# INQUIRY INTO THE PUBLIC ACCOUNTS OF THE GOVERNMENT OF PAPUA NEW GUINEA FOR THE FINANCIAL YEAR 2006.

## REPORT TO THE NATIONAL PARLIAMENT

### 1. EXECUTIVE SUMMARY

1.1. By 2006, the Constitutional and statutory scheme of accounting and accountability for the management of public monies, had collapsed.

1.2. The Committee respectfully advises the National Parliament that this collapse of accountability and responsible, lawful and competent fiscal management was, and remains, a direct threat to the viability and civil stability of the Nation and the health and welfare of our citizens.

1.3. To the end of 2006, service delivery had faltered and, in some areas failed, in large measure the result of fiscal mischief and/or incompetence on a huge scale by the very persons responsible for properly and lawfully applying public monies – our Public Service at all levels of Government and administration. The results are clear to see in any social indicator of health and education and we believe this situation continues currently.

1.4. By 2006 Executive control of public monies and Government finances had failed and been supplanted by unaccountable management by officers of the Public Service who were themselves unaccountable, acted unlawfully or failed to carry out their lawful duties to make and submit accounts.

1.5. So bad had the situation become by 2006, that the Auditor General was unable to audit significant parts of the Public Accounts and/or many areas of Government because there were no records or accounts.

1.6. This Committee rejects the Public Accounts of the Government of Papua New Guinea for the financial year 2006 as unreliable, incompetent, possibly fabricated in part, misleading and incomplete.

1.7. The Auditor General refused to certify or disclaimed the Public Accounts of the Government of Papua New Guinea for these reasons.

1.8. By 2006, there had developed a culture of impunity against and behind which fiscal mishandling and misappropriation has prospered. So pernicious is this culture that there was, and is, no fear or risk of detection or punishment for those who would act illegally with public funds.

1.9. The findings and resolutions of the Committee, to be effective, need to be actioned by the Government, without delay.

1.10. The National Parliament must immediately move to rectify the collapse of accountability for the use and application of public monies by the Public Service.

1.11. The National Parliament must immediately reassert the Constitutional system of fiscal management by the Executive.

1.12. The National Parliament must immediately bring the Department of Finance under control and enforce accountability in that Department for fiscal management.

1.13. The National Parliament must reestablish the political and social contract with the citizens of Papua New Guinea and bring the application of appropriated monies under control for the benefit and betterment of the people of Papua New Guinea.

1.14. The National Parliament must accept that it has, for years, failed to enforce and demand lawful and proper fiscal accountability for the use of and transactions with public monies, property and stores. It has failed to understand or fulfil its Constitutional duty in this regard.

1.15. The National Parliament must recognize that the result of its failure has been to cede power to unelected and unaccountable officers of the Public Service.

1.16. The National Parliament must accept that this failure has resulted in the development and protection of significant abuse of public monies by the very persons charged with lawfully managing and applying public monies to the betterment of our country.

1.17. This failure has resulted in deteriorating services to our people and a failed system of delivering development to our citizens.

1.18. The Department of Finance had, by 2006, arrogated to itself sovereign power over the use and application of public monies, often in open defiance of Government appropriation, policy and directive.

1.19. By 2008, the agencies responsible for fiscal management and which were required to be accountable to Government and the Parliament for their performance, refused to cooperate with this Parliamentary Committee and refused to respond when called to account for past performance. In short, the Departments of Finance and Treasury intentionally refused to render account or assistance to this Parliament.

1.20. The Public Service, by 2006, was without control or oversight in its fiscal management and acted with impunity and immunity in their handling of public monies and in its refusal or failure to account lawfully – or at all.

1.21. The major agencies responsible for fiscal management, by 2006, acted largely as they wished in respect of public monies and, in many instances, in direct defiance of Law, Constitutional requirements and Government policy and appropriation.

1.22. There was and still is a collapse of law enforcement in the application of, or obedience to, the ***Public Finances (Management) Act 1995*** and every other dictate of Law relating to fiscal accountability across the entire span of Government.

1.23. By 2006 and continuing to the present, not one Department of Government can, will or is capable of complying with all (or in many cases, any) lawful requirements of fiscal accounting.

1.24. This collapse of accountability is so complete that hardly one agency can reconcile or account for its own internal financing – much less deal with or apply development or service orientated appropriation.

1.25. There is a direct correlation between the collapse of public fiscal accountability and failure of service delivery. Even a peremptory examination of Trust Fund Suspense Account No. 2 still shows huge misappropriation and random and illegal distribution of appropriated funds to other than their intended recipient or purpose in 2006 despite warnings by the Auditor General.

1.26. The failure of service and development delivery will, and has already, resulted in significant social unrest. In other words, the loss of Parliamentary power and fiscal control, and thereby policy implementation, has created an increasingly angry, impoverished and disillusioned citizenry, deprived of the services that they have the right to receive.

1.27. This Committee strongly recommends that the Government seek assistance and expertise wherever it can to replace failed individuals, failed systems and intentional refusal by Officers of the Public Service to act properly and lawfully.

1.28. This Committee concludes that there is no detectable will or ability in the Public Service – particularly in the Department of Finance – to change or reform. The huge amounts of money misappropriated in that Department clearly displace any ability or wish to change or to comply with the duties imposed on that Department.

1.29. The Department of Finance must be brought under control and be made accountable. The Department cannot control public spending and cannot fulfill even basic accounting tasks. Government should seriously consider degazetting the Department and replacing it with a specialised accounting and fiscal agency to guide and implement development and service delivery budgets.

1.30. Power to expend or authorize the expenditure of monies must be removed in whole or in part from the Department of Finance pending restructuring of that Department.

1.31. A new and specialized agency is required to control, approve and account for the expenditure of public monies. If necessary, that agency should be recruited from private enterprise and/or from overseas if the necessary expertise cannot be sourced in Papua New Guinea.

1.32. Decentralised accounting had, by 2004, failed and this continued into 2006. It continues in a state of failure in 2009. No agency or Department of Government has the expertise or capability to account for the use of or transactions with public monies.

1.33. Either the devolution is reversed and made the task of a specialised and effective independent agency or a very significant training and oversight effort must be injected into public accountability at every level of Government right down to LLG, District and Board level – and even then, we doubt that decentralized accounting can succeed.

1.34. The Committee recommends that the number of Section 32 Officers be strictly circumscribed and that delegation to expend public monies must be restricted to officers with a proven record of honesty and who are trained, experienced and subject to training, oversight, control and a "fit and proper person" test.

1.35. Ministers must assume responsibility for transparent accounting by their Departments and not acquiesce in the current failed system.

1.36. The culture of impunity attending failure and malpractice in our Public Service should be addressed immediately. There is no fear of detection or sanction for fiscal mishandling – and there must be.

1.37. Senior management has failed to enforce standards of accounting required by Law and no analysis of capability has ever been conducted – this must change.

1.38. The ***Public Finances (Management) Act 1995*** requires updating and modernization.

1.39. Executive power must be reasserted over fiscal management and power over and accountability for expenditure reclaimed by the Executive.

1.40. Ongoing training and supervision of accounting staff must be implemented and maintained at all levels of Government.

1.41. Departments and agencies that fail to make statutory records or accounts should be penalized by a reduction of funding or removal and replacement of failed staff and management. There should be zero tolerance for failure or refusal to comply with the requirements of the ***Public Finances (Management) Act 1995.***

1.42. Inadequate IT systems need urgent attention and rectification. The fact that PGAS budget management systems cannot prevent invalid budget codes is totally unacceptable. The fact that PGAS and TMS cannot communicate is not acceptable.

