

Report of the auditor-general to Parliament on Property Management Trading Entity

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the Property Management Trading Entity (PMTE) set out on pages xx to xx, which comprise the statement of financial position as at 31 March 2023, statement of financial performance, statement of changes in net assets, and cash flow statement and statement of comparison of budget and actual amounts for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, except for the effects of the matters described in the basis for qualified opinion section of this auditor's report, the financial statements present fairly, in all material respects, the financial position of the PMTE as at 31 March 2023, financial performance and cash flows for the year then ended in accordance with the Generally Recognised Accounting Practice (Standards of GRAP) and the requirements of the Public Finance Management act 1 of 1999 (PFMA).

Basis for qualified opinion

Payables from exchange transactions: Accrued expenses

3. All outstanding amounts meeting the definition of a liability were not recognised in accordance with GRAP 1, *Presentation of financial statements*. Adequate records of outstanding payments for goods and services received but not yet paid at year-end were not maintained. I was unable to determine the full extent of the understatement of payables from exchange transactions – accrued expenses, as it was impracticable to do so.

Payables from exchange transactions: Accrued expenses – Opex projects

4. Payables from exchange transactions: accrued expenses – Opex projects were not classified as payables, where services were rendered before year end and no payments have been made by the trading entity in accordance to GRAP 19, *Provisions, contingent liabilities and contingent assets*. The trading entity received services from the service providers before year end that meet the definition of an accrual, which were accounted for as provisions. Consequently, payables from exchange transactions accrued expenses – Opex projects were understated by R199 million, provisions were overstated by R593 million and net assets was overstated by R394 million.

2011

Payables from exchange transactions: Accrued expenses – Leases

5. The trading entity did not derecognise financial liabilities in accordance with GRAP 104, *Financial instruments*. A standard formula was applied on all debts outstanding for longer than 3 years without an assessment of the merits of each outstanding amount in line with the Prescription Act. I was unable to determine the full extent of the understatement of accrued expenses- leases, stated at R104 million in note 12 to the financial statements, as it was impracticable to do so.

Payables from exchange transactions

6. In addition to the individually material uncorrected misstatement on payables from exchange transaction as disclosed in note 12, total payables from exchange transaction was materially misstated by R173 million due to cumulative effect of individually immaterial uncorrected misstatements in payables from exchange transactions
- Trade payables stated at R91 million was overstated by R91 million
 - Revenue claimed in advance leases stated at R292 million was overstated by R82 million

Revenue from exchange transactions: Accommodation charges- Freehold intergovernmental

7. Items that did not meet the definition of revenue in accordance with GRAP 9, *Revenue from exchange transactions* were recognised in the financial statements. The trading entity claimed accommodation charges for properties that have been derecognised from the asset register. I was unable to determine the full extent of the overstatement of revenue from exchange transactions: accommodation charges – freehold inter-governmental, stated at R6,2 billion (2022: R6,8 billion) in note 17 of the financial statements, as it was impracticable to do so. This also has an impact on the deficit for the period and on the net assets.

Total minimum lease receipts- PMTE as lessor: straight line Freehold Accommodation charges

8. The trading entity did not account for operating lease commitments in terms of GRAP 13, *Leases*. The trading entity did not disclose the future minimum lease receipts under non-cancellable operating lease contracts for freehold accommodation charges. I was unable to determine the full extent of the understatement of operating lease commitments, stated at R549 million (2022: R589 million) in note 5 to the financial statements, as it was impracticable to do so.

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Contractual commitments for acquisition and maintenance of property, plant and equipment

9. Items that did not meet the definition of a contractual commitment in accordance with GRAP 17, *Property, plant and equipment* were disclosed. The trading entity recorded cancelled projects as part of the disclosed contractual commitments in the financial statements. The contractual commitments for the acquisition and maintenance of property, plant and equipment as disclosed in Note 7 of the financial statements is overstated by R2,7 billion.

Context for opinion

10. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the responsibilities of the auditor-general for the audit of the financial statements section of my report.
11. I am independent of the trading entity in accordance with the International Ethics Standards Board for Accountants' *International code of ethics for professional accountants (including International Independence Standards)* (IESBA code) as well as other ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
12. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of matter

13. I draw attention to the matters below. My opinion is not modified in respect of these matters.

Going concern

14. As disclosed in note 36 of the Annual Financial Statements, the PMTE has a bank overdraft of R1,843 billion (2022: R851 million) and the current liabilities exceed the current assets by R7,739 billion (2022: R7,213 billion).
15. The main reason for the increase in the bank overdraft was due to the increase in the amounts owed by client departments. Management has engaged in robust discussions with the relevant departments and National Treasury to resolve the issues around non-payment and to ensure payment is received on outstanding amounts.

Receivables from exchange transactions

16. As disclosed in note 3 of the annual financial statements, the R3,064 billion (2022: R4,183 billion) reported on receivables from exchange, is the rand value after taking into account the impairment values of R9,246 billion (2022: R7,968 billion).

