AUDITOR GENERAL'S DEPARTMENT
SPECIAL AUDIT
OF THE
PORT AUTHORITY OF JAMAICA

Executive Summary

Port Authority of Jamaica (PAJ) was established as a Statutory Corporation in accordance with the Port Authority Act of 1972. PAJ, which currently falls under the Ministry of Economic Growth and Job Creation, is the principal maritime agency charged with the regulation and development of Jamaica's port and shipping industry. The Port Authority is responsible for the safety of all vessels navigating the ports of entry and regulation of the tariffs charged on goods passing through the public wharves.

The audit was undertaken to determine whether PAJ's governance practices accorded with the Public Bodies Management & Accountability (PBMA) Act, GOJ Corporate Governance and Accountability Frameworks and Circulars issued by the Ministry of Finance and the Public Service (MoFPS). Section 20 of the PBMA Act requires that in the exercise of any powers conferred on a board by a relevant enactment or any constituent documents in relation to:

a) emoluments payable to the staff of a public body,
b) any other policies and guidelines applicable,

the board shall act in accordance with such guidelines as are issued from time to time by the Minister responsible for the public service and the Minister, respectively.

The audit was conducted from October 2015 to June 2016 and covered the period FY2010/11 to FY2014/15. The key findings and recommendations are outlined below.

Key Findings

PAJ's Governance Practices were inconsistent with the Public Bodies Management & Accountability (PBMA) Act and Ministry of Finance Circulars.

1. The employment contracts for 14 senior officers provided for the payment of a retirement benefit, at the discretion of the Board. However, the requisite approval was not sought from the Ministry of Finance and Planning, in breach of MoFPS guidelines. In particular, one of the 14 senior officers benefitted from three pensions valued at $120,000[1], $56.2 million and US$554,164 respectively, while in receipt of gratuity totalling $31.33 million covering the contract period November 2004 to October 2013. The contract of another senior officer who was already in receipt of pension from the Consolidated Fund also provided for the payment of a second retirement benefit, plus gratuity amounting to $6.6 million for the period April 1, 2012 to March 31, 2015.

   On June 30, 2016, PAJ informed the AuGD of a proposed settlement whereby funds that were previously set aside would be distributed in accordance with an actuarial study and the employment contracts of the senior officers amended to remove the provision of retirement benefit. By way of letter dated July 15, 2016, PAJ wrote to the Ministry of Finance and the Public Service requesting consideration and approval of proposed settlements being negotiated with the affected senior officers.

[1] Lump-sum payment of $120,000 and thereafter monthly payments of $34,834

2. Fourteen (14) senior officers were overpaid gratuity totalling $15.05 million between April 2011 and March 2015. The senior officers' contracts provided for gratuity of 25 per cent of gross taxable emoluments. However, MoFPS Circular stipulates that gratuity should be paid on basic pay only. In April 2015, PAJ wrote to MoFPS requesting a waiver for existing senior officers whose contracts were in breach of the Circular. The MoFPS responded that PAJ's request to continue the practice could not be supported. MoFPS noted and accepted that the provisions in the current contracts are legally binding on the Authority, but indicated that the Ministry cannot grant approval for provisions which are contrary to those detailed in the Circular.

3. A senior officer was paid basic salary and motor vehicle allowance in excess of the maximum of the applicable MoFPS scale. The senior officer's engagement was approved at a lower level by the Portfolio Ministry. The MoFPS did not approve the engagement and employment benefits.

4. PAJ invested US$2.7 million and J$40.1 million to acquire Navy Island and ten lots on Titchfield Hill respectively, between 2001 and 2007. PAJ indicated that the investment in Navy Island was undertaken to augment its existing marina development and facilities, to encompass a first class resort. The Titchfield properties were acquired to facilitate cultural tourism. We saw no evidence that prior to making these investment decisions, PAJ had conducted feasibility studies to assess the viability of the projects. Accordingly, we were unable to assess whether PAJ had determined the expected cash flow and rate of return on the investments. Further, the investment decisions appeared not to be in line with the Authority's mandate, which does not include the development of properties for tourist attractions. To date, the proposed tourism developments have not materialised.

Recommendations

i. In the absence of explicit approval from the MoFPS, PAJ should take steps to recover amounts overpaid in respect of retirement benefit and gratuity payments. Further, PAJ should ensure employment contracts conform with provisions of the PBMA Act and Ministry of Finance circulars and guidelines.

ii. The responsible officer (s) who approved the unauthorized benefits should be advised that they could be subjected to administrative action in accordance with the PBMA Act.

iii. In keeping with its responsibility under Section 6 of the PBMA Act, the Board should take the necessary steps to enhance its risk management framework, including conducting the necessary due diligence, which should include, at a minimum, the cash flow impact and the expected rate of return on proposed investments.