1.43. Qualified Finance Officers only should be deployed in self accounting agencies and constantly controlled and overseen.

1.44. No agency should be designated as self accounting unless strict prerequisites are met. Departments and agencies considered by this Committee were bad enough when they were not self accounting, but since gaining this status, they have failed completely to keep even basic accounts or records.

1.45. The oversight and monitoring agencies should be properly and fully funded. The Office of the Auditor General is simply unable to meet its mandate due to lack of resources and this is not acceptable – or lawful.

1.46. As a result of evidence and documents received by the Committee, the Public Accounts Committee makes referrals of certain Officers of the Public Service for inquiry and possible prosecution for breaches of statutory obligations.

1.47. As a result of evidence and documents tendered to the inquiry, the Public Accounts Committee unanimously resolved to make a full and complete report of its Inquiry and findings to the National Parliament in accordance with Section 86 (1) (c) of the ***Public Finances (Management) Act 1994.***

1.48. The Public Accounts Committee now tables the report with its strongest recommendation that remedial action be immediately taken by the National Parliament in accordance with findings and resolutions of the Public Accounts Committee.

## 2. INTRODUCTION

2.1 On the 25th May 2009 the Permanent Parliamentary Committee on Public Accounts conducted an Inquiry into the keeping of the Public Accounts of the Independent State of Papua New Guinea for the financial year ending the 31st December 2006.

2.2 This Inquiry was held pursuant to the powers vested in the Committee by Section 86(1)(a) of the ***Public Finances (Management) Act 1995.***

2.3 The Committee had recently completed detailed inquiries into the Keeping of the Public Accounts for the Financial Years 2004 and 2005 and it was the intention of the Committee in this Inquiry, to establish whether there had been any improvement in the quality of keeping of the Public Accounts and in particular in the frequency and quality of financial reporting and accounting which constituted the primary documents from which Public Accounts are compiled.

2.4 The evidence received by the Committee in the earlier inquiries clearly showed a collapse of systems of accountability for the use of public money, property and stores across the entire span of Government resulting in the Public Accounts of the Independent State of Papua New Guinea being found by the Office of the Auditor General to be unreliable and inaccurate.

2.1. The results of this collapse have been manifold.

2.2. The first result has been that illegal and/or and improper practices were rife - particularly in the very Department responsible for fiscal management, the Department of Finance, but also across the entire spectrum of Government at every level – National, Provincial and Local.

2.3. This systemic disregard of accounting requirements has opened public money to misuse, theft and misappropriation particularly by and through the very Officers of the Public Service whose duty it is to properly manage those monies.

2.4. Secondly, diverted or misused public money can only come from one source – funds belonging to and intended for service development and delivery to our people. Schools, hospitals, roads, doctors, infrastructure maintenance, medicine and basic services take a poor second place after allocated funds were diverted or misused.

2.5. Thirdly, the misuse of public monies appeared utterly uncontrolled. Governments and law enforcement agencies failed to grapple with the problem and this failure emboldened the misusers, who moved in a few years from small scale opportunistic misappropriation to the organized diversion of huge sums of public money – with apparent immunity and impunity.

2.6. Fourthly, central control of public finances by the Executive and the National Parliament had ceased. The Public Service failed or refused to keep accounts or to obey the legal requirements for accountability, yet were still funded and permitted to control public funds free of any oversight or control by the Executive.

2.7. Fifthly, vital information which should be accurately set out in the Public Accounts was, in 2006, not available.

2.8. For example the Committee was unable to ascertain the number of Government Trust Accounts (the figure varied from 368 to 15,000), the amount of money held in Trust Accounts, interest accruing on Trust Account deposits (if any), the extent and composition of public or State debt, the actual application of public money through Trust Accounts (especially by Provincial Governments) and much more.

2.9. Sixthly, in the absence of competent and reliable Public Accounts the Committee cannot understand how Government could competently and responsibly plan, monitor, form policy, budget, manage currency, meet major fiscal challenges or crises, deliver services effectively or maintain any understanding of the fiscal state of the Nation.

2.10. Seventhly, the Government and the National Parliament had clearly lost control of the Public Service and thereby responsible, lawful and equitable application of public monies – the most basic requirement for a modern, sovereign nation.

## 3. CHRONOLOGY

3.1 The Public Accounts Committee commenced its Inquiry into the keeping of the Public Accounts of the Independent State of Papua New Guinea on the 25th May 2009 and closed the Inquiry on that day.

3.2 Summonses to Attend were served on the Heads of the Department of Finance and Treasury. Mr Simon Tosali of the Department of Treasury appeared. The Secretary of Finance did not appear. He was represented by Mr. Frank Gaudi (Acting Secretary (P/A) and Mr. Mario Cueva (Advisor).

3.3 The Inquiry was frustrated by the unpreparedness of the representatives from the Department of Finance who had clearly not been briefed and had not bothered to familiarize themselves with the Public Accounts or the Report of the Auditor General on those Accounts.

## 4. LIST OF ABBREVIATIONS

*4.1* ***"PF(M)A"***

Public Finances Management Act

*4.2* ***"PAC"***

Public Accounts Committee

*4.3* ***"the Constitution"***

Constitution of the Independent State of Papua New Guinea

*4.4* ***"TMS"***

Treasury Management System

4.5 ***"PGAS"***

*Papua New Guinea Government Computerised Accounting System.*

*4.6* *"**the Committee** or **"this Committee"***

The Permanent Parliamentary Committee on Public Accounts.

**5. COMPOSITION OF THE COMMITTEE**

5.1 The Public Accounts Committee which made inquiry into the Public Accounts of the Independent State of Papua New Guinea for the Financial Year 2006 was constituted as follows:

**25th May 2009**

Hon. Timothy Bonga M.P. - Chairman

Hon. Dr. Bob Danaya M.P. – Deputy Chairman.

Hon. Francis Marus M.P. – Member.

Hon. Malaki Tabar M.P. – Member.

Hon. Philip Kikala M.P. – Member.

5.2 The Chairman, Deputy Chairman and Members of the Committee were properly and lawfully appointed and empowered to sit as a Public Accounts Committee.

## 6. JURISDICTION.

**INTRODUCTION:**

6.1. At all times, the Committee has taken great care to enable witnesses to make full and complete representations and answers to any matter before the Committee – in particular those matters about which the Committee may make adverse findings against individuals or entities.

6.2. The Public Accounts Committee has taken care to give careful consideration to all responses and evidence given before the Committee.

6.3. The Public Accounts Committee has taken care to seek opinion, information, facts and submissions from all sources reasonably open to it including all citizens of Papua New Guinea.

6.4. A substantial amount of evidence was taken on oath and full and due inquiry was made of all relevant State Agencies where the Committee considered those inquiries to be necessary.

**JURISDICTION**

**The Constitution of the Independent State of Papua New Guinea.**

6.5. The Committee finds its jurisdiction firstly, pursuant to Section 216 of the ***Constitution of the Independent State of Papua New Guinea***. That Section reads:

"***216. Functions of the Committee***

***(1) The primary function of the Public Accounts Committee is, in accordance with an Act of the Parliament, to examine and report to the Parliament on the public accounts of Papua New Guinea and on the control of and on transaction with or concerning, the public monies and property of Papua New Guinea".***

***(2) Sub-section (1) extends to any accounts, finances and property that are subject to inspection and audit by the Auditor General under Section 214 (2) … and to reports by the Auditor General under that Sub-section or Section 214 (3)…".***

6.6. Whilst considering the relevant provisions of the Constitution, the Committee has had regard to the **Final Report of the Constitutional Planning Committee 1974** and been guided by or applied the stated intentions of that Committee wherever necessary.