Restatement of corresponding figures

17. As disclosed in note 35 to the financial statements, the corresponding figures for 31 March 2022 were restated as a result of an error in the financial statements of the trading entity at, and for the year ended, 31 March 2023.

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Other matters

18. I draw attention to the matter below. My opinion is not modified in respect of this matter.

National Treasury Instruction Note No.4 of 2022-23: PFMA Compliance and Reporting Framework

19. On 23 December 2022, the National Treasury issued Instruction Note 4 of 2022-23, which came into effect on 3 January 2023, in terms of section 76(1)(b), (e) and (f), 2(e) and (4)(a) and (c) of the PFMA. The instruction note deals with the PFMA compliance and reporting framework and addresses, among others, the disclosure of unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure. Irregular expenditure and fruitless and wasteful expenditure incurred in prior financial years and not yet addressed no longer need to be disclosed in the disclosure notes to the annual financial statements. Only the current year and prior year figures are disclosed in note 31 to the financial statements of the Property Management Trading Entity. Movements in respect of irregular expenditure and fruitless and wasteful expenditure also no longer need to be disclosed in the notes to the annual financial statements. The disclosure of these movements (e.g. condoned, recoverable, removed, written off, under assessment, under determination and under investigation) is now included as part of the other information in the annual report of the department. I do not express an opinion on the disclosure of irregular expenditure and fruitless and wasteful expenditure in the annual report.

Responsibilities of the accounting officer for the financial statements

20. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the standards of GRAP and the requirements of the PFMA; and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
21. In preparing the financial statements, the accounting officer is responsible for assessing the trading entity's ability to continue as a going concern; disclosing, as applicable, matters relating to going concern; and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the trading entity or to cease operations, or has no realistic alternative but to do so.

Responsibilities of the auditor-general for the audit of the financial statements

22. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error; and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
23. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

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Report on the audit of the annual performance report

24. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I must audit and report on the usefulness and reliability of the reported performance against predetermined objectives for selected programmes presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.
25. The trading entity's performance information was reported in the annual performance report of the Department of Public Works and Infrastructure. I audited the reported performance information as part of the audit of Department of Public Works and Infrastructure and any audit findings are included in the auditor's reports.

Report on compliance with legislation

26. In accordance with the PAA and the general notice issued in terms thereof, I must audit and report on compliance with applicable legislation relating to financial matters, financial management and other related matters. The accounting officer is responsible for the trading entity's compliance with legislation.
27. I performed procedures to test compliance with selected requirements in key legislation in accordance with the findings engagement methodology of the Auditor-General of South Africa (AGSA). This engagement is not an assurance engagement. Accordingly, I do not express an assurance opinion or conclusion.
28. Through an established AGSA process, I selected requirements in key legislation for compliance testing that are relevant to the financial and performance management of the trading entity, clear to allow consistent measurement and evaluation, while also sufficiently detailed and readily available to report in an understandable manner. The selected legislative requirements are included in the annexure to this auditor's report.
29. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

Annual financial statements, performance and annual report

30. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework, as required by section 40(1) (b) of the PFMA. Material misstatements of non-current assets identified by the auditors in the submitted financial statements were corrected, but the uncorrected material misstatements resulted in the financial statements receiving a qualified opinion.

Asset management

31. Processes and procedures were not in place at the trading entity for the economical use of the institution's assets, as required by treasury regulation (TR) 10.1.2

2111

Expenditure management

32. Effective and appropriate steps were not taken to prevent irregular expenditure amounting to R179,1 million, as disclosed in note 31 to the financial statements, as required by section 38(1) (c) (ii) of the PFMA and TR 9.1.1. The majority of the irregular expenditure disclosed in the financial statements was caused by incorrect procurement processes followed by management.
33. Effective internal controls were not in place for approval and processing of payments, as required by TR 8.1.1.

Consequence management

34. I was unable to obtain sufficient appropriate audit evidence that disciplinary steps were taken against officials who had incurred irregular expenditure as required by section 38(1) (h) (iii) of the PFMA.

Revenue management

35. Effective and appropriate steps were not taken to collect all money due, as required by section 38(1)(c)(i) of the PFMA

Other information in the annual report

36. The accounting officer is responsible for the other information included in the annual report. The other information referred to does not include the financial statements, the auditor's report that have been specifically reported on in this auditor's report.
37. My opinion on the financial statements and the report on compliance with legislation, do not cover the other information included in the annual report and I do not express an audit opinion or any form of assurance conclusion on it.
38. My responsibility is to read this other information and, in doing so, consider whether it is materially inconsistent with the financial statements, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
39. The other information I obtained prior to the date of this auditor's report are accounting officers' report, the human resource management report and the disclosure of irregular, fruitless and wasteful expenditure and the foreword by the Minister, Statement by the Deputy Minister, governance compliance report and the audit committee report is expected to be made available to us after 08 September 2023.
40. If, based on the work I have performed on the other information that I obtained prior to the date of this auditor's report, I conclude that there is a material misstatement of this other information, I am required to report that fact. I have nothing to report in this regard.
41. When I do receive and read the foreword by the Minister, statement by the Deputy Minister and governance compliance report and the audit committee report if I conclude that there is a material misstatement therein, I am required to communicate the matter to those charged with

211

governance and request that the other information be corrected. If the other information is not corrected, I may have to retract this auditor's report and re-issue an amended report as appropriate. However, if it is corrected this will not be necessary.

