

Part Four

Corporate Governance - MLSS

Executive Summary

The vision of the Ministry of Labour and Social Security (MLSS) is to contribute to national development through the provision of efficient and effective labour and social security services within the context of a globalised economy. MLSS is also mandated to promote a stable industrial climate through tripartite dialogue; ensure the highest standards of occupational safety and health at the workplace; facilitate increased access to employment and effectively manage social protection programmes including those for groups with special needs such as households below the poverty line, the elderly and persons with disabilities.

The audit sought to ascertain whether payments of travelling allowances, mileage allowances and toll accorded with the Civil Service Establishment Act and the MoFPS circulars, and that the internal controls and accounting systems were adequate and operating efficiently and effectively. The key findings of the audit are summarized below.

Key Findings

- 1. MLSS did not obtain the requisite approval from the Ministry of Finance and the Public Service (MoFPS) to pay travelling allowance to 367 (60 per cent) of the 609 officers in receipt of this allowance. Nonetheless, MLSS paid travelling allowances to these employees, resulting in unauthorized payments totalling \$203.1 million for the 2015/2016 financial year.** Our review also found that three employees were paid travelling allowances contrary to their letters of employment or contracts, resulting in overpayment of \$5.4 million for January 2009 to May 2016. The MLSS subsequently received approval for the payment of travelling allowance to one employee from September 10, 2016, therefore the overpayments to this employee prior to the effective date still remains. MLSS's failure to obtain the requisite approval for the payment of travelling allowance not only breached the Civil Service Establishment Act but also undermined governance principles of accountability and transparency. MLSS indicated it has written to the MoFPS since 2013, seeking approval for these positions, and is still awaiting a response.
- 2. Further, MLSS approved the payment of travelling allowances on expired declarations to four officers totalling \$887,890 for the period, April 2015 to January 2016.** MoFPS guidelines require annual renewal of declarations permitting travelling officers to use motor vehicles they do not own in performing their official duties; and this arrangement must not be extended beyond three (3) continuous years. MLSS did not maintain a listing of travelling officers who use this facility to allow periodic reviews. Accordingly, the MLSS cannot properly assess whether officers are eligible to claim on these motor vehicles. We

found that the declaration for the four officers expired in September 2014 and on May 31, 2015 but the MLSS continued to make payments up to January 2016. Despite this breach, the senior accounting staff members certified and approved these payments, without checking the status of the vehicles. The Ministry subsequently indicated that it is currently engaging an entity to develop a system that creates alerts when documents expire.

3. **MLSS made payments of \$2.3 million for mileage and toll to a staff member to attend work between June 2014 and January 2016, contrary to the Staff Orders for the Public Service.** The staff member was reassigned to Kingston from the Clarendon Parish Office. Whereas the MLSS sought the requisite approval from the MoFPS for the payments, no approval was received for the period June to December 2014, and as such, mileage and toll payments amounting to \$716,250 were unapproved.

We found that the Permanent Secretary approved the payment of mileage to and from Clarendon and Kingston before receiving approval from the MoFPS, which was not obtained until March 30, 2015. In this regard, the MoFPS gave approval with effect from January 2, 2015, for the officer to be paid mileage for the distance travelled between the Officer's substantive place of work in Clarendon and the place of work in Kingston or, his residence and the Kingston location whichever is less.

Recommendation

The MLSS should take steps to recover all unauthorised payments as well as payments made on expired declarations. If not recovered, the responsible officers may be required to make good the full amount of the loss.