6.7. The Public Accounts Committee has had due regard to Reports by the Auditor General made pursuant to audit inspections of the Public Accounts for the financial year 2006 and the five years preceding, but has conducted an Inquiry into relevant matters deemed by the Committee to be of National Importance or which arise naturally from primary lines of Inquiry and which are within the jurisdiction and function of the Committee as set forth in the Constitution.

6.8. Whilst engaged in the Inquiry the Committee was guided by two definitions contained in the Constitution, which are directly relevant to Section 216 of the Constitution. They are:

> ***"Public Accounts of Papua New Guinea" includes all accounts, books and records of, or in the custody, possession or control of, the National Executive or of a public officer relating to public property or public moneys of Papua New Guinea;"***

> and

***"Public moneys of Papua New Guinea" includes moneys held in trust by the National Executive or a public officer in his capacity as such, whether or not they are so held for particular persons;"***

**Schedule 1.2 of the Constitution*.***

**The Public Finances (Management) Act 1995.**

6.9. The Public Accounts Committee also finds its jurisdiction to Inquire into the Public Accounts of Papua New Guinea in Section 86 (1) (a) of the ***Public Finance (Management) Ac 1995****.* That Section states:

***" (1) The functions of the Committee are –***

***"(a) to examine the accounts of the receipts and expenditure of the Public Account and each statement and report of the Auditor-General presented to the Parliament under Section 214 of the Constitution or Section 113 (8) (a) of the Organic Law on Provincial Governments and :Local-level Governments; …….***

6.10. The Committee has considered such statements and Reports of the Auditor General as were presented to Parliament and in particular the Part 1 Report of the Office of the Auditor General for the financial year 2006.

6.11. The Committee has further considered Reports of the Auditor General which have not yet been presented to the Parliament, on the basis that that evidence was tendered by the Auditor General for the consideration of the Committee and at the request of the Committee, on the basis that such material is within the purview of the Committee as a matter of national importance.

6.12. Power to refer matters for investigation and possible prosecution is granted to the Committee by Section 86A of the ***Public Finances (Management) Act 1995***.

**Permanent Parliamentary Committees Act 1994:**

6.13. The Committee also resolved that a full Inquiry into the keeping of the Public Accounts for the year 2006 was a matter of National importance and found further jurisdiction for the inquiry in Section 17 of the ***Permanent Parliamentary Committees Act 1994***.

6.14. That Section provides that the Public Accounts Committee can, of its own initiative, consider any matter within its jurisdiction to be of national importance and report to the National Parliament accordingly. The Committee, as we have stated, considers the Public Accounts of the Nation for the financial year 2006, to be such a matter.

## 7. RELEVANT STATUTES ETC. CONSIDERED BY THE COMMITTEE DURING INQUIRY.

**Public Finances (Management) Act 1995.**

7.1 The ***Public Finances (Management) Act 1995*** prescribes the method and standard for the administration of and accounting for public monies, public properties and stores by Government.

7.2 Further, the Act imposes certain obligations on Public Servants for collection of State revenue and controls the expenditure of public monies.

7.3 Relevant sections of the Act which were considered by the Public Accounts Committee during the course of the Inquiry into the Public Accounts are:

(i) **Section 5 – Responsibilities of Heads of Department**

This Section prescribes the duties, powers and obligations of Head of Department.

(ii) **Section 3 – Responsibilities of the Minister**

This Section prescribes the obligations and duties of relevant Ministers of State.

(iii) **Part X - The Public Accounts Committee**

This Part empowers and imposes functions and obligations on the Public Accounts Committee. In particular, the Committee was required to consider Section 86 (A) – power to refer officers of the Department to the Office of the Public Prosecutor for investigation and possible prosecution relating to breaches of the ***Public Finances (Management) Act 1995*** and/or the ***Constitution.***

(iv) **Part XI - Surcharge**

This Section prescribes personal liability for certain public servants who fail in their obligations to collect and protect certain public monies.

(v) **Section 112** – **Offences**

This Section prescribes disciplinary action which may be taken against certain public servants or accountable officers who fail to comply with the terms of the ***Public Finances (Management) Act 1995.***

**Financial Instructions.**

7.4 Section 117 of the ***Public Finances (Management) Act 1995*** enables the promulgation of certain ***Financial Instructions*** which establish detailed procedures for the handling, collection, expenditure, disposal of and accounting for public monies, property and stores.

7.5 The Public Accounts Committee had regard to these ***Financial Instructions*** or Directives when considering the 2006 Public Accounts.

7.6 In particular, the Committee had regard to **Part 6 Division 1 Para. 2.1 – Accountable Officers.** That paragraph reads, in part:

> ***".....the Departmental Head is liable under the doctrine of personal accountability to make good any sum which the Public Accounts Committee recommends should be disallowed".***

**Audit Act 1986.**

7.7 The ***Audit Act 1986*** establishes and empowers the Office of the Auditor General to carry out its work of overseeing and supervising the handling of public monies, stores and property by all arms of the National Government. The Public Accounts Committee had regard to the terms of this Act during the course of the Inquiry into the Public Accounts.

7.8 The Committee received considerable assistance from the Office of the Auditor General in the course of this Inquiry.

***Permanent Parliamentary Committees Act 1994.***

7.9 The Committee has had regard to Sections 17, 22, 23, 25, 27, and 33 of the ***Permanent Parliamentary Committees Act***

***1994*** during the course of the Inquiry into the Public Accounts.

***Parliamentary Powers and Privileges Act 1964.***

7.10 The ***Parliamentary Powers and Privileges Act 1964*** sets forth those privileges and powers extending to Members of Parliament, Committees of Parliament and Officers or Parliamentary Staff.

7.11 In the course of this Inquiry, the Committee had cause to examine and apply Sections 19 and 20 (1) (d) of that Act.

7.12 The Secretaries of the Departments of Finance and Treasury failed to comply with a Summons requiring the production of documents and certain resolutions and referrals were made in this respect. This matter is developed more fully in this Report (infra).

## 8 PURPOSE OF THE INQUIRY

8.1 The purpose of the Inquiry conducted by the Public Accounts Committee was to make full and complete examination of the keeping of the Public Accounts as revealed in the Part 1 Report of the Office of the Auditor General for the year 2006 and all the evidence relevant to the compiling and presentation of those Public Accounts.

8.2 The purpose of the Inquiry was not to improperly pursue or criticize any person or company, but to make a constructive and informed Report to the Parliament on any changes which the Committee perceives to be necessary to any item or matter in the accounts, statements or reports or any circumstances connected with them, which comprise the Public Accounts, all other primary material from which those Accounts are compiled and any other matter considered by the Committee to be of national importance.

8.3 Further, the intention of the Committee was to report to the National Parliament in a meaningful way on alterations that the Committee thinks desirable in the form of the Public Accounts as manifested in the method of keeping them, in the method of collection, receipt, expenditure or issue of public monies and/or for the receipt, custody, disposal, issue or use of stores and other property of the State by all arms or Departments of Government as those matters are revealed in the Reports of the Auditor General or other evidence received by the Committee.