Internal control deficiencies

42. I considered internal control relevant to my audit of the financial statements and compliance with applicable legislation; however, my objective was not to express any form of assurance on it.
43. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified opinion and the material findings on compliance with legislation included in this report
44. Management did not develop effective mechanisms to monitor the implementation of audit action plans to address internal control deficiencies identified in the prior year. As a result repetitive material misstatements on payables from exchanges were identified in the current year.
45. Senior management did not perform sufficient and adequate reviews during the preparation of the financial statements to ensure that the supporting schedules are accurate, complete, and supported by reliable information as material misstatements were identified that resulted in the modification of the auditors opinion.
46. Management did not monitor compliance with applicable laws and regulations as a result material compliance issues were identified in asset management, expenditure management, consequence management and revenue management.
47. Management did not ensure that there is an effective intergraded ERP system that allows for transactions to be digitalised, integrated, and accessible in real-time to reduce the reliance on manual processes in compiling supporting schedules used to prepare the financial statements Due to the existing manual environment that requires intense human intervention, capturing errors were not mitigated.

211

Material irregularities

48. In accordance with the PAA and the Material Irregularity Regulations, I have a responsibility to report on material irregularities identified during the audit and on the status of material irregularities as previously reported in the auditor's report.

Material irregularities identified during the audit

49. The material irregularities identified are as follows:

Lease No. 139901 overpayment

50. The trading entity entered into a lease agreement on behalf of the Department of Justice and Constitutional Development (DoJ&CD) with the landlord on 1 April 2011 for a period of five (5) years. Occupation did not take place on the commencement date due to tenant installations, which were being effected by the landlord. During this period, an addendum to the main contract was signed on 7 November 2014 for additional space and an amendment to the commencement date. The impact of this addendum was that the lease commencement date changed to 1 October 2012. The lease has continued on a month-to-month basis after 30 September 2017, which is the expiration of the original lease agreement, to date.
51. Between June 2015 and December 2017, while the entity was still using the Property Management Information System (PMIS) for lease payments, overpayments to the landlord were made due to various reasons.
52. The leasing module on the Archibus system was implemented in September 2019 and all lease data was migrated from PMIS into the new system. The monthly lease obligation at the time was R737 735, however it was captured as R857 965 on the system. Management did not identify and rectify the error in time; this has resulted in the system escalating an incorrect amount and resulted in consistent, monthly overpayments. As at 31 March 2022, the calculated cumulative overpayments made to the landlord, amounted to R4 452 528.
53. The overpayments stated above indicate that management did not ensure that internal procedures and internal control measures were in place for the approval and processing of rental payments. These controls would have provided management reasonable assurance that rental payments to be made were necessary for each month and appropriate. This control deficiency resulted in non-compliance with TR8.1.1. The non-compliance is likely to result in a material financial loss for PMTE of R4 452 528 as the overpayments can still be recovered from the landlord.
54. The accounting officer was notified of the material irregularity (MI) on 10 November 2022 and invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer responded on the 8 December 2022. The response from management including the supporting annexures, indicates that the following steps have been taken to address the MI:

211

- Identified the three parties responsible for the overpayments and issued warning letters to the officials that are still in the employ of the trading entity.
- Management recovered R1 524 807,52 of the R4 452 528 and are still in the process of investigating the remaining amount. .

The lease information was corrected on the Archibus system in May 2022 therefore the trading entity is paying in line with the lease agreements.

- Due to other MIs raised with regards to leases, management embarked on a lease clean-up process which by an external service providers in June 2022, and as of March 2023 management has implemented controls to detect any lease overpayments, however, concerns in the control environment remain due to the fact that the controls are not yet fully effective in preventing overpayments as similar instances were noted on other lease contracts.

55. Based on the assessment of the response and evidence presented, I have determined that the accounting officer is taking appropriate steps to address the MI. I will follow up on the implementation of further actions taken during my next audit.

Status of previously reported material irregularities

Leeuwkop prison asset not appropriately safeguarded during construction

56. After termination of the initial contractor, the boilers on site were not appropriately covered as they were exposed to severe weather conditions, the plastic covering the boilers was damaged. This had an impact on ancillary equipment as they became corroded and unusable.
57. PMTE appointed a service provider for the replacement and maintenance of boilers for a period of 24 months on 26 January 2012. Due to the service provider's continued inability to meet deadlines in relations to the supply and installation of the boilers as per the site programme of works, the contractor was first placed in mora on 18 October 2013 and then the contract was subsequently terminated with effect from 5 June 2014.
58. After termination of the initial contractor, the boilers on site were not appropriately covered as they were exposed to severe weather conditions, the plastic covering the boilers was damaged. This had an impact on ancillary equipment as they became corroded and unusable.
59. The accounting officer did not take full responsibility for the safeguarding of the boilers while they were on site and after the termination date of the initial contractor, as a result, more costs will be incurred to replace and refurbish critical equipment's that have corroded. This is a contravention of TR10.1.1 (a) which requires that the accounting officer of an institution must take full responsibility and ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, losses, wastage and misuse. The contravention of TR10.1.1 (a) is likely to result in a material financial loss.
60. The accounting officer was notified of the MI on 26 August 2021 and invited to make a written submission on the actions taken and that will be taken to address the matter. The response was received on 23 September 2021.

