



## Guyana: Taxpayers Lost Almost \$1 Billion to Financial Waste and Abuse at the Ministry of Public Infrastructure Over Two Years

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### Summary

The Auditor General flagged almost \$1 billion in Ministry of Public Infrastructure expenditures for financial mismanagement, waste, abuse, and non-compliance with the country's fiscal management and accountability laws and standards during Fiscal Years 2015 and 2016. Almost \$683 million represented "financial waste" and almost \$243 million was "abuse," and other forms of mismanagement. The Auditor General's reports also identified serious concerns with widespread inefficiency and poor management of the Ministry. Lawmakers must amend or enact legislation, to end such waste, abuse, and mismanagement of public resources. These resources must deliver maximum public benefits to citizens and promote economic growth.

### Overview

[Article 223](#) of the Constitution of Guyana establishes the Auditor General of Guyana (AG). The principal role of the AG is to scrutinize the expenditure of public funds on behalf of Parliament. Specifically, the AG conducts annual financial audits of all publicly-funded entities, including donor-funded entities, local government agencies, and trade unions in Guyana.<sup>1</sup> The purpose of the audits is to ensure that public funds are used for their intended purposes in accordance with relevant public law, such as the Fiscal Management & Accountability Act of 2003. Essentially, the audits are a way of monitoring publicly-funded agencies to ensure that public affairs are conducted in an efficient, disciplined, and fiscally transparent manner. The AG presents his findings to the Speaker on behalf of the National Assembly.<sup>2</sup>

Currently, there is little public awareness of how the government spends taxpayer funds. Each year billions of tax dollars are approved by parliament for critical public services. However, it is difficult for the public to know whether these funds were actually used for their intended purposes or spent in a fiscally responsible way. This report is the first of a series that takes a closer look at the AG's findings to determine whether public resources are used in a transparent, accountable, and disciplined manner to deliver maximum social benefits and promote sustainable growth. The review period is Fiscal Years 2015 and 2016, the two most recent years for which audits are available. Beyond educating taxpayers on how the government uses their money, this analysis is intended to make the budget and policymaking process more transparent, inclusive and evidence-based. So informed, it is intended to promote effective public policies that support public investment, accountability, and awareness.

## Magnitude of the Problem

Over the review period, the AG flagged total expenditures of \$925 million for various forms of financial waste, abuse, and mismanagement at the Ministry of Public Infrastructure (MPI).<sup>3</sup> Almost \$683 million (74%) represented financial waste and almost \$243 million (26%) was abuse and other forms of mismanagement.<sup>4</sup> (Chart 1)

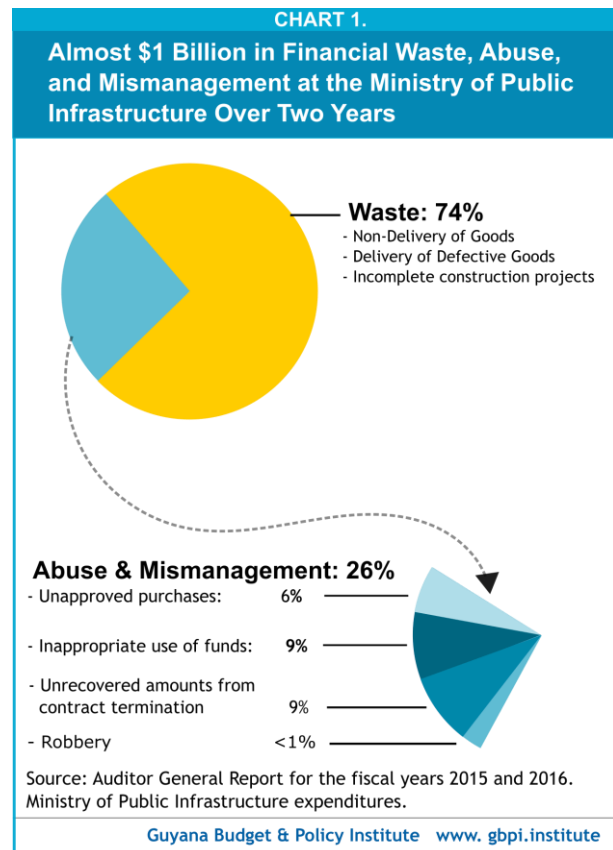
This misspending of public funds represents a significant loss to taxpayers and the economy. Taxpayers were deprived of the opportunities that these expenditures were intended to create. The total of almost \$1 billion could pay for a new public road from Georgetown to Mahaica<sup>5</sup> or retain 500 sugar workers on a monthly salary of \$60,000 for three years or hire new teachers or nurses on the same salary.