Travelling Allowance Payments at the Ministry of Labour & Social Security

- 4.1** The MLSS which was established in 1938 as an employment Bureau, evolved to its present structure. Functions undertaken by the Ministry are the administration of NIS, Public Assistance, PATH, The Abilities Foundation of Jamaica, Jamaica Council for Persons with Disabilities and the National Council for Senior Citizens. As a result of these functions, the Ministry achieves its objectives through the efforts of its own labour force, some of whom are required to be mobile to ensure that the functions and responsibilities of the various units and departments are efficiently executed. These officers are paid travelling allowances and mileage in the execution of their duties. Notwithstanding, the proper approvals were not received for the payment of these allowances.
- 4.2** Section 11.2 of the Staff Orders (2004) stipulates that travelling allowance is granted to meet expenses actually incurred in the performance of official duties. Holders of positions requiring travel should neither be out of pocket, nor should they derive financial benefits beyond their direct costs. The MLSS employs travelling officers to execute its core functions and mandate. The type of travelling allowance attached to a particular post is determined by the MoFPS based on travel patterns that have been established and submitted for approval. However, the MoFPS dictates that there are some positions that automatically carry travelling allowance as highlighted in its Circular No.18, dated September 15, 2015. Previous circulars promulgated a similar position. The MLSS currently has pays travelling allowance to 609 officers of which 60 per cent have not been approved by MoFPS. The payment of travelling allowance is directed by the Human Resources Department.

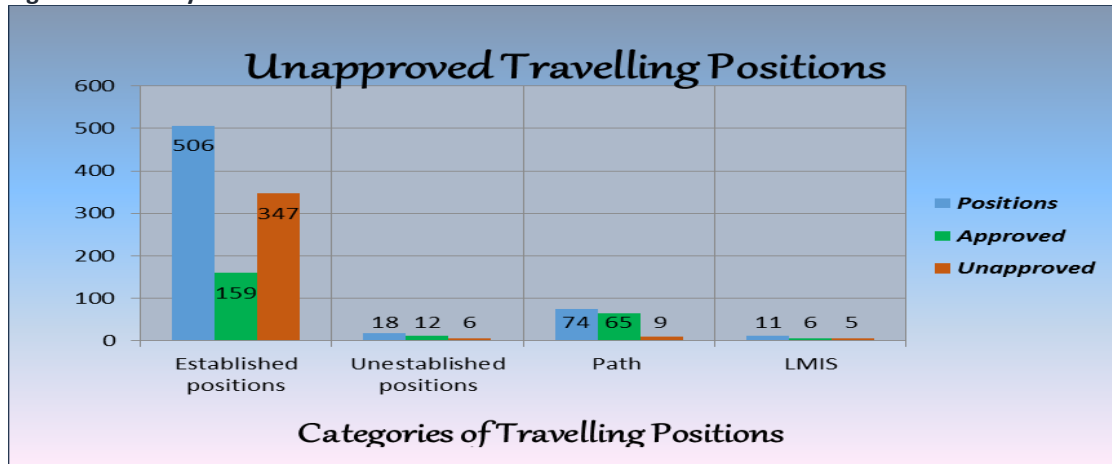
Travelling Allowance

- 4.3** **We found that the MoFPS did not approve 60 per cent of travelling allowance payments at the MLSS, resulting in \$203.1 million in unauthorized payments annually.** Our review disclosed that MLSS did not obtain the requisite approval from the MoFPS to pay travelling allowances to 367 (60 per cent) of the 609 officers in receipt of travelling allowances. We noted that officers in established positions accounted for 56 per cent of travelling allowance payments that were not approved. Arising from this, MLSS made unauthorized payments of approximately \$203.1 million to the 367 officers or 71 per cent of the travel related payments were not approved for the 2015/2016 financial year. However, both the Programme of Advancement through Health and Education (PATH) and the Labour Market Information Programme (LMIP) in aggregate revealed a higher number of approval as travelling allowance was approved for 71 of the 85 officers.
- 4.4** Additionally, three (3) employees who held the positions of Messenger, Office Attendant and Social Worker were being paid travelling allowances contrary to their letters of employment or contracts, resulting in overpayment of \$5.4 million for January 2009 to May 2016. The MLSS subsequently received approval for the payment of travelling allowance to one employee from September 10, 2016, therefore the overpayments to this employee prior to the effective date still remains. MLSS' failure to obtain the requisite approval for

the payment of travelling allowance not only breached the Civil Service Establishment Act but also, undermines the accountability process.