211

61. Even though the accounting officer disagreed with the finding and the MI, in their response they agreed that there was a subsequent deterioration of the boiler cover and corrosion of boiler components. As a result, the boilers were exposed to inevitable physical weather elements. Due to the disagreement the accounting officer did not implement any corrective actions.
62. A new accounting officer was appointed in April 2022 and was informed of the MI. The accounting officer was afforded the opportunity to respond as to whether he will uphold the view on the MI as their predecessor. The accounting officer confirmed that he supported the view of his predecessor. Based on the latter no actions were implemented by the trading entity to address the MI.

I recommended that the accounting officer take the following actions to address the MI by 30 January 2023:

- Appropriate action should be taken to investigate the non-compliance to determine if any official should be held responsible.
 - The financial loss relating to the boilers should be quantified and appropriate action should be taken to determine whether the responsible official(s) is liable by law for the losses suffered by the department for the purpose of recovery, as required by TR 12.7.1.
 - Effective and appropriate disciplinary steps should be initiated, without undue delay, against any official that the investigation found to be responsible, as required by section 38(1)(h) of the PFMA.
 - Reasonable steps should be taken to ensure that preventative mechanisms are in place to eliminate further losses on account of inadequate safeguarding or other damage in relation to construction site assets as required by TR 10.1.1(a).
63. The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 26 January 2023 and a supplementary response and supporting documentation on 3 April 2023. Based on the assessment of the written responses and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.
64. I am in the process of making a decision on the further action to be taken.

Construction contract extensions approved, incorrectly included contract value adjustment

65. PMTE entered into a contract with a service provider on 28 November 2013 to construct a magistrate court building in Mamelodi (WCS 044028). The contract was for a period of 18 months for construction and the contract value was R94 742 592,85.
66. The construction of the Mamelodi magistrate court project has been significantly delayed and the expenditure paid to date exceed the initial contract amount. The practical completion date of the contract has been extended and PMTE has been approving the contract extensions with adjustments to the contract value with the daily rate of R24 283,26 charged by the contractor. Based on the approved claims 4, 5, 8 and 9, the delays resulted from civil unrest, riots, strikes and lockouts.

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67. This was a contravention of the JBCC 2000 Principal Building Agreement Clause 29.1 which stipulates that the contractor is entitled to a revision of the date of practical completion but for which the contract value should not be adjusted if it pertains to delays related to civil unrest, riots or strikes. However, requests for extensions with a financial impact where the cause of the delay related to civil unrest, riots, strikes and related matters were approved.
68. The delegation of authority dated 8 December 2009, in paragraph 7.4 pertaining to the approval of the extension of contract periods as part of the general notes and condition 2 on the approved delegation, stipulates that any decision regarding the extension of the contract needs to be based on the conditions of the contract and that the decision-taker has no opportunity to exercise any discretion in reaching the decision. The approval of claims 4, 5, 8 & 9 were not in line with the conditions of the contract.
69. The approval of the listed claims in convention of the delegations resulted in a contravention of section 45(a) of the PFMA which requires that an official in a department, trading entity or constitutional institution must ensure that the system of financial management and internal controls established for that department, trading entity or constitutional institution is carried out within the area of responsibility of that official. These contraventions is likely to result in a material financial loss for PMTE as it may be possible to recover the amount from an external party.
70. The Accounting officer was notified of the MI on 15 October 2021 and invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer responded on the 17 November 2021. The written responses from management including the supporting annexures, indicates that the following steps have been taken to address the MI:
- Disciplinary actions instigated:
 - On 17 November 2021, letters of consequence management have been issued to the project management team to explain their actions in approving the claims and payments to the contractor.
 - The accounting officer received responses from the four (4) persons identified as the responsible parties that caused the MI. On 25 March 2022, the accounting officer took further action and referred the matter to Labour Relations to conduct an investigation to prepare charge sheets and institute disciplinary action against the identified officials.
 - On 17 August 2022, Labour Relations requested clarification on additional documentation and the scope of the charges. Both the internal control directorate and later the DPWI's anti-corruption unit (ACU) were requested to investigate. The review of the information by the ACU concluded that the matter does not warrant a forensic investigation as the facts of the matter are already at the disposal of the trading entity to enable resolution of the matter' as the information required by Labour Relations can be sourced from the relevant line functions within the trading entity.