Further, the \$1 billion total represents the lower end of the estimate. It does not include expenditures for which there was no clear public benefit and those that did not fully comply with procurement regulations. For example, \$409 million spent on the controversial Durban Park Development Project – a project with no clear public benefit – was paid to a special purpose company, Homestead Development Inc., instead of through the public tender process.<sup>6</sup>

There is also inefficiency at the ministry that cost taxpayers a hundred of millions of dollars over the review period. For example, the Ministry spent more than \$605 million to supervise public works valued at \$246 million.<sup>7</sup>

Additionally, audits for billions of dollars allocated to multiple agencies under the Ministry are severely backlogged. At the end of 2016, more than \$3.4 billion in capital expenditures by sub-agencies under the Ministry remain unaudited. These agencies include the Transport and Harbour Department, Demerara Harbour Bridge Corporation, Cheddi Jagan International Airport, and the Maritime Administration. The most recent audits among these agencies range from 2003 through 2013.

Another source of inefficiency is the processing of payments. Cheques ordered are required to be cleared within 16 days of their issue, according to the AG's reports. An examination of over \$20



million in cheques ordered revealed that the average processing time was forty-four (44) days, more than double the required time.

## Waste

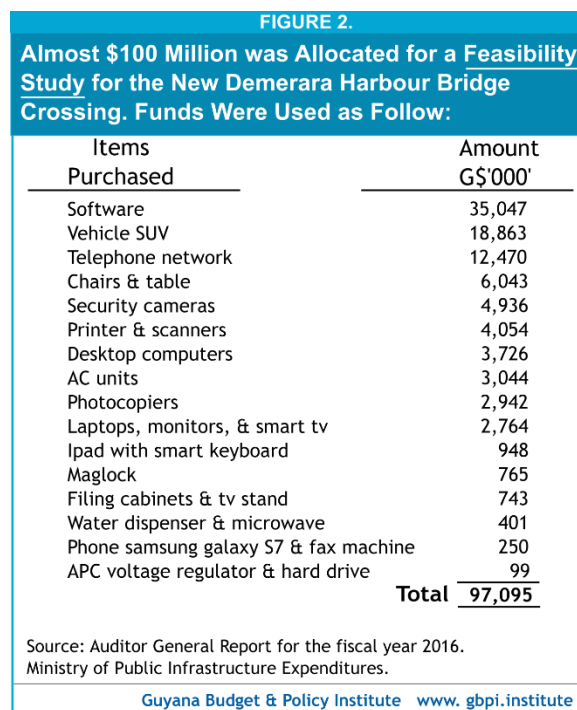
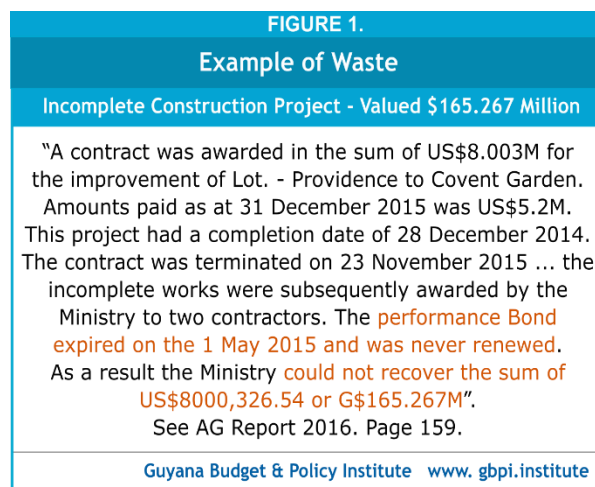
Waste is the squandering of money or resources, even if not explicitly illegal, on activities that do not result in public benefits.<sup>8</sup> Over the review period, financial waste totaled almost \$683 million. These funds represent unrecovered payments to contractors for work that was left incomplete and whose contracts and bond securities were expired. (Figure 1)

Unrecovered payments resulted from issuing excess advance payments to contractors – more than allowed for in the contract – and non-enforcement of the necessary bond securities to protect public funds. In one instance, \$72.264 million was paid to a sole overseas supplier for three motion scales. However, the contract had no signature, no National Procurement Tender Administration Board (NPTAB) number, no date, and no performance bond. No scales had been delivered at the time of the audit, which took place almost a year after the contract was awarded in December 2016.<sup>9</sup>

Failing to comply with the financial regulations regarding proper documentation for transparency and accountability and making advance payments to contractors more than the amount stipulated in the contract constitute serious breaches of the law. These findings highlight the failure of the Ministry to conduct the public’s business in compliance with public laws and use public resources in a fiscally prudent and disciplined way.