## 9 THE AUTHORITY TO REPORT

9.1 The Public Accounts Committee finds authority to make this Report in Section 86(1) (c) and (d) (i), (ii), (iii) and (iv) and (f) of the ***Public Finances (Management) Act 1995*** and Section 17 of the ***Permanent Parliamentary Committees Act 1994***.

## 10 THE AUTHORITY TO REFER

10.1 Where satisfied that there is a prima facie case that a person may not have complied with the provisions of the ***Constitution of the Independent State of Papua New Guinea*** and / or the ***Public Finances (Management) Act 1995*** in connection with the control and transaction with and concerning the accounts of a public body or the public moneys and the property of Papua New Guinea, it may make referrals of that person to the Office of the Public Prosecutor in accordance with Section 86 (1) (f) and Section 86A (1) and (2) of the ***Public Finances (Management) Act 1995***.

10.2 The Public Accounts Committee is not a true investigatory body or law enforcement agency capable of investigating and/or prosecuting persons for breaches of the law. The Committee is required to refer such matters to the appropriate authorities and may make such recommendations as it thinks fit in relation to any referral made pursuant to Section 86A of the **PF(M)A.**

10.3 The Committee is also empowered to refer for prosecution, any witness who fails to comply with a Notice to Produce any document, paper or book and / or any person who fails to comply with a Summons issued and served by the Committee. See Section 23 ***Permanent Parliamentary Committees Act 1994.***

10.4 Further, Section 20 of the ***Parliamentary Powers and Privileges Act 1994*** permits the Committee to refer for prosecution any person who, inter alia, fails to comply with a Summons to produce books, papers or documents specified in the Summons.

10.5 Regrettably, the Committee is required to make referrals of individuals for further investigation and possible prosecution as a result either of their non compliance when summoned to this Inquiry or as a result of evidence received by the Committee in the Inquiry or their demonstrated attitude toward this Committee or its proceedings.

10.6 In particular the Secretaries of the Departments of Finance and Treasury simply refused to answer Summonses issued and served by the Committee or to assist or cooperate with the Committee. What oral evidence was given by these Officers was difficult to understand and/or unresponsive.

10.7 Those referrals were made after anxious consideration of the evidence and any explanations given by the persons concerned. The Secretaries for the Departments of Finance and Treasury were invited to make any response or show any reason why they should not be referred, but made no response to the Committee in this regard.

10.8 The Committee is cognisant that to make referrals, particularly of a senior public servant is a very serious matter which will adversely reflect on the individual concerned. These referrals are not made lightly but only after careful consideration of all the evidence and unanimous resolution by the Committee and where there is clear and unequivocal evidence which requires either specialized investigation by the appropriate agency or where a failure to cooperate with the Committee, as required by Law, was clear.

## 11 METHOD OF INQUIRY

11.1 The Inquiry by the Public Accounts Committee into the Public Accounts for the financial year 2006 was a public hearing at which sworn evidence was widely sought from a large range of sources, but received from only a small number of witnesses.

11.2 Early in this Inquiry, the Committee became aware that it was dealing with a serious and thoroughgoing collapse of fiscal accountability by Government.

11.3 The Committee quickly became aware of the extent of failure and non compliance with the legal requirements of accounting for public monies imposed by the ***Public Finances (Management) Act 1995*** and the ***Financial Instructions*** promulgated thereunder.

11.4 The Committee decided to conduct a constructive Inquiry intended to identify the reasons for the collapse of accountability and to make informed suggestions and recommendations to the National Parliament to commence the process of reform and/or restoration of these systems.

## 12 WHAT IS THE PUBLIC ACCOUNT?

12.1 The systems and legal basis for the supervision and control of Government finances, and therefore of public monies, is prescribed by Subdivision A, Division 1 of Part VIII of the ***Constitution of the Independent State of Papua New Guinea***.

12.2 Section 209 of the ***Constitution*** states that there shall be, in each fiscal year, a national Budget comprising:

***(a) estimates of finance proposed to be raised and estimates of proposed expenditure by the National Government in respect of the fiscal year; and***

***(b) .............***

***(c) such other supplementary budgets and appropriations as are necessary.***

12.3 Section 211 of the ***Constitution*** establishes the systems of account for public monies under the control of Government. The Section states:

**"(*1)*** ***All moneys of or under the control of the National Government for public expenditure ........shall be dealt with and properly accounted for in accordance with law.***

***(2) No money under the control of the National Government for public expenditure …..shall be expended except as provided by this Constitution or by or under an Act of Parliament".***

12.4 The term "public accounts of Papua New Guinea" is defined in Schedule 1 of the Constitution in the following manner:

***"public accounts of Papua New Guinea" includes all accounts, books and records of, or in the custody, possession or control of, the National Executive or of a public officer, relating to public property or public moneys of Papua New Guinea;"***

12.5 The Constitution gives no detailed guidance to or prescription for the handling of or accounting for public money. Those systems and the legal requirements for those accounts are set forth in the ***Public Finances (Management) Act 1995*** and the ***Financial Instructions*** made thereunder.

12.6 At the outset of this Inquiry the Committee sought a clear statement and definition of the Public Accounts and the use to which they were put by various entities.

12.7 This basic question was important – not least because it would assist the Committee to understand the import of a refusal by the Auditor General to certify the Accounts or to disclaim them. Should such a decision by the Auditor General concern the Committee and, if so, why?

12.8 If the Public Accounts are found to be unreliable or prepared or presented on the basis of accounting policies that are themselves defective in some way, what recommendations should the Committee make to the National Parliament?

12.9 This question was addressed to the Office of the Auditor General both in writing and orally at the Inquiry. We received timely, comprehensible and responsive assistance from the Auditor and we record our gratitude for that cooperation.

12.10 Evidence given by the Auditor General both orally and by Para 6 of the Part 1 Report for 2005, is accepted by the Committee as relevant in this Inquiry:

***"HON. TIMOTHY BONGA MP - Chairman:***

***What use is made of the public accounts and by whom? Are they used for budgeting purposes, are they used by foreign governments or credit agencies, by Treasury or Central Bank? Perhaps you could summarise Para 6 of your 2005 Report.***

***MR. GEORGE SULLIMAN – Auditor General:***

***Chairman, there are lots of users for the Public Accounts and there are a lot of uses for the national Public Accounts. The Departments themselves, our***

***economist and the public at large, investors, central governments agencies …………,***

**<u>Transcript 30th April 2008</u>.**

12.11 Para. 6 of the Part 1 Report of the Auditor General for 2005 is of direct relevance to the Committee's question. It states:

***"THE ROLE OF THE PUBLIC ACCOUNTS OF PAPUA NEW GUINEA.***

***Important features of the Papua New Guinea system of governing depend in part on the availability of good financial information. The Public Accounts are a major source of annually reported financial information.***

***The features of Papua New Guinean system of Government that depend in part on the availability of good financial information are:***

- ***Consent of the governed;***
- ***An Executive entrusted with powers;***
- ***Impose limits on the executive use of powers; and***
- ***Oversight of executive action.***

***Government in this country is based on consent formally given by representatives in Parliament through the annual appropriation of supply, approval of the Budget and passage of Legislative proposals.***

***Information on the benefits, costs and financial effects of Government proposals is needed before Parliament gives its consent. Subsequent periodic reporting of the financial information is needed to compare actual costs, tax burdens, and other financial effects with those intentions and for which consent was given.***