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- Following the receipt of the ACU report of 16 May 2023, the Pretoria regional office is dispatching the additional information required for Labour Relations.
- PMTE sent a letter to the principal agent requesting an explanation of the payments made. The letter to the principal agent was issued on 17 November 2021.
- Based on the response of the principal agent, the trading entity has resolved to issue a letter of demand to the contractor for the payments made. The letter to the principal agent was issued on the 17 November 2021 and the principal agent responded on the 25 November 2021.
- Initial activities to recover the funds through the principal agent, in line with the JBCC contract, was not successful. This resulted in the trading entity issuing a letter of non-compliance to the principal agent. On 7 September 2022, the principal agent wrote to the trading entity indicating that they are terminating their contract agreement with the trading entity.
- PMTE sent a letter of demand to the service provider on 27 March 2023, requesting a refund for R3 011 124, 24 (VAT exclusive) due to application for extension of contract which were erroneously approved within cost. In this regard, the service provider was requested to make such payments or arrangements for payments thereof within 14 days of receipt of the letter. However, the service provider failed to execute any action and the trading entity referred the matter to the office of the state attorney for recovery.

71. Based on the assessment of the actions taken, I have determined that the accounting officer is taking appropriate action to address the MI. I will follow up on the implementation of the planned actions during my next audit.

Lease No. 140280 Overpayment

72. PMTE appointed a service provider for the leasing of office accommodation and parking bays on behalf of the Department of Rural Development and Land Reform (DRDLR) for four (4) years. The lease commenced on 1 October 2015 with a commencement rental amount of R771 656,22 per month and an annual escalation rate 5,5%. The expiry date as per the lease agreement was set at 30 September 2019.
73. During the 2019-20 financial period, lease overpayments were reported as a result of internal controls weaknesses with regard to the payment processes. These duplicate payments/overpayments mainly occurred between October 2017 and March 2019. The cumulative overpayments over this period amounted to R9 325 082,75.
74. During the 2020-21 financial period, the lease agreement was renewed with effect from 1 June 2019 while the old contract was still active (4 months before it expired). This renewal resulted in a lesser monthly rental payment as compared to the previous lease contract. Management continued to make payments based on the old lease contract which resulted in additional overpayments made since the renewal period of 1 June 2019 up to the end of 31 March 2021 amounting to R1 636 993,88.

211

75. Effective internal controls were not in place for approval and processing of payments, as required by TR8.1.1 to ensure that correct rental payments for a lease agreement were made and to prevent the overpayments stated above. These controls would have provided management reasonable assurance that rental payments made were necessary for each month and appropriate. PMTE was likely to incur a material financial loss of R10 962 076,63.
76. The accounting officer was notified of the MI on 27 August 2021 and invited to make a written submission on the actions that will be taken to address the MI. The response was received on 23 September 2021 which was retracted and reissued on 15 November 2021.
77. The written responses from management, including the supporting annexures, indicate that the following steps have been taken to address the MI:
- The accounting officer indicated that the trading entity had already appointed an external service provider to review the extent of the overpayments on the leasing portfolio and recommend any changes necessary. The appointment of the mentioned service provider is part of the greater lease clean-up project undertaken by the trading entity with the objectives of ensuring:
 - Verification of data correctness on Archibus against lease agreements;
 - Correction of historical and current data to ensure correct payments;
 - Upload all supporting documents on Archibus;
 - Implement delegations for any changes on the system especially on active leases;
 - Perform monthly reconciliation prior to the payment run to identify under/overpayments; and
 - Perform final reconciliation after the payment run to confirm transactions processed;
 - From February 2022, management captured the lease details on the Archibus system correctly for this specific lease agreement, and the lease is currently paid in accordance with the valid lease agreement.
 - The trading entity implemented the use of credit notes to deduct any overpayments from future rentals. The recovery process began in June 2021. As of June 2022, the amount of R10 962 076,63 was fully recovered. No further overpayments have been identified since the correction.
 - Consequence management has been implemented to the lease management team as they explained the lack of oversight on lease payments and a final written warning was issued and accepted by the two responsible officials in January 2022.
 - The lease clean-up process was concluded in June 2022 by an external service provider, and as of March 2023, management has implemented controls to detect any lease overpayments, however, concerns in the control environment remain due to the fact that the controls are not yet fully effective in preventing overpayments as similar instances were noted on other lease contracts.

2111

78. Based on the assessment of the response and evidence presented, I have determined that the accounting officer is taking appropriate steps to address the MI. I will follow up on the implementation of controls, during my next audit.