- 4.5 MLSS has since indicated that as recent as 2013, the Ministry wrote to the MoFPS seeking retroactive approval for the 367 positions and is still awaiting a response (Figure 12).

Figure 12 – Analysis of Travel Positions



Source: AuGD’s analyses of MoFPS approval documentation for MLSS.

- 4.6 MLSS approved the payment of travelling allowances on expired declarations to four officers totalling \$887,890 for the period, April 2015 to January 2016. MoFPS guideline requires annual renewal of declarations permitting travelling officers to use a motor vehicle he/she does not own in performing his/her official duties; and this arrangement must not be extended beyond three (3) continuous years. We found that the declaration for the four officers expired in September 2014 and on May 31, 2015 but the MLSS continued to make payments up to January 2016. Despite this breach, the senior accounting staff members certified and approved these payments, without checking the status of the vehicles.
- 4.7 Further, MLSS did not maintain a listing of travelling officers who use this facility to allow periodic reviews. As such, this restricts the MLSS’s ability to properly assess whether officers are eligible to claim on these motor vehicles. The Ministry subsequently indicated that it is currently engaging an entity to develop a system that creates alerts when documents expire.
- 4.8 In addition, an officer continued to receive travelling allowance on a vehicle that was transferred to another individual resulting in \$48,344.81 in overpayment. We found that a Mazda Demio, used by a Social Services Administrator to obtain travelling allowance was transferred on December 15, 2015. This vehicle was not owned by the Officer but an approved declaration dated April 7, 2015, was seen on file to facilitate use of the vehicle to perform official duties. Evidence of notification to the Human Resource Unit regarding the transfer/disposal was not seen on the Officer’s file. The Officer subsequently claimed travelling allowance for the months of December 2015 and January 2016 using this vehicle, resulting in an overpayment of \$48,344.81. To date, the overpaid amount has not been recovered, and the MLSS informed us that the Officer is currently on interdiction. MLSS did

not present documentary evidence for us to verify this representation, despite our requests. Further, the overpayment may increase with evidence of the interdiction orders.

- 4.9** MLSS reassigned a Parish Manager (SEG 1) from the Clarendon Parish Office to the Overseas Employment Centre in Kingston for the period April 28, 2014 to March 31, 2015. The Officer was again transferred to act in a higher post as Policy Analyst (GMG/SEG 2) in the Child Labour Unit with effect from January 2, 2015. On the latter transfer, the MoFPS approved the payment of mileage to and from his place of business, i.e., from Clarendon to Kingston, despite working in Kingston where the Overseas Employment Centre would become the officer's new base. Whereas the MLSS sought the requisite approval from the MoFPS for the payments, no approval was received for the period June to December 2014, and as such, mileage and toll payments amounting to \$716,250 were unapproved.
- 4.10** The payment of mileage was not in keeping with the Staff Orders and the MLSS did not obtain prior MoFPS' approval for this deviation. Subsequently, the MoFPS gave retroactive approval in March 2015, with effect from January 2, 2015 for the officer to be paid mileage for the distance travelled between the Officer's substantive place of work in Clarendon and the place of work in Kingston or, his residence and the Kingston location whichever is less. Consequently, the Officer received mileage and toll payments totalling \$2.3 million for the financial years 2014/15 and 2015/16. We noted that the payments ended during our audit in January 2016. Notwithstanding this, the MLSS request to the MoFPS was not supported by financial estimates or timelines. Additionally, no evidence was presented indicating that the MoFPS' considered the financial impact of the open-ended approval, which could have allowed for indefinite payments of mileage from Clarendon to Kingston and return. In this regard, both the MLSS and MoFPS failed to protect the government's interest.

