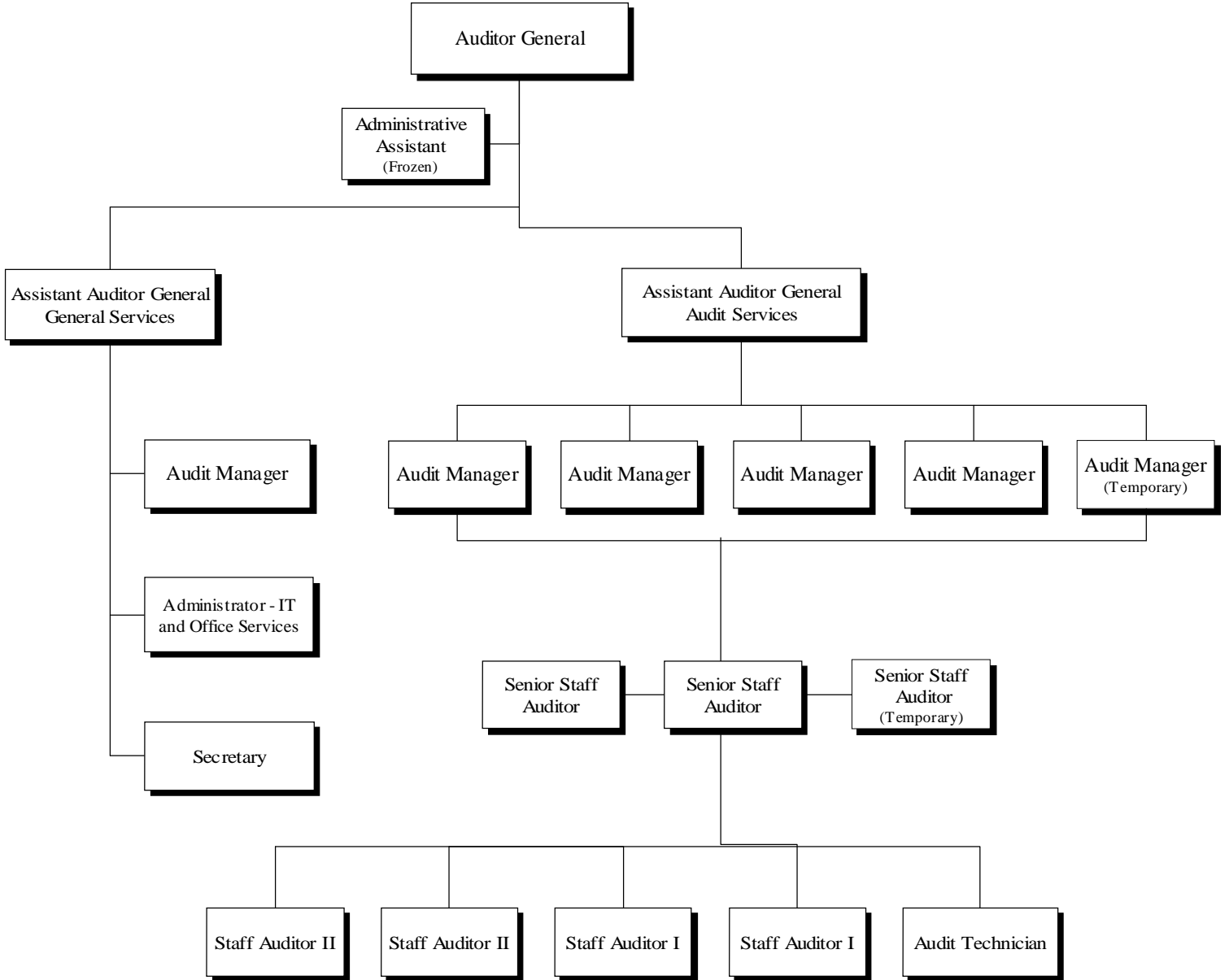
**PART II****Matters that an Auditor General's Report under Section (6)(1)(b) May Contain**

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 14**

**OFFICE OF THE AUDITOR GENERAL**









***Office of the Auditor General***

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