Lease no. 140227 Overpayment

79. PMTE entered into a lease agreement on behalf of the Department of Defence (DoD). The original lease agreement was entered into on 24 April 2014 for a period of 5 years and only took effect on occupation on 1 April 2015. The lease agreement was amended for additional space and parking bays based on the same terms and conditions as the main lease with effect from 1 April 2016 for a period of 4 years.
80. Upon the implementation of the Archibus leasing system in September 2019, management commenced consistently making overpayments to the landlord. The overpayments amounting to R14 062 727 occurred from the implementation of Archibus leasing system up to 31 March 2021. Although some of the overpayments were recovered as at February 2022 the cumulative remaining not recovered overpayments amounted to R3 802 787.
81. Effective internal controls were not in place for approval and processing of payments, as required by TR8.1.1 to ensure that correct rental payments for a lease agreement were made and to prevent the overpayments stated above. These controls would have provided management reasonable assurance that rental payments made were necessary for each month and appropriate. The trading entity is likely to incur a material financial loss of R3 802 787.
82. The accounting officer was notified of the material irregularity on 3 June 2022 and invited to make a written submission on the actions taken and that will be taken to address the matter. The response was received on 5 July 2022 detailing the actions already taken and the planned actions to address the MI. Based on the responses from the accounting officer and supporting evidence provided, the following actions were taken to address the MI:
- Management captured the new lease and effected adjustments to prevent subsequent overpayments on 16 July 2021. The lease is currently paid in accordance with the valid lease agreement.
 - Management implemented the use of credit notes to deduct any overpayments from future rentals to recover the overpayments from July 2021. As of February 2023, the amount of R3 802 787 was fully recovered. No further overpayments have been identified since the correction.
 - Management identified the person responsible and has taken appropriate consequence management actions. Management has provided evidence that the responsible official has been issued with a verbal warning on 12 July 2021. The responsible official has acknowledged receipt of the verbal warning on 14 July 2021.
 - Management undertook a lease data clean-up exercise to mitigate potential future lease overpayments. An external service provider was appointed in September 2021 to assess the extent of the lease overpayments and recommend improvements to the lease management processes. The clean-up exercise is anticipated to be concluded by September 2022.

2111

- The lease clean-up process was concluded in June 2022 by an external service provider, and as of March 2023, management has implemented controls to detect any lease overpayments, however, concerns in the control environment remain due to the fact that the controls are not yet fully effective in preventing overpayments as similar instances were noted on other lease contracts.

83. Based on the assessment of the response and evidence presented, I have determined that the accounting officer is taking appropriate steps to address the MI. I will follow up on the implementation of controls, during my next audit.

Unfair procurement process for the Beitbridge Borderline Infrastructure Project

84. The accounting officer did not ensure an appropriate supply chain management process that is fair, equitable, transparent, competitive and cost effective is followed in the appointment of the contractor in order to prevent amounts charged to the trading entity for the Beitbridge Borderline Infrastructure project being overpriced. This was in contravention with TR16A3.2(a). The accounting officer was notified of the MI on 13 November 2020 and invited to make a written submission on the actions taken and that will be taken to address the matter. The response was received on 10 December 2020 detailing the actions already taken and the planned actions to address the MI.

85. The investigation on the Beitbridge project was initiated on 25 April 2020 as per the Minister of DPWI's request. The investigation was conducted by the governance and risk committee (GRC) unit with the assistance of the Special Investigating Unit (SIU) who were seconded to the investigation. The investigation was finalised on 27 July 2020. The entity then commenced with the implementation of the recommendations stated on the investigation report. The SIU launched an application on 23 September 2020 to freeze the service providers' bank accounts. The Special Tribunal made an order by agreement that the service providers would not make any further claims for payment from the department. On 17 November 2020, the SIU instituted legal action against the contractor with the Special Tribunal under case number GP17/2020. The department has since initiated disciplinary actions against the employees of the department for their role in the project. The disciplinary proceedings are still in progress.

86. Based on written responses and supported by evidence the following actions have been taken to resolve the material irregularity:

- National Treasury (NT) has placed both the consultant and the service provider on the list of restricted suppliers from September 2021 for a period of 10 years. The two companies were afforded an opportunity to make representation and the NT concluded on the process in January 2022 and has informed the trading entity of their decision to inform the companies of the taken decision. The contractors launched an appeal against this decision. The department appointed a new restriction committee on 31 March 2023 that will decide on whether the restriction of doing business with the state by contractor and principal agent is imposed or not as recommended by National Treasury. The deliberations are in progress.
- The lead investigator from the SIU managed to register a criminal case against the service provider on 22 July 2021 at SAPS Pretoria (Case: 359/07/2021), the investigation is still ongoing. On 8 March 2022, the Special Tribunal judgment was

2111

handed down on the matter. The judgment strips the contractor of any profits arising from the Beitbridge fence project.

- On 7 September 2022, the Special Tribunal Court dismissed with costs the leave to appeal by the contractor and principal agent. The SIU has since informed the department of both parties' intention to appeal to the High Court.
- The trading entity has implemented various initiatives to increase oversight on contract management for construction projects.
- The following disciplinary proceedings were instigated:
 - Eight (8) members of the National Bid Adjudication Committee (NBAC) received final written warnings and were suspended without pay for various periods, with effective from 1 November 2022. They have since all returned to work.
 - One (1) of the three (3) senior officials who are implicated in the investigation report has filed a notice to oppose his answering affidavit filed on 6 June 2022 and the state attorney has since applied for a hearing date with the registrar of the Labour Court. The filing is underway so that the registrar may issue a hearing date.
 - The disciplinary action against the other two senior officials is on hold pending the finalisation of the high court application for review of the report based on the ruling made by the previous chairperson which was extended to the two officials.
- On 1 December 2022, the Council of the Engineering Council of South Africa (Ecsa) resolved to adopt the recommendations from the investigation conducted on professional engineers within and contracted or sub-contracted to the DPWI and its entities. On 14 June 2023, Ecsa extended the scope of the investigation to potential improper misconduct by registered person(s) employed by the department. The investigation is in progress.