***The system of Papua New Guinea provides for a strong Executive entrusted with great power……………..Reports of the actual costs and financial effects of government activities are needed to assess whether, from a financial view, Executive discretion was appropriately exercised.***

***Limitations on the use of Executive authority are a constitutional strategy to protect individuals' liberty from abuse of the powers of the State. Some limits are financial (for example, the system of Parliamentary appropriation) and financial records are needed to show whether the Executive has complied………***

***The possibility of review helps deter behavior such as unfairness, fraud, waste, extravagance, embezzlement and misappropriation".***

12.12 The Committee also considered the intent of the Constitutional Planning Committee. In the Report of that Committee in 1974, the following was found:

> ***" …the ultimate task of management, of raising, allocating, re-allocating and then spending government fund, remains an executive responsibility."*** Para. 9/2: 11.
>
> and further,
>
> ***" A presentation of an annual budget and statement of account to the legislature provides a most important opportunity for the audited results of one year's government activity to be related to estimates for the following year, and for both of these to be examined against the governments long term economic plans. It provides a most useful occasion for parliament to review progress being made toward the attainment of national objectives"*** Para. 9/2 12

12.13 This Committee accepts that the Annual Report on the Public Account of Papua New Guinea is a vital tool of governance which performs at least two crucial functions:

1. The Public Accounts are a statistical record of National progress, achievement and adherence to planned development, budgeting, service delivery, monitoring and growth.

2. The Public Accounts are a powerful Constitutional device intended to protect against Executive excesses and to serve thereby, the social and fiscal covenant between the governed and their leaders.

12.14 Either or both of those functions demand accurate, comprehensible and reliable statements of account – which in turn requires lawful, competent, accurate, current and comprehensible primary records and documentation.

12.15 If reliable or accurate statements of the Public Account are not made, this Committee cannot understand how a Government can budget, fix taxation, plan development, allocate money, deliver services, maintain executive power or maintain any understanding of such vital issues as the national debt, national resources and needs, the amount of money actually held in Trust Accounts, the number of Trust Accounts, the public debt, guarantees or other vital information, fundamentally important to the modern nation state.

12.16 In our opinion, an accurate and reliable Statement of the Public Account and a review of that Statement by the Auditor

General and this Committee is vital to preserve the supremacy of Parliament and to prevent the power of the Executive being usurped by an uncontrolled Public Service acting behind a veil of fiscal secrecy created by either a failure to produce accounts at all or a production of misleading or defective accounts.

12.17 In summary, the preparation and presentation of accurate and reliable Public Accounts is crucial to good governance, democratic rule and the welfare of our people.

12.18 Unelected and unaccountable public servants have deprived successive governments of this information for years by the simple device of refusing to create or present records or accounts of their financial activities. Astonishingly this has been tolerated by successive Governments.

12.19 In light of the contents of this Parliamentary Report, it is important to understand that the Public Account of the Independent State of Papua New Guinea is only as reliable and as comprehensive as the primary documents from which it is compiled **and** the creation and accuracy of these records are the responsibility of the Heads of Department, Department of Finance and therefore the Head of Department, the Minister for Finance and all Ministers of Government who oversee the performance of Departments.

12.20 With regret, this Committee must record at this point that the collapse in the systems of public accounting in 2006 and in previous years, at every level of Government, has resulted in a Public Account for the year 2006, which is not reliable and may not represent or record the true state of fiscal dealing by the Government of Papua New Guinea for that year.

## 13 WHAT ARE THE PRIMARY DOCUMENTS AND SOURCES OF THE PUBLIC ACCOUNTS?

13.1 By Section 211 of the Constitution all monies over or under the control of the National Government for public expenditure should be dealt with and properly accounted for in accordance with law.

13.2 The accounting standards and requirements for the use of and transactions with public monies, property or stores are set forth in the ***Public Finances (Management) Act 1995*** and the ***Financial Instructions*** promulgated hereunder. These documents are the primary records from which the Public Accounts are compiled and upon which they rely for their accuracy.

13.3 The Public Accounts of Papua New Guinea record the allocation and expenditure of public monies and also collection of revenues made by National Government Departments, agencies, arms or entities, Provincial Governments (in summary form) and all other functionalities and instrumentalities of the State.

13.4 The State renders services and administration through Government Departments or agencies at National, Provincial and Local Level Government levels.

13.5 Each Department, arm, entity or agency of Government is required by the ***Public Finances (Management) Act 1995*** and the ***Financial Instructions*** to maintain internal, external and audit controls over all their dealings with public monies, property or stores and to keep reliable and current records and accounts of those dealings.

13.6 In the absence of those statutory records, data or accounts, power of and control over public funds has been lost to Government, which effectively means that Constitutional fiscal autonomy and power has also been lost.

13.7 Strict adherence to and rigorous enforcement of legal requirements for the accounting for public monies, property and stores by all arms of Government is a fundamental and indispensable item of proper modern governance.

13.8 For this reason, the Constitution and the Statutory scheme of financial management gives detailed and mandatory direction to all Heads of Department, including and in particular, the Department of Finance.

13.9 The primary material from which the 2006 Public Accounts were drawn was unreliable, at best. In many instances the records simply did not exist and no Audit examination was possible of the Government entity concerned.

13.10 This collapse can only have occurred as a result of a loss of central command and control. This Committee concludes that the loss of that control was a two-stage process.

13.11 Firstly, the Executive itself has lost control of the Public Service – and in particular the agency responsible for the management of public monies i.e. the Department of Finance.

13.12 Secondly, the Department of Finance itself has failed in its statutory duty to enforce the requirements of law for the handling of and transactions with public money and the accounting for and reporting of those transactions and hides behind the excuse that Departments are self accounting and no responsibility of the Department of Finance.

13.13 This situation has existed and worsened in spread and depth for years.

13.14 In short, the Executive and the National Parliament failed to supervise and control the Public Service in its handling of and transactions with public monies which simply allowed those agencies to act as they pleased and obey the Law if and when they wanted to.

13.15 This has encouraged, hidden and protected a usurpation of power by the Public Service which it does not have and should not be allowed to exercise.

13.16 This Committee can only conclude that the very Department responsible for the protection and management of public monies has failed in its duty to enforce accounting standards and practices, which has inevitably resulted in unreliable, illegal, misleading and (in many cases) non-existent financial records.

13.17 Because of the failure of these systems, the Committee proposes to outline the respective roles of the Department of Finance, the Auditor General and the Public Accounts Committee in order that the National Parliament may obtain a clear understanding of how the system of financial management should work and the seriousness of the current failure.

13.18 Members may then compare the findings of this Committee and the Auditor General with what should have occurred.

## 14 CONSTITUTION OF THE PUBLIC ACCOUNT

### The Statutory scheme of Government Accounting and Financial Management.

14.1 The Public Account consists of the Consolidated Revenue Fund and the Trust Fund.

14.2 To ensure effective control, it is an established Government accounting principle that all Government receipts including loans, grants and revenue should be channeled through a single Consolidated Revenue Fund while payments are to be made out of the same Fund in accordance with the Annual Appropriation Act and other subsequent Revised Appropriation Acts passed by Parliament from time to time.

14.3 Individual Trust Accounts are established and operated within the Trust Fund and managed by responsible agencies. These may have an actual bank account or be non-bank account Trust Accounts.

14.4 The total of the balances in the various trust accounts represent the Trust Fund. Trust monies held for various entities and purposes are permitted to be held by accounting, prudence or by given regulations.