## Abuse and Other Mismanagement

Mismanagement of funds refers the failure to observe laws or guidelines when handling finances of an organization. This includes, the intentional destruction, diversion, manipulation, negligence, neglect, and misuse of public money or resources are considered financial abuse. Over the review period, the abuse of public funds totaled almost \$243 million. Included in this amount were expenditures that were not approved in the General Appropriations Act or by the Ministry of Finance through supplemental bills. The Ministry also approved payments to contractors for



expenditures outside of the specification of the contracts and with little relevance to intended use of the funds.<sup>10</sup> (Figure 2) For example, \$100M was allocated for a feasibility study of the new Demerara Harbour Bridge crossing. As of 31 December 2016, the total amount paid was \$97.095M. These transactions are consistent with the broader observation of the Ministry's poor application and non-compliance with national procurement laws and fiscal management and transparency guidelines.

## Current Laws are Inadequate and Lack Strict Enforcement

Current law provides weak enforcement to ensure transparency and accountability regarding the use of public funds. The Fiscal Management & Accountability Act 2003 (FMAA), the Procurement Act 2003, and the Audit Act 2004 are the primary laws that delineate regulations and guidelines governing public finance. None of these laws include any practical enforcement mechanisms to ensure that public agencies fully comply with the regulations. Subsections 37 through 39 of Part IV of the Audit Act 2004, Offences, empower the AG to request prosecution for offences that impede the execution of audits. Subsection 85 of Section XIV of the FMAA, Offences, defines indictable offences and corresponding penalties for public officials. Further, the Procurement Act 2003 does not include any section that addresses the issue of enforcement.

The Public Procurement Commission Tribunal Act was enacted in 2004, the commission was officially established in late 2016, and received funding in 2017. The Commission is responsible for monitoring the procurement process to ensure that it is fair, equitable, transparent, competitive and cost-effective. Limitations in the Commission's enforcement power render it unlikely to be able to halt the level of level of waste, abuse, mismanagement, and possible corruption at the ministries. Political interference with the work of the Commission is also likely to undermine its integrity and independence, and thus, its ability to effectively enforce transparency and accountability.

Further, the Public Accounts Committee (PAC), a sub-committee of Parliament, is the body that reviews the AG's reports on behalf of the National Assembly. On completion of its review, the PAC submit its concerns and recommendations for consideration to the National Assembly. The National Assembly votes on the adoption of the PAC's recommendations and the Ministry of Finance implements those adopted. The Ministry of Finance must prepare and submit to the National Assembly, annually, a written response in the form of a Treasury Memorandum detailing the actions taken to resolve issues raised by the AG and concerns highlighted in the PAC's report. Treasury Memoranda for the fiscal years over the review period are unavailable and the public has no way of knowing what measures were adopted and implemented to improve public financial management.

## Why We Should Care

Financial waste, abuse, and systemic mismanagement of public funds and corresponding inefficiency drain public monies that could otherwise be used productively for investment in education, mother and child health, poverty reduction, and job creation. Further, such waste, abuse, and mismanagement have the corrosive effect of undermining the public's trust and

confidence in the government. Taxpayers' vigilance and scrutiny of how public agencies use public funds are necessary to:

- **Protect public investments for widespread prosperity and growth.** The Ministry's failure to adhere to fiscal management and transparency laws and aggressively enforce compliance on contractors likely creates a moral hazard problem – where its contravention of public laws encourages under-performance or non-performance on the part of contractors. The moral hazard problem creates a perpetual cycle of abuse and waste of public funds which undermines needed public investment in the country's transportation and communication infrastructures. Financial waste and abuse of public funds essentially deprive taxpayers of the benefits and opportunities these expenditures were intended to create, and limits complementary private investment, job creation, and stifle economic growth.<sup>11</sup>
- **Increase transparency and accountability.** The Ministry, like every other public entity, is funded by taxpayers through tax revenues and fees. Public laws set clear guidelines which the Ministry must comply with when conducting the public's business. These guidelines serve the critical purpose of ensuring that taxpayers' monies are used in a transparent way for their intended purposes. Public funds are intended to pay for goods and services that deliver broad social benefits and promote widespread prosperity.
- **Improve public trust and confidence in the public service.** Systemic forms of abuse and waste in the Ministry and the corresponding inefficiency undermine the bureaucratic values of equity, efficiency, transparency, and honesty. These weaken the public's trust and confidence in public servants and prevent the emergence of high-performing, productive entities and a government capable of developing and implementing effective policies to promote growth and social welfare.

## What Can We Do About It?

Well-designed internal controls, education to bring greater awareness of the issue, and constant vigilance and scrutiny of public agencies are prerequisite to safeguard public funds and provide assurance to Guyanese taxpayers that their monies are being used only for legitimate and beneficial purposes. Moreover, these measures are critical to foster and protect integrity in public life, if public policy is to achieve objectives such as poverty reduction and building strong communities that are at the core of sustainable economic and social development.

