



## **UTILITY REGULATION AND COMPETITION OFFICE**

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**Report to those charged with governance on the 2022 audit**

**July 2023**



***To help the public service  
spend wisely***



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# REPORT TO THOSE CHARGED WITH GOVERNANCE

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## INTRODUCTION

1. We have completed our audit of the year ended 31 December 2022 financial statements of the Utility Regulation and Competition Office (“OfReg”). International Standards on Auditing (ISAs) require that we communicate certain matters to those charged with governance of the Utilities Regulations and Competition Office in sufficient time to enable appropriate action. The matters we are required to communicate under ISAs include:
  - Auditors’ responsibilities in relation to the audit
  - the overall scope and approach to the audit, including any expected limitations, or additional requirements
  - relationships that may bear on our independence, and the integrity and objectivity of our staff
  - expected modifications to the audit report
  - significant findings from our audit.
2. This report sets out for the consideration of those charged with governance those matters arising from the audit of the financial statements that we consider are worthy of drawing to your attention.
3. This report has been prepared for the sole use of those charged with governance and we accept no responsibility for its use by a third party. Under the Freedom of Information Act (2021 Revision), it is the policy of the Office of the Auditor General to release all final reports proactively through our website: [www.auditorgeneral.gov.ky](http://www.auditorgeneral.gov.ky)

## AUDITOR’S RESPONSIBILITIES IN RELATION TO THE AUDIT

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### AUDITOR’S RESPONSIBILITY UNDER INTERNATIONAL STANDARDS ON AUDITING

4. ISAs require that we plan and perform the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement. An audit of financial statements is not designed to identify all matters that may be relevant to those charged with governance. Accordingly, the audit does not ordinarily identify all such matters, and this report includes only those matters of interest which came to our attention as a result of the performance of our audit.

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## RESPONSIBILITIES OF MANAGEMENT AND THOSE CHARGED WITH GOVERNANCE

5. Management's responsibilities are detailed in the engagement letter to which this engagement was subject. The audit of the financial statements does not relieve management or those charged with governance of their responsibilities.

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## OTHER INFORMATION IN DOCUMENTS CONTAINING AUDITED FINANCIAL STATEMENTS:

6. While we have no responsibility to perform any audit work on other information, including forward looking statements, containing audited financial statements, we have read the other information contained in OfReg's annual report to consider whether such information is materially inconsistent with information appearing in the financial statements or our knowledge of the operations of the OfReg. No material inconsistencies were noted in this report.

## CONDUCT, APPROACH AND OVERALL SCOPE OF THE AUDIT

7. Information on the integrity and objectivity of the Office of the Auditor General and audit staff, and the nature and scope of the audit, were outlined in the Engagement Letter presented to the Chief Executive Officer and signed on 2nd September 2022 and follow the requirements of the ISAs. We are not aware of any impairment to our independence as auditors.

## AUDIT REPORT, ADJUSTMENTS AND MANAGEMENT REPRESENTATION

8. We issued an unmodified auditor's report on the financial statements for the year ended 31 December 2022.
9. A summary of misstatements corrected by management is attached in Appendix 1. There are no uncorrected misstatements identified by us during the audit that were determined by management to be immaterial, both individually and in the aggregate, to the financial statements taken as a whole.
10. As part of the completion of our audit we obtained written representations from management on aspects of the accounts and judgments and estimates made. Management provided us with written representations dated 30 April 2023 in respect of our financial statement audit.

## SIGNIFICANT FINDINGS FROM THE AUDIT

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## SIGNIFICANT ACCOUNTING PRACTICES

11. We are responsible for providing our views about qualitative aspects of OfReg's significant accounting practices, including accounting policies, accounting estimates and financial statement disclosures. Generally accepted accounting principles provide for OfReg to make accounting



estimates and judgments about accounting policies and financial statement disclosures. We are not aware of any areas where the significant accounting practices have changed from previous year or are not consistent with general industry practice. We are not aware of any new or controversial accounting practices reflected in OfReg's financial statements.