Part Five

Corporate Governance - AEROTEL

Executive Summary

Aeronautical Telecommunications Ltd, (AEROTEL) a subsidiary of Jamaica Civil Aviation Authority (JCAA) since June 1998, is responsible for the maintenance of all aeronautical, communication, navigation and surveillance systems (CNS). AEROTEL also provides maintenance and other support services to a number of other clients, including the Jamaica Defence Force (JDF), Airports Authority of Jamaica (AAJ) and the National Meteorological Service.

AEROTEL governance practices and financial operations are subject to the Public Bodies Management & Accountability (PBMA) Act, GoJ Corporate Governance and Accountability Frameworks and applicable guidelines issued by the Ministry of Finance and the Public Service (MoFPS).

We conducted a special investigation to determine whether AEROTEL governance practices, including procurement were in keeping with the applicable laws and regulations.

The key findings of the audit are summarized below.

Key Findings

- 1. Between January 2012 and December 2015, AEROTEL paid \$32.44 million in Travelling Allowances to 16 members of staff without MoFPS approval.** This was in breach of Section 20 of the PBMA Act, which indicates that in relation to emoluments payable to staff of a public body, the Board shall act in accordance with guidelines issued from time to time by the Minister responsible for the Public Service. AEROTEL's failure to obtain the Minister's approval not only breached the Government's guidelines but also undermined the transparency and accountability process and has resulted in unauthorized payments.
- 2. AEROTEL paid \$1.92 million in Closed User Group (CUG) charges for 23 months after Chairman's separation from the entity.** In February 2012, the Chairman of AEROTEL demitted office and the CUG mobile phone was not recovered immediately on his departure. The Chairman used the phone for 23 months after demitting office and accumulated approximately \$2 million in charges, which was paid by AEROTEL. These improper payments were not initially detected despite being subjected to three levels of approval, which includes certifying and authorising officers (Senior accounting staff) and the cheque signatories (Director of Finance and another Director). Further, AEROTEL did not establish pre-set limits on its CUG plans during the period January 2012 to April 2015.

3. Additionally, the company's CUG policy, which was created in February 2012 was not approved by the Board until May 2015. The pre-set limits outlined in the policy, however, exceeded those set out in the Ministry of Finance and the Public Service (MoFPS) Circular No. 35 dated November 9, 2012 for three users. AEROTEL did not seek the requisite approval from the Financial Secretary for these users. A total of six users incurred charges in excess of the MoFPS' guideline totalling \$279,967 for the period January 2012 to December 2015. AEROTEL indicated that it has a highly mobile work force that is heavily reliant on mobile voice and data services and its limits were set based on historical usage and the need to increase operational efficiency.

4. **AEROTEL did not adhere to the GoJ's Procurement Guidelines for a generator costing approximately \$7.23 million.** We found that the procurement of a generator for \$7.23 million was not done in the competitive manner required by the Procurement Guidelines, as AEROTEL did not open the procurement opportunity to all eligible suppliers. Further, AEROTEL advanced the supplier \$3.61 million or 50 per cent of the contract sum, two weeks after signing the agreement without obtaining the requisite guarantee or security to protect the Government's interest.

Recommendations

1. Management should strictly adhere to the Government's guidelines for the payment of travelling allowances and the use of CUG phones and seek approval from the MoFPS for the payment of travelling allowances to the 16 Officers.
2. Overpayments should be calculated and recovered from the officer overpaid or the responsible Officer. Additionally, a mechanism should be implemented to recover company property when Board members demit office.
3. Where payments made outside the Government's guidelines are not recovered, this may lead to surcharge of the responsible officers, as these payments would be deemed unauthorized, and also considered to be overpayments.

Corporate Governance Breaches at the Aeronautical Telecommunications Ltd.