87. Based on the assessment of the response and evidence presented, I have determined that the accounting officer has taken appropriate steps to address the MI.

Beitbridge borderline infrastructure project establishment cost

88. The accounting officer did not ensure that internal control measures and procedures were in place to detect that the establishment cost is not included in the BOQ and therefore that it will not be paid. This was in contravention with TR8.1.1. The accounting officer was notified of the MI on 13 November 2020 and invited to make a written submission on the actions taken and that will be taken to address the matter. The response was received on 10 December 2020 detailing the actions already taken and the planned actions to address the MI.

89. The investigation on the Beitbridge project was initiated on 25 April 2020 as per the Minister of DPWI's request. The investigation was conducted by the GRC unit with the assistance of the SIU who were seconded to the investigation. The investigation was finalised on 27 July 2020. The entity is currently implementing the recommendations stated on the investigation report.

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The SIU launched an application on 23 September 2020 to freeze the service provider's bank account. The Special Tribunal made an order by agreement that the service provider would not make any further claims for payment from the department. On 17 November 2020, the SIU instituted legal action against the contractor with the Special Tribunal under case number GP17/2020. The department has since initiated disciplinary actions against the employees of the department for their role in the project. The disciplinary proceedings are still in progress.

90. Based on written responses and supported by evidence the following actions have been taken to resolve the MI:

- The National Treasury has placed the service provider on the list of restricted suppliers from September 2021 for a period of 10 years. The company was afforded an opportunity to make representation and the NT concluded on the process in January 2022 and has informed the trading entity of their decision to inform the company of the taken decision. The contractors launched an appeal against this decision. The department appointed a new restriction committee on 31 March 2023 that will decide on whether the restriction of doing business with the state by contractor and principal agent is imposed or not as recommended by National Treasury. The deliberations are in progress.
- The lead investigator from the SIU has managed to register a criminal case against the service provider on 22 July 2021 at SAPS Pretoria (Case: 359/07/2021), the investigation is still ongoing. On 8 March 2022, the Special Tribunal judgement was handed down on the matter. The judgment strips the contractor of any profits arising from the Beitbridge fence project.
- On 7 September 2022, the Special Tribunal Court dismissed with costs the leave to appeal by the contractor and principal agent. The SIU has since informed the Department of both parties' intention to appeal to the high court.
- The trading entity has implemented various initiatives to increase oversight on contract management for construction projects.
- The following disciplinary proceedings were instigated:
 - Eight (8) members of NBAC received final written warnings and were suspended without pay for various periods, with effective from 1 November 2022. They have all returned to work.
 - One (1) of the three (3) senior officials who are implicated in the investigation report has filed a notice to oppose his answering affidavit filed on 6 June 2022 and the state attorney has since applied for a hearing date with the Registrar of the Labour Court. The filing is underway so that the Registrar may issue a hearing date.
 - The disciplinary action against the other two senior officials is on hold pending the finalisation of the High court application for review of the report based on the ruling made by the previous chairperson which was extended to the two officials.

211

- On 1 December 2022, Ecsa resolved to adopt the recommendations from the investigation conducted on professional engineers within and contracted or sub-contracted to the DPWI and its entities. On 14 June 2023, the ECSA extended the scope of the investigation to potential improper misconduct by registered person(s) employed by the department. The investigation is in progress.

91. Based on the assessment of the response and evidence presented, I have determined that the accounting officer has taken appropriate steps to address the MI.

Other reports

92. In addition to the investigations relating to material irregularities, I draw attention to the following engagements conducted by various parties. These reports did not form part of my opinion on the financial statements or compliance with legislation.

93. Numerous allegations, mainly relating to alleged transgressions with regard to supply chain management, potential fraud and financial misconduct, irregularities on day to day maintenance and leases, are still being investigated by SIU. Some of these investigations commenced in 2021. These investigations were in progress at the date of this auditor's report.

Auditor - General

Pretoria

08 September 2023



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

Annexure to the auditor's report

The annexure includes the following:

- the auditor-general's responsibility for the audit
- the selected legislative requirements for compliance testing.

Auditor-general's responsibility for the audit

Professional judgement and professional scepticism

As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements and on the trading entity's compliance with selected requirements in key legislation.

Financial statements

In addition to my responsibility for the audit of the financial statements as described in this auditor's report, I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the trading entity's internal control
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made
- conclude on the appropriateness of the use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the ability of trading entity to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify my opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause a trading entity to cease operating as a going concern
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

21/1

Communication with those charged with governance

I communicate with the accounting officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

I also provide the accounting officer with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.