14.5 All monies received by the State should be brought to account in cashbooks and deposited to the credit of the Waigani Public Account, the Receiver of Public Monies Accounts and operating accounts maintained with the Bank of Papua New Guinea, the Bank of South Pacific or other commercial banks which are authorized by the Minister for Finance.

14.6 The Government accounts are maintained on a cash basis. Receipts and expenditure shown in the financial statements are based on amounts actually received or actually spent in the financial year.

14.7 Of course, those records will only be as good as the primary material produced by agencies of Government who effect expenditure and receipt.

14.8 Expenses for goods and services received are brought to account in the year payment for those services are made and similarly, income received is brought to account in the year of receipt.

14.9 Expenditure is limited to the funds appropriated by the Appropriation Act or the Special Appropriations approved by other Acts of Parliament. In practice Departments are issued with a Warrant Authority that gives them the right to spend public money, but only to the limit of the warrant. Departmental Heads are responsible for ensuring that total expenditures incurred are within the Warrant Authorities issued to them.

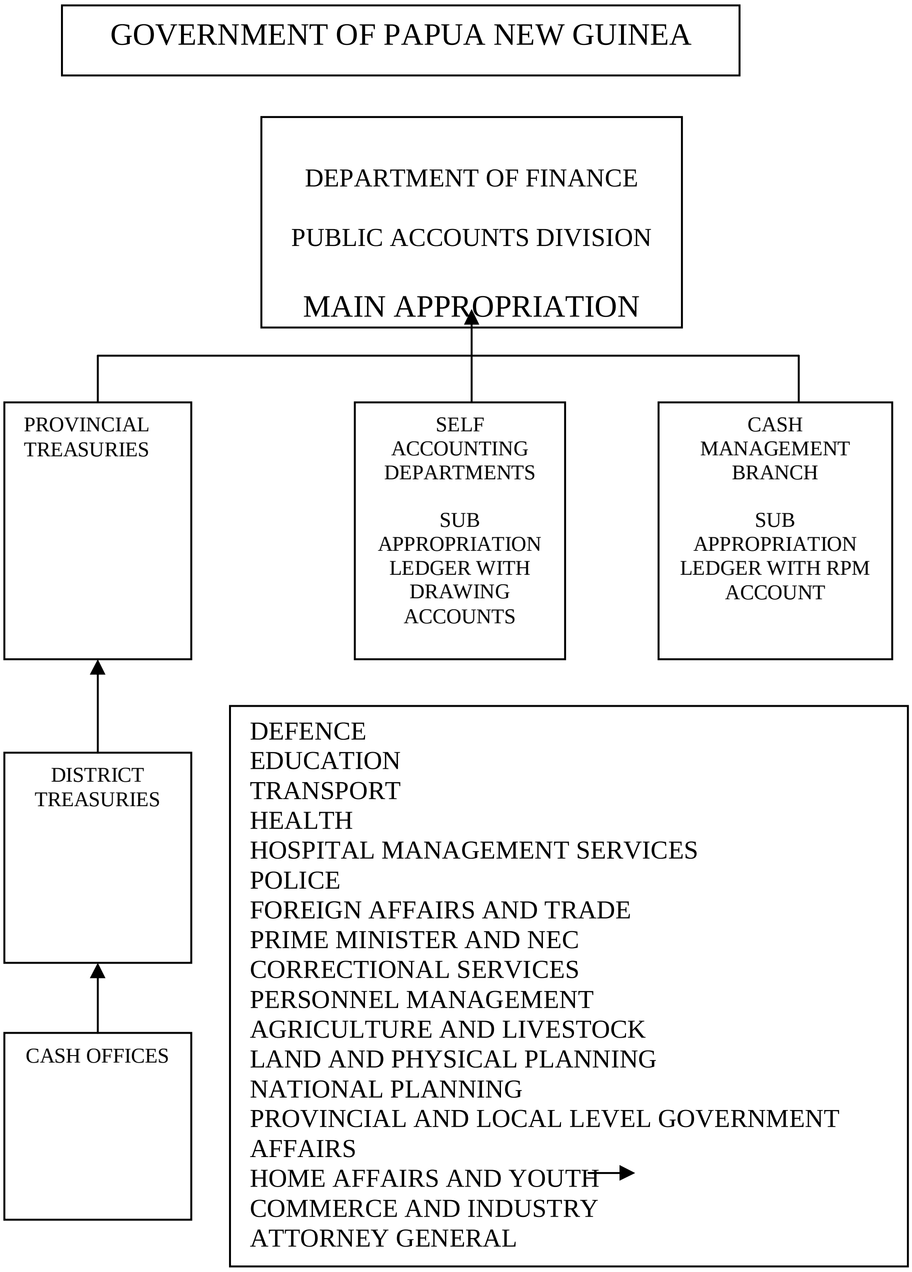
14.10 Departmental Heads are accountable for over-expenditure incurred by the Department but may obtain top up funds from the Department of Finance under Sections 3 or 4 of the ***Appropriation Act***.

14.11 Appropriations lapse at the end of the financial year. The only exception to this is where monies are advanced before the end of the financial year to make payments in connection with commitments made during the year.

14.12 The ***Financial Instructions*** set forth detailed procedures particularly for commitment of expenditure in the payment of claims. Requisitions have to be approved by designated officers and financial delegates must certify the availability of funds to commit the approved expenditure.

14.13 The Financial Regulations provide that the accounting system and records maintained by the various Departments, Provincial Treasuries and cash officers are subsidiary to the accounting system and records of the Department of Finance.

The system and methodology of accounting organization in 2006, was as follows:



14.14 The Department of Finance, and particularly the Secretary of that Department, is fully accountable and is, in fact, the accountable agency to government for the entire performance of Government in its handling of and transactions with public funds.

14.15 Provincial Treasury Offices are the Department of Finance's agencies in the Provinces. Under Section 112 of the ***Organic Law on Provincial and Local-level Governments***, the Secretary for the Department of Finance appoints the Provincial Treasurer. The duties of the Provincial Treasurers are based on the provisions of the ***Organic Law*** and Provincial Governments or Local Level Governments. The role of the Provincial Treasury is to ensure that public monies are managed and released strictly in accordance with the law.

14.16 Under the ***Organic Law***, the Provincial Treasury Offices are funded through Grants and are to account for the grants expended in the annual financial statements prepared for the Provincial Governments.

14.17 The Provincial Treasurer is responsible for the preparation and submission of the Provincial Government's financial statements in accordance with ***Financial Instructions*** and the ***Public Finance (Management) Act 1995***. These financial statements are forwarded to the Office of the Auditor General for Audit.

**The Statement of the Public Account.**

14.18 The Public Account Financial Statements form part of the Department of Finance's annual operational Report to Parliament. The statement contains a report on:

- Appropriation of funds to be available to be received and expended by the State;
- Receipts and expenditure for the year;
- Cash position at the end of the year;
- Borrowings and investment by the State; and
- Losses by the State.

14.19 The information constituting these statements of the public account comes from various sources. The Legislative controls and requirements together with the Departmental policies and procedures <u>should</u> ensure the records and the Public Account Financial Statements are materially complete and accurate.

14.20 As the Committee has already stated, assurance on the regularity and propriety of the Government's financial transactions requires regular and timely reconciliation of balances shown in cashbooks with those of the respective bank accounts and constant oversight and control by the Department of Finance – even of self accounting Departments.