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#### MANAGEMENT'S JUDGMENTS AND ACCOUNTING ESTIMATES

12. Management have made significant judgements and estimates with regard to the following financial statement items:

- Depreciation of Property, Plant and Equipment
- Fair Value of Property, Plant and Equipment
- Post-Retirement Health Care Liability
- Post Retirement Pension Liability

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#### GOING CONCERN DOUBTS

13. As a result of our audit, we did not become aware of any material uncertainties related to events and conditions that may cast significant doubt on the OfReg's ability to continue as a going concern.

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#### SIGNIFICANT AND OTHER DEFICIENCIES IN INTERNAL CONTROL

14. We identified a number of significant matters relating to internal controls as part of our audit. Details are included in Appendix 2 along with management's response.

15. There are no other internal control deficiencies are reported separately to management.

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#### FRAUD OR ILLEGAL ACTS

16. Applicable auditing standards recognize that the primary responsibility for the prevention and detection of fraud and compliance with applicable acts and regulations rests with both those charged with governance of the entity and with management. It is important that management, with the oversight of those charged with governance; place a strong emphasis on fraud prevention and fraud deterrence. They are also responsible for establishing and maintaining controls pertaining to the OfReg's objective of preparing financial statements that are presented fairly, in all material respects, in accordance with the applicable financial reporting framework and managing risks that may give rise to material misstatements in those financial statements. In exercising oversight responsibility, those charged with governance should consider the potential for management override of controls or other inappropriate influence over the financial reporting process.

17. As auditors, in planning and performing the audit, we are required to reduce audit risk to an acceptably low level, including the risk of undetected misstatements in the financial statements due

to fraud. However, we cannot obtain absolute assurance that material misstatements in the financial statements will be detected because of such factors as the use of judgment, the use of testing, the inherent limitations of internal control and the fact that much of the audit evidence available to the auditor is persuasive rather than conclusive in nature.

18. No fraud or illegal acts came to our attention as a result of our audit, except for what has been disclosed by management.

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SIGNIFICANT DIFFICULTIES ENCOUNTERED DURING THE COURSE OF OUR AUDIT

19. No serious difficulties were encountered in the performance of our audit.

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DISAGREEMENTS WITH MANAGEMENT

20. We have had no disagreements with management resulting from our audit.

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ANY OTHER SIGNIFICANT MATTERS

21. There were no other significant matters noted during the audit.

**ACKNOWLEDGEMENTS**

22. We would like to express our thanks to the staff of OfReg for their help and assistance during the audit of this year's financial statements, which enabled us to complete the audit prior to the statutory timeline.

Yours sincerely,



Angela Cullen, CPFA  
Acting Auditor General

**APPENDIX 1 – SUMMARY OF ADJUSTED DIFFERENCES**

| Number   | Date       | Name   | Account No | Debit             | Credit            |
|--|------------|--|------------|-------------------|-------------------|
| 1  | 12/31/2022 | DB Pension Liability                               | 21750      | 184,000.00        |                   |
| 1  | 12/31/2022 | Acc. Other Comprehensive Income                    | 35000      |                   | 163,000.00        |
| 1  | 12/31/2022 | DB Pension Expense                                 | 58102      |                   | 21,000.00         |
| Post Retirement Pension Liability Actuarial Adjustment |            |  |            |                   |                   |
| 2  | 12/31/2022 | Post Ret. Health Care Liability                    | 28000      | 444,000.00        |                   |
| 2  | 12/31/2022 | Acc. Other Comprehensive Income                    | 35000      |                   | 444,000.00        |
| Post Retirement Health Care Actuarial Adjustment       |            |  |            |                   |                   |
| 3  | 12/31/2022 | Opening Bal Equity                                 | 30000      | 35,800.00         |                   |
| 3  | 12/31/2022 | Other Income                                       | 43000      |                   | 35,800.00         |
| To reclassify donated asset as other income            |            |  |            |                   |                   |
| 4  | 12/31/2022 | Accrued Expenses                                   | 20500      |                   | 22,015.00         |
| 4  | 12/31/2022 | Payroll Expenses                                   | 50011      | 19,572.72         |                   |
| 4  | 12/31/2022 | Pension Contribution                               | 58101      | 2,442.28          |                   |
| 4  | 12/31/2022 | Pension Contribution                               | 58101      |                   |                   |
| COLA increase 2022                                     |            |  |            |                   |                   |
| 5  | 12/31/2022 | Communications Equipment - Cost                    | 15021      | 26,562.72         |                   |
| 5  | 12/31/2022 | Communications Equipment -Accumulated Depreciation | 15022      |                   | 1,328.16          |
| 5  | 12/31/2022 | Communications Equipment -Accumulated Depreciation | 15022      |                   |                   |
| 5  | 12/31/2022 | Accrued Expenses                                   | 20500      |                   | 26,562.72         |
| 5  | 12/31/2022 | Depreciation Expense                               | 60000      | 1,328.16          |                   |
| 5  | 12/31/2022 | Depreciation Expense                               | 60000      |                   |                   |
| Communication Equipment                                |            |  |            |                   |                   |
|  |            |  |            | <b>713,705.88</b> | <b>713,705.88</b> |