2111

Compliance with legislation – selected legislative requirements

The selected legislative requirements are as follows:

Legislation	Sections or regulations
Public Finance Management Act No.1 of 1999 (PFMA)	Sections 38(1)(a)(iv); 38(1)(b); 38(1)(c); 38(1)(c)(i); 38(1)(c)(ii); 38(1)(d); 38(1)(h)(iii); 39(1)(a); 39(2)(a); 40(1)(a); 40(1)(b); 40(1)(c)(i); 43(4); 44; 44 (1) and (2) ; 45(b) and 50(3); 50(3)(a)
Treasury Regulations for departments, trading entities, constitutional institutions and public entities (TR)	Treasury Regulations 4.1.1; 4.1.3; 5.1.1; 5.2.1; 5.2.3(a); 5.2.3(d); 5.3.1; 7.2.1; 8.1.1; 8.2.1; 8.2.2; 8.2.3; 8.4.1; 9.1.1; 9.1.4; 10.1.1(a); 10.1.2; 11.4.1; 11.4.2; 11.5.1; 12.5.1; 15.10.1.2(c'); 16A3.1; 16A3.2; 16A3.2(a); 16A6.1; 16A6.2(a) & (b) & (e); 16A6.3(a) & (d); 16A6.3(a)(i); 16A6.3(b); 16A6.3(c); 16A6.3(e); 16A6.4; 16A6.5; 16A6.6; 16A8.3; 16A8.2 (1) and (2); 16A8.3(d); 16A8.4; 16A9; 16A9.1; 16A9.1(c); 16A9.1(b)(ii); 16A9.1(d); 16A9.1(e); 16A9.1(f); 16A9.2(a)(ii) & (iii); 17.1.1; 18.2; 19.6.1; 19.8.4
Public service regulation	Regulations 13(c); 18; 18(1) and (2)
Prevention and Combating of Corrupt Activities Act No.12 of 2004 (PRECCA)	Sections 34(1) & 29
Construction Industry Development Board Act No.38 of 2000 (CIDB)	Section 18(1)
Construction Industry Development Board Act Regulations	CIDB regulations 17; 25(1); 25 (5) & 25(7A)
Preferential Procurement Policy Framework Act 5 of 2005 (PPPFA)	Sections 1(i); 2.1(a); 2.1(b); 2.1(f)
Preferential Procurement Regulations 2017 (PPR)	Regulations 4.1; 4.2; 5.1; 5.3; 5.6; 5.7; 6.1; 6.2; 6.3; 6.5; 6.6; 6.8; 7.1; 7.2; 7.3; 7.5; 7.6; 7.8; 8.2; 8.5; 9.1; 9.2; 10.1; 10.2; 11.1; 11.2; 12.1 and 12.2
Preferential Procurement Regulations 2022 (PPR)	Regulations 3.1; 4.1; 4.2; 4.3; 4.4; 5.1; 5.2; 5.3; 5.4
PFMA SCM Instruction no. 09 of 2022/2023	Paragraphs 3.1; 3.3 (b); 3.3 (c); 3.3 (e); 3.6
National Treasury Instruction No.1 of 2015/16	Paragraphs 3.1; 4.1; 4.2
NT SCM Instruction Note 03 2021/22	Paragraphs 4.1; 4.2 (b); 4.3; 4.4 (a) -(d); 4.6; 5.4; 7.2; 7.6
NT SCM Instruction 4A of 2016/17	Paragraph 6
NT SCM instruction Note 03 2019/20	Paragraphs 5.5.1(vi); 5.5.1(x);
NT SCM Instruction Note 11 2020/21	Paragraphs 3.1; 3.4 (a) and (b); 3.9; 6.1; 6.2; 6.7
NT SCM Instruction note 2 of 2021/22	Paragraph 3.2.1; 3.2.2; 3.2.4(a) and (b) ; 3.3.1; 3.2.2; 4.1
PFMA SCM Instruction 04 of 2022/23	Paragraphs 4(1); 4(2); 4(4)
Practice Note 5 of 2009/10	Paragraph 3.3
PFMA SCM instruction 08 of 2022/23	Paragraphs 3.2; 4.3.2; 4.3.3
NT instruction note 4 of 2015/16	Paragraph 3.4
NT instruction 3 of 2019/20 - Annexure A	Sections 5.5.1 (iv) and (x)
Second amendment of NTI 05 of 2020/21	Paragraphs 4.8; 4.9 ; 5.1 ; 5.3
Erratum NTI 5 of 202/21	Paragraph 1
Erratum NTI 5 of 202/21	Paragraph 2
Practice note 7 of 2009/10	Paragraph 4.1.2
Practice note 11 of 2008/9	Paragraphs 3.1; 3.1 (b)
NT instruction note 1 of 2021/22	Paragraph 4.1
Public Service Act	Section 30 (1)

211