14.21 It is no excuse, in our opinion, for the Department of Finance to abrogate its responsibility by claiming that Departments are self accounting and therefore no concern of the Department of Finance. That attitude has led directly to a failed system of accounting and questionable or unreliable public accounts.

14.22 That attitude also means that the only function of the Department of Finance is to publish and submit the Public Accounts regardless of accuracy or reliability of their contents. We do not accept this.

14.23 For proper control, cashbook balances should be reconciled promptly with the sub appropriation ledger balances, bank statements and, where possible, reconciled to the quarterly revenue and expenditure statements produced by the Finance Department Headquarters.

14.24 This was not occurring in 2006 and our Inquiries into Government Departments clearly show that it is not occurring now.

14.25 It is to be noted that the Auditor General concludes that past accounting practices are inappropriate, statements of the public account are distorted and difficult to understand and that the Department of Finance, while claiming to be in the process of clearing up many problems that it has inherited, have not for many years properly fulfilled the statutory role of enforcement and oversight of accounting practices – as it should.

**The Format of the Statement of the Public Accounts 2006**

14.26 The Public Accounts comprise:

- Statement A - Statement of Public Account Balances;
- Statement B – Consolidated Revenue Fund Receipts and Expenditure;
- Statement C – Receipts and payments of the Trust Fund;
- Statement D – Statement of Sources and Application of Funds;
- Statement E – Trust Fund – Particulars of Investments;
- Statement F – Statement of Direct Investments, Capital Contributions and Equity Options Rights;
- Statement G – Statement of Public Debts;
- Statement H – Statement of Lending;
- Statement I – Statement of Loans Guaranteed by Government;
- Statement J – Receipts classified under Heads of Revenue Estimates;

- Statement L – Expenditure by Departments classified under Appropriation Divisions;

- Statement M – Notes to and forming part of the Public Accounts of the Independent State of Papua New Guinea for the year ended the 31st December 2006;

- Appendix 1 – Statement of Losses and Deficiencies of Public Monies in Previous Years first reported in 2006.

The format of the 2006 Public Accounts are the same as the Public Accounts for many years preceding. The adequacy and propriety of the format will be discussed in the body of this Report.

14.27 The Secretary of the Department of Finance is responsible under Section 4 of the ***Public Finance (Management) Act 1995*** for the preparation and presentation of the Public Accounts as prescribed by the ***Public Finance (Management) Act 1995***.

14.28 This responsibility includes the maintenance of adequate accounting records and internal controls designed to prevent and detect fraud and error.

14.29 These matters are discussed in greater detail in this Report (infra).

## 15 FISCAL DUTIES OF DEPARTMENTS AND DEPARTMENTAL HEADS.

15.1 The responsibilities of a Government Department arm, entity or agency to keep proper and detailed records of all dealings and transactions with public monies, property and stores arises from the ***Public Finance (Management) Act 1995*** and in the further prescriptive detail in the ***Financial Instructions.*** The requirements are not onerous and would be readily understandable by any trained Finance Officer.

15.2 Heads of Department and entities or agencies are required by Section 5 of the ***Public Finances (Management) Act 1995*** to, at least:

- Ensure that provisions of the ***PF(M)A*** are complied with; and

- All accounts and records relating to the functions and operations of the Department are properly maintained; and

- Ensure all necessary precautions are taken to safeguard the collection and custody of public monies; and

- All expenditure is properly authorized and applied to the purposes for which it is appropriated; and

- There is no over-commitment of funds and a review is undertaken each month to ensure that there is no over-expenditure or over-commitment and the collection of public monies accords with approved plans and estimates; and
- All expenditure is incurred with due regard to economy, efficiency and effectiveness and the avoidance of waste; and

- All necessary precautions are taken to safeguard stores and other property of the State; and

- Any fee, charge or tax imposed by Legislation for which the Department is responsible is collected promptly and to the fullest extent; and

- Any fee, charge or tax imposed by Legislation for which the Department is responsible is reviewed at least once in every year in order to establish whether the level of the fee, charge or tax is adequate and whether the fee, charge or a tax should be increased; and

- Ensure that financial reports on reviews and other matters are submitted to the Secretary for Finance in the format specified in the ***Financial Instructions***; and

- Information required by the Public Accounts Committee is submitted to that Committee accurately and promptly; and

- Advice on financial management is given to the Minister politically responsible for the Department; and

- Proper estimates in respect of collection and expenditure of public monies are prepared in a form specified in the ***Financial Instructions***; and

- As soon as practicable after the end of each fiscal year, submit to the Departmental Head of the Department responsible for Financial Management a Report on Financial Management in a form specified in the ***Financial Instructions***.

15.3 These responsibilities are clearly stated, easily understood and cannot be derogated from or reduced by delegation. They are, for professional Public Servants, simple to implement, maintain, perform and enforce. Yet it was not done in 2006.

15.4 Within every Department, arm, entity or agency of Government there is an accountable officer who, by Section 6 of the ***PF(M)A*** is required to and responsible for applying and complying with provisions of the ***PF(M)A*** in respect of all public money, property and stores under his possession or control. In other words, he is required to account for them.

15.5 In every Department, arm, entity or agency of Government there is a public office holder responsible for the collection of revenue (where revenue is collected at all) who is responsible for prompt collection, payment into the public account and record-keeping.

15.6 By Section 8 of the ***PF(M)A,*** the Secretary for Finance may appoint an Officer to be a Finance Inspector and both that person and the Head of the Department of Finance are given wide powers to obtain access to all records of accountable officers and to inspect and Inquire into and call for any information arising from those records and accounts.

15.7 The Management of the Public Account is clearly set forth in Part 3 of the ***Public Finances (Management) Act 1995.*** None of these requirements are complex, technical or difficult to apply or understand.

15.8 The ***Financial Instructions*** promulgated under the ***PF(M)A*** makes full provisions for all necessary documentation and step by step guidance as to the application of the ***PF(M)A.***

15.9 By Part VIII of the ***PF(M)A***, detailed accounting and reporting requirements are set forth. There is nothing difficult or onerous about these simple steps. For example, Section 63 of the ***Public Finance (Management) Act 1995*** requires certain statutory reports and financial statements to be furnished – and it is from these statements that the Public Accounts that relate to Public Bodies, are compiled.

15.10 Likewise, Part IX of the ***PF(M)A*** clearly sets forth the statutory requirements for accounting and reporting by Provincial and Local Level Governments. This Committee has had careful regard to these and all the other requirements of the ***PF(M)A*** and finds them simple, straight-forward, easily understood and easily implemented.

15.11 Departments, arms, entities and agencies of Government employ hundreds of officers whose only duty is to create, maintain and submit financial records and/or to oversee this process to ensure that it occurs. How can we have reached such a state of failure in the management of public monies?

15.12 This Committee could identify scarcely one entity capable of managing its own internal funding, bank account or budgets, much less development or service related budgets. This is the direct failure of Heads of each implicated Department.

## 16 DUTIES OF THE AUDITOR GENERAL

16.1 Audit review of the Public Accounts by the Auditor General is the first level of objective and independent assessment and consideration of the Public Accounts.

16.2 The standard of the Reports of the Auditor General into the Public Accounts were, on the whole, competent and incisive. Clearly the state of the Public Accounts had, by 2006, deteriorated to the stage where the Auditor General had no choice but to condemn them by significant qualification.

16.3 Section 214 of the ***Constitution of the Independent State of Papua New Guinea*** requires the Auditor General to inspect, audit and report at least once in every fiscal year to the Parliament on the Public Account of the Independent State of Papua New Guinea and on the control of and property of the Independent State of Papua New Guinea.