AEROTEL's governance practices were inconsistent with the Public Bodies Management & Accountability (PBMA) Act and Ministry of Finance and the Public Service Circulars

- 5.1** In March 2016, it was reported that the Chairman of AEROTEL who demitted office in February 2012, accumulated CUG charges in excess of \$1 million, which is of concern to our office. This raised concerns on the governance practices at AEROTEL and specifically the control environment. Therefore, we conducted an investigation into the governance practices at AEROTEL, which is in line with our mission to conduct independent audits and make reports to improve the use of public resources.
- 5.2** **AEROTEL paid \$32.44 million in Travelling Allowances to 16 members of staff without MoFPS approval, over the four-year period, January 2012 to December 2015.** This was in breach of Section 20 of the PBMA Act, which indicates that in relation to emoluments payable to staff of a public body, the Board shall act in accordance with guidelines issued from time to time by the Minister responsible for the Public Service. AEROTEL's failure to obtain the Ministry's approval not only breached the Government's guidelines but also undermined the transparency and accountability process and resulted in unauthorized payments.
- 5.3** **AEROTEL paid \$1.92 million in CUG charges for 23 months after Chairman's separation from the entity.** In February 2012, the Chairman of AEROTEL demitted office and the CUG mobile phone was not recovered immediately. The Chairman used the phone for 23 months after demitting office and accumulated approximately \$2 million in charges, which was paid by AEROTEL. These improper payments were not initially detected despite being subjected to three levels of approval, which include certifying and authorising officers (Senior accounting staff) and the cheque signatories (Director of Finance and another Director). Further, we found that AEROTEL did not establish preset limits on its CUG plans during the period January 2012 to April 2015. Additionally, the company's CUG policy, which was created in February 2012, was not approved by the Board until May 2015. The pre-set limits outlined in the policy, however, exceeded those set out in the MoFPS Circular no. 35 dated November 9, 2012 for three users. AEROTEL did not seek the requisite approval from the Financial Secretary for these users. A total of six users incurred charges in excess of the MoFPS' guideline totalling \$279,967 for the period January 2012 to December 2015. AEROTEL indicated that it has a highly mobile work force that is heavily reliant on mobile voice and data services and its limits were set based on historical usage and the need to increase operational efficiency.
- 5.4** In June 2016, after incurring legal fees of \$250,000, AEROTEL's Lawyers applied to the Supreme Court for a *Notice of Discontinuance* against the former Chairman. AEROTEL indicated that the company had exhausted all options to collect the sums and further pursuit through legal processes would be futile.

5.5 Additionally, AEROTEL did not implement a mechanism to ensure that the costs of private calls were borne by the caller as is required by MoFPS Circular No.25 dated November 9, 2012. Three employees who were assigned post-paid CUG phones incurred roaming charges amounting to \$102,979 over the period 2012 to 2014, while on vacation leave (Appendix 15). AEROTEL provided evidence that \$54,511 was recovered, leaving a balance of \$48,469. AEROTEL indicated that its Senior Managers remain on call and in contact whilst on leave, and will utilise voice and especially data roaming services as may be necessary to provide supervision, advice and support for critical aviation technology maintenance services.

AEROTEL's circumvents GOJ Procurement Guidelines

5.6 **AEROTEL circumvented the GoJ's procurement guidelines in procuring a generator costing approximately \$7.23 million.** We found that the procurement of a generator, costing \$7.23 million, was not open to competitive tender as required by the procurement guidelines. Section A8.1.1 of the procurement guidelines stipulates that contracts in the range of \$5 million to \$15 million requires local competitive bidding. However, AEROTEL utilized the limited tender method in the selection of a company, contracted to supply a generator for \$7.23 million. Further, AEROTEL advanced the supplier \$3.61 million or 50 per cent of the contract sum, two weeks after signing the agreement without obtaining the requisite guarantee or security to protect the Government's interest in accordance with the Government Procurement Guidelines.³⁵

³⁵ Paragraph A7.6.3, states that: "The Procuring Entity may offer Advance Payment in respect of goods and general services where the circumstances of the particular procurement merit such a payment. These payments shall be no more than 50% of the procurement sum. In such cases, an Advance Payment Security shall be provided as a guarantee against contractor's default. Security can be in the form of a Bank Guarantee or irrevocable Letter of Credit for an amount equal to the advance payment, and is usually redeemable on demand."