APPENDIX 2 - INTERNAL CONTROL MATTERS & SIGNIFICANT FINDINGS

| Observation   | Risk/Implication and Recommendation  | Management Response  | Implementation Date      |
|---|--|--|--------------------------|
| <p><b>1. Lack of a formal impairment review</b></p> <p>OfReg did not conduct a formal impairment assessment of their property, plant and equipment as required by the International Public Sector Accounting Standard (IPSAS) 21 - Impairment of non-cash-generating assets. IPSAS 21 requires entities to assess at each reporting date whether there are any indications that assets may be impaired.</p> <p>In addition, OfReg did not conduct a formal fixed asset count for the 2022 financial year.</p> | <p><b>Risk/ Implication:</b></p> <p>1. OfReg’s assets may be impaired, and the associated impairment losses may not have been recognized.</p> <p>2. Assets may be missed or may require disposal or impairment due to its condition.</p> <p><b>Recommendation:</b></p> <p>Management should ensure that OfReg complies with IPSAS 21 by conducting a formal impairment assessment of property plant and equipment at each reporting date. This will ensure that impaired assets are identified and the resulting losses recognized in the financial statements as required by the accounting standards.</p> <p>OfReg should conduct regular assets counts to ensure the completeness of fixed assets reported in the financial statements.</p> | <p>The Office will carry out a formal review of assets for impairment and formal fixed asset counts going forward. It should be noted that the net book value of the Office’s fixed assets (\$339k) are concentrated in purchases (\$201k) which occurred during the year and as such would not be impaired. The Office considers that the risk of impairment is low, as the remaining balance is concentrated in motor vehicles, which the Office extended the useful life for in recent years.</p> | <p>December 31, 2023</p> |

| Observation   | Risk/Implication and Recommendation  | Management Response   | Implementation Date |
|---|--|---|---------------------|
| <p><b>2. Lack of notice of interest declarations</b></p> <p>A signed notice of interest was not completed by one non-executive member of the board for the 2022 financial period.</p>   | <p><b>Risk/ Implication:</b></p> <p>Financial and non-financial interests as well as close family ties may not be declared and appropriately managed to prevent a conflict of interests.</p> <p><b>Recommendation:</b></p> <p>OfReg should ensure notice of interests is completed on an annual basis, and updated for any changes and adequately monitored throughout the year.</p>   | <p>The Office already has a process in place for collecting Notice of Interests, to which it complied with during the year. The non-executive member of the board that we did not receive a notice for was terminally ill at the time and is now deceased. To our knowledge, his interests did not change from the last time he submitted a signed notice on February 7, 2022.</p>  | <p>N/A</p>          |
| <p><b>3. Noncompliance with the Procurement Policy</b></p> <p>One contract totaling \$99k and one contract totaling \$13K was awarded via a direct award.</p> <p>OfReg did not demonstrate how the direct award satisfies the requirements specified in the Procurement Policy.</p> <p>In addition, it was noted for the \$99K contract that a similar service for a similar amount was provided by the same vendor in the 2020 and 2021 financial years. This resulted in a split of</p> | <p><b>Risk/ Implication:</b></p> <p>There is a risk that OfReg cannot demonstrate, how it is obtaining value for money for goods and services procured which could lead to wastage of public funds.</p> <p><b>Recommendation:</b></p> <p>Management should ensure that OfReg complies with the stipulations of the Procurement Regulations. This will ensure that OfReg obtains value for money for goods and services procured.</p> | <p>The contract totaling \$99k was for legal advice in relation to a Dispute Determination and as such is eligible for direct award as per Section 5(1)(k) of the Procurement Regulations (2022 Revision). This justification was documented prior to executing the contract and provided during the audit.</p> <p>In relation to the purchase for \$13k, OfReg accepts that three quotations were not obtained for this specific</p> | <p>Immediately</p>  |