There are simple steps lawmakers can take to end the abuse, waste, and mismanagement of public resources and ensure fiscal transparency, accountable, discipline, and full compliance with public laws. These include efforts to enforce or reinforce existing transparency and accountability safeguards and new legislation to close loopholes in current law.

**To enforce or reinforce transparency and accountability of current laws,** lawmakers should update all Standard Operating Procedures (SOPs) and administrative rules to require:

1. All procurement under the Procurement Act of Guyana must be advertised and tendered. There must be no tolerance for non-compliance with this requirement.
2. The Ministry of Finance conducts rigorous monitoring of all publicly-funded projects to ensure that monies are used as intended, in the most transparent and efficient way. The law must include liability and prosecution for public agencies and officers accountable for waste, abuse, mismanagement, and non-compliance with public laws.
3. The Procurement Commission must be empowered to conduct aggressive pre- and post-implementation audits, real-time audits, and utilize its authority to improve accountability and transparency as outlined in its Terms of Reference.
4. The PAC to develop and timely submit and make public its recommendations to the government to address issues identified by the AG.
5. The Ministry of Finance submits and the Treasury Memorandum detailing its actions in response to the PAC's recommendations, pursuant to current regulations. The Memorandum should be made available to the public via the Ministry's website.

To close loopholes in the state's fiscal transparency and accountability laws, lawmakers should adopt legislation and administrative rules that:

1. Limit sole-source procurement to unique circumstances with clearly outlined conditions. Where sole-sourcing is allowed, a separate and more stringent approval process must be required. The requirement should include compulsory and detailed reporting of all sole-sourced expenditures to the PAC and the Procurement Commission for further review.
2. Provide severe penalties including heavy fines, sanctions, and disqualification from future contracting for vendors who fail to comply with the requirements of the contract, regarding:
  - a. the delivery of goods and services in a timely manner, and of the correct specification and quality, and
  - b. the provision and renewal of advance and performance bonds.
3. Require ministries to provide details of a public need, the breakdown of the costs, and the expected public benefit of all capital expenditures. Such details are necessary to ensure public funds are not used to fund political pet projects with no broad public benefits.
4. Provide enforcement penalties and sanctions for public officers who abuse the procurement process, including failing to monitor the receipt of goods and services.
5. Require periodic reports to Parliament and the public on the progress of public project implementation, including explanations for those that are behind schedule or experiencing cost overruns. Such explanations must include detailed justifications and plans for corrective action.
6. Require open legislative updates and hearing on the findings of the AG on each ministry, the PAC's recommendations, and subsequent actions taken by the government as part of the annual budget debate process. These updates must be readily available to the public via the Internet.

## Conclusion

State lawmakers must take actions to end the waste, abuse, and mismanagement of public resources at the Ministry. When citizens pay taxes, they are giving up hard earned monies to support critical public investments that benefit everyone and the economy. Waste and abuse of public resources divert these resources to non-productive uses and deprive taxpayers of the benefits and opportunities these resources were intended to create. Additionally, they erode the integrity, public trust and confidence in the government. These outcomes affect families, businesses, the government, and ultimately hurt the economy.

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## Keywords

Guyana Budget, Fiscal Transparency, Public Finance, Budget Policy, Public Finance Management

## Notes

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<sup>1</sup> The Audit Office of Guyana. [Article 223 – Establishment and Independence of Office](#).

<sup>2</sup> Section (3) of Article 223 requires the Auditor General to submit his report to the Minister of Finance, who shall cause them to be laid before the National Assembly. However, this was changed in the Constitutional Reform of 2001. The Auditor General presents his findings directly to the Speaker on behalf of the National Assembly.

<sup>3</sup> Audit Office of Guyana. Report of the Auditor General on The Public Accounts of Guyana and on the Accounts of Ministries / Departments / Regions for the Fiscal Years Ended on 31 December [2015](#) and [2016](#).

<sup>4</sup> Total may differ due to some expenditures included in more than one category due to the nature of the expenditures. However, these accounts for an insignificant amount and does not affect the validity of the overall estimates.

<sup>5</sup> This is based on an estimate of \$29.780 million per kilometers of asphalt road with a dimension of 12 feet in width with only DBST as the base.

<sup>6</sup> Supra note 3. 2016. Page 129. Item 284.

<sup>7</sup> Supra note 3. 2015. Page 143. Item 297.

<sup>8</sup> U.S. Government Accountability Office.

<sup>9</sup> Supra note 6. Page 159. Item 310.

<sup>10</sup> Supra note 6. Page 144. Item 312.

<sup>11</sup> Raffaella Giordano, Sergi Lanau, Pietro Tommasino, and Petia Topalova (2015). [Does Public Sector Inefficiency Constrain Firm Productivity: Evidence from Italian Provinces](#). IMF Working Paper 168.