16.4 The ***Audit Act 1989*** expands and provides the above function in Section 7 (2) (A) therein. It is the responsibility of the Auditor General to form an independent audit opinion on those Public Account statements.

16.5 The Committee accepts that the Audit conducted of the Public Accounts for the financial year 2006 was made in accordance with generally accepted standards and practices on auditing. These standards and practices require that the Auditor General plan and perform the Audit to obtain a reasonable assurance as to whether the Public Accounts are free of material miss-statement.

16.6 An Audit includes examination on a test basis of evidence supporting the accounts and other disclosures in the Public Account Statements.

16.7 It also includes evaluation of accounting policies and significant accounting estimates, as well as evaluating whether the Public Accounts statements are presented fairly in accordance with statutory requirements, so as to present a view which is consistent with the understanding by the Auditor General of the Government's financial position.

16.8 The Audit does not include any procedures that would allow the Auditor General to form an opinion on the completeness of revenue collected on behalf of the State but does cover the accounting for revenue actually acknowledged as collected.

16.9 The Auditor General, after completing his Audit, enters into discussions with the Department of Finance and ultimately presents the Audit to the National Parliament together with the Statement of Public Account.

## 17 PARLIAMENTARY SCRUTINY OF THE 2006 PUBLIC ACCOUNTS.

17.1 Review of the Public Accounts by this Committee is the second level of assurance as to the standard, format and contents of the Public Accounts.

17.2 Responsibility for all aspects of public finance is vested in the Minister responsible for Finance, who is required to submit to the National Parliament a Statement of Government Revenue and Expenditure.

17.3 The Auditor General is required to report to the Parliament on the control and management of public money and the property of the Independent State of Papua New Guinea at least once every fiscal year. The Parliament is required to conduct certain scrutiny and oversight of public finances.

17.4 Section 215 of the ***Constitution*** establishes the Public Accounts Committee. The primary function of that Committee is to examine the Public Accounts and control of public monies and to report their findings to the Parliament.

17.5 The Statement and intention of the framers of our ***Constitution*** was to provide for scrutiny of the control of public funds and to enable the Parliament to call for an account of any irregularities and defaults in the Report of the Public Accounts. This we have strived to do.

17.6 The Committee also has a duty to report to Parliament any alterations which in its opinion, should be made to the form of the Public Accounts or in the method of keeping them, or in the method of collection, receipts, custody, disposal, issue or use of stores and other property.

17.7 The Reports of the Public Accounts Committee are then forwarded to the Secretary for Finance who should deliberate with Departments concerning the Committee suggestions and criticisms.

17.8 Any conclusions reached after these deliberations are communicated to the Public Accounts Committee by means of a Finance Minute, which the Committee tables in Parliament.

17.9 This Inquiry and the Report to the National Parliament has been sent in draft form to the Secretary for Finance for comment and after the Report is tabled in the Parliament will be delivered to the Auditor General for the discussion process to ensue.

## 18 DUTIES AND FUNCTIONS OF THE DEPARTMENT OF FINANCE.

**Duty to Keep and Submit the Public Accounts.**

18.1 By Section 3 (3) of the ***Public Finances Management Act 1995*** the Minister responsible for financial matters is required to:

> "***As soon as practicable after the end of each fiscal year, the Minister shall cause to be prepared a detailed Statement of the receipts and expenditure of the Public Account during the fiscal year, and send it to the Auditor General".***

18.2 By Sub-Section 2 of the **Public Finances (Management) Act 1995;**

> "***Public Account" is defined as follows:***
>
> ***"Public Account" means a Public Account established by Section 10 (1) and in relation to a Provincial Government or a Local Level Government established under the Organic Law on Provincial Governments and Local Level Governments, meaning the General Revenue Fund and the Trust Fund established for that Provincial Government or Local Level Government".***

18.3 Section 10 of the ***Public Finances (Management) Act 1995*** reads as follows:

**"Public Accounts"**

**i) There shall be a Public Account for each of:**

**(a) The National Government; and**

**(b) A Provincial Government or a Local Level Government established under the Organic Law on Provincial Governments and Local Level Governments.**

**ii) A Public Account established by Sub-Section (1) shall consist of:**

**(a) In the case of the National Government –**

**i. The Consolidated Revenue Fund; and**

**ii. The Trust Fund; and**

**iii. In the case of a Provincial or Local Level Government –**

**1. A General Revenue Fund; and**

**2. A Trust Fund."**

18.4 Section 11 of the ***Public Finances (Management) Act 1995*** directs that the Public Account consisting of public monies, shall be kept in Banks which are approved by the Departmental Head of the Department responsible for financial management or in such a manner as the Departmental Head of that Department may direct.

18.5 This Committee concludes that Section 3 of the ***Public Finances (Management) Act 1995*** places responsibility on the Minister for Finance for the supervision of the finances of the Independent State of Papua New Guinea so as to ensure that a full accounting is made to the Parliament of all transactions involving public monies.

18.6 Under Section 3 (3) and (5) of the same Act, the Minister for Finance is required to cause the preparation of detailed statements of the receipts and expenditure of the Public Account for the fiscal year 2006 and send it to the Auditor General for the purpose of Audit.

18.7 The Committee further concludes that the Public Account presented by the Minister for Finance represents a statement of the entirety of the fiscal affairs of the Independent State of Papua New Guinea for the financial year 2006.

18.8 The Auditor General told this Committee:

> ***"The provision of an Annual Report into the Public Account of Papua New Guinea is a Constitutional requirement made with the intention of informing Parliament through Audited Accounts, of the precise state of the Financial Management by Government. The accuracy of those Reports is fundamental to good governance. The provision of accurate and lawful primary records from all levels, arms, entities of Government is the primary statutory duty of the Head of the Department of Finance."***

18.9 This Committee must report that in 2006 the Auditor General has expressed numerous qualifications of his opinion on the Public Account as produced by the Department of Finance.

18.10 The Public Account was found by the Auditor General, in summary, to not be based upon proper accounts and records and to **<u>not</u>** give a true and fair view of the financial position of the Government of Papua New Guinea and the results of its operation for the year ended the 31st December 2006.

18.11 More worryingly, the Auditor General has found that:

> ***"…. the controls exercised over the receipt and payment and investment of monies and the acquisition and disposal of assets are not in accordance with the Public Finances (Management) Act 1995 and any other relevant legal obligations***

***including the Constitution of the Independent State of Papua New Guinea".***

18.12 This Committee concludes that the Report of the Auditor General shows serious failures in both the format and content of the Public Account for the year 2006 and reveals an almost complete failure by the Department of Finance and every other agency of Government to keep or require to be kept, accurate or, in many cases, any records or accounts at all. This is an extremely serious matter.

18.13 There is a further matter of concern. It is clear that the Department of Finance (like all other Departments) cannot even manage its own internal accounting. How can it be expected to carry out its duties to oversight government finances in general?

18.14 This Committee concludes that the Department of Finance has insufficient influence and control over government spending and has completely lost control of its oversight role.

## 19 DUTY OF DEPARTMENTS AND OFFICERS TO THE OFFICE OF THE AUDITOR GENERAL.

19.1 All persons have the duty to assist and cooperate with the Auditor General when required to do so.

19.2 The ***Audit Act 1986*** gives wide powers to the Auditor General – see for example Sections 2 (***