| Observation   | Risk/Implication and Recommendation   | Management Response   | Implementation Date |
|---|---|---|---------------------|
| <p>transactions for which procurement over \$100k require a formal business case.</p>   |   | <p>purchase. The Office will ensure that the Procurement process for purchases over \$10k is complied with.</p>   |                     |
| <p><b>4. Non-compliance with Public Authorities Act</b></p> <p>Section 25 of the Public Authorities Act stipulates that where there is a vacancy or an impending vacancy in the position of a Chief Executive Officer, a board shall publicly advertise in any media the vacancy in such manner as enables suitably qualified persons to apply for the position. However, the board of directors of OfReg appointed an interim Chief Executive Officer (CEO) in February 2022 to March 2022 for an initial period, after the departure of the previous CEO.</p> <p>The interim CEO was also confirmed in the position for one year i.e. April 2022 to April 2023, without the post being publicly advertised.</p> | <p><b>Risk/ Implication:</b></p> <p>The lack of open recruitment can put OfReg at the risk of not having the most suitably qualified person for the post.</p> <p><b>Recommendation:</b></p> <p>OfReg should comply with the requirements of the Public Authorities Act when appointing the Chief Executive Officer.</p> | <p>On the sudden departure of the Chief Executive Officer (“CEO”) a senior officer of the Portfolio of the Civil Service was seconded, on approval by the Ministry of Border Control &amp; Labour (the Ministry with administrative responsibility for OfReg at the time), to OfReg as the Interim Chief Executive Officer.</p> <p>The Board approved the secondment and also a succession plan which entails the development of a Caymanian to take over the CEO role following training and secondment to overseas regulators to obtain the necessary experience.</p> <p>A job description was developed for a CEO Designate role to be subject to open competition. This person would take over the substantive position</p> | <p>Q4 2024</p>      |

| Observation  | Risk/Implication and Recommendation  | Management Response  | Implementation Date      |
|--|--|--|--------------------------|
|  |  | after successfully completing the development plan.  |                          |
| <p><b>5. Lack of a formal debt write off policy</b></p> <p>During the 2022 financial year, OfReg did not have a formal write-off policy. A formal bad debt policy includes the method an organization uses to write off or remove customer debt from its accounts.</p> | <p><b>Risk/ Implication:</b></p> <p>There is a risk that credit may be further extended to customers that are currently in default, this can result in significant losses for OfReg.</p> <p><b>Recommendation:</b></p> <p>It is recommended that OfReg establish a formal policy for bad debt.</p> | <p>OfReg will establish a formal policy for bad debt as recommended. It should be noted that as a regulator, the Office does not extend credit. Licensees are required to pay regulatory and license fees when due. In many instances, outstanding license fees are not written off as the entities continue to hold a license and enforcement action may be ongoing for some time before the matter is resolved. While there is no formal policy in place, the Office currently reviews bad debts for write off on a case-by-case basis and write offs only occur after the CEO's approval.</p> | <p>November 30, 2023</p> |
| <p><b>6. Non-application of policy for the collection of Revenue</b></p> <p>Information and Communications Technology (ICT) regulatory fees are billed to licensees</p>  | <p><b>Risk/ Implication:</b></p> <p>There is a risk that OfReg may not collect enough revenue to cover its expenses or build its equity reserves.</p>  | <p>The majority of the shortfall is due to a stipulation in the licence of a dominant licensee which caps the maximum amount of regulatory fees to be charged during any given year at</p>   | <p>N/A</p>               |

| Observation  | Risk/Implication and Recommendation   | Management Response   | Implementation Date |
|--|---|---|---------------------|
| <p>according to the annual budgeted expenses for the sector. For 2022, the budgeted amount for the ICT sector was \$1.8M. However, only \$1.5M was actually billed resulting in a shortfall of \$300K.</p>         | <p><b>Recommendation:</b><br/>OfReg should ensure compliance with its internal policies.</p>  | <p>\$600k. This cap was reached during the year, and it is the Office’s policy not to recover the amount in excess of the cap from other licensees. The Office believes that this is a fair practice. While the regulatory fee amount recovered from licensees is below the costs incurred by the ICT Sector, the sector was able to offset the shortfall with other revenue streams for the sector. During the year, the sector delivered a surplus, and the Office has sufficient reserves on hand. The Office monitors expenses closely during the year to ensure that there is sufficient revenue on hand, therefore there was no need to place additional burden on the ICT sector for higher regulatory fees.</p> |                     |
| <p><b>7. Lack of a formal Risk Management Policy (recurring)</b><br/><br/>During the period under review, OfReg did not have a risk management policy in place. We have made a similar finding over the past 3</p> | <p><b>Risk/ Implication:</b><br/><br/>Without a formal risk management policy, OfReg may not consider the various potential risks or events before they occur. In addition, Of Reg may not have established procedures to avoid</p> | <p>In Q4 2022, the Office engaged a consultant to assist the Office with the implementation of an Enterprise Risk Management Program. The project is ongoing and we are aiming to</p>   | <p>Q1 2024</p>      |



| Observation  | Risk/Implication and Recommendation  | Management Response   | Implementation Date |
|--|--|---|---------------------|
| <p>years. An effective risk management system provides assurance that risks to the entity have been identified, assessed/ analyzed, have a detailed response/prioritization, monitored, and controlled.</p>                | <p>potential threats to minimize the impact should they occur.</p> <p><b>Recommendation:</b></p> <p>OfReg should develop a formal risk management policy that allows it to identify, assess and manage its risks.</p>  | <p>complete the project in the current year.</p>  |                     |
| <p><b>8. Revenue schedules (recurring)</b></p> <p>Some revenue schedules such as type approval, ship radio and aircraft radio can be improved to show pertinent information such as customer name, license and number.</p> | <p><b>Risk/ Implication:</b></p> <p>Information for decision-making purposes may be difficult and/or time consuming to extract.</p> <p><b>Recommendation:</b></p> <p>OfReg should ensure that there is a system that captures pertinent information that relates to customer revenue which can be easily analysed.</p> | <p>The GL already includes customer information for type approvals.</p> <p>The Office currently records the ship radio and aircraft radio licence revenue in daily batches in the GL due to the volume of these transactions.</p> <p>The Office will be implementing a new system that will facilitate the generation of detailed revenue schedules. In the meantime, the Office will need to onboard resources to complete the data entry.</p> | <p>Q1 2024</p>      |

| Observation  | Risk/Implication and Recommendation   | Management Response   | Implementation Date |
|--|---|---|---------------------|
| <p><b>9. Information Technology (IT) governance and management</b></p> <p>IT governance involves putting policies and procedures in place that are used as a guide for accessing IT and/or instruction for employees and the board. These policies and procedures should ensure that IT systems support the business objectives and risks.</p> <p>During the 2022 financial year, OfReg did not have a formal IT governance policy. In addition, there is no formal oversight of IT outcomes and IT risks by management.</p> | <p><b>Risk/ Implication:</b></p> <p>Lack of an IT governance policy/procedures and oversight by management and the board can result in broad outcomes not being delivered and/or IT risks not being adequately managed.</p> <p><b>Recommendation:</b></p> <p>OfReg should have an IT governance policy in place and the implementation of this policy should be overseen by management and the board.</p> | <p>The Office is in the process of recruiting an IT Manager who will have formal oversight of IT outcomes and IT risks. A formal IT governance policy will also be established.</p> | <p>July 1, 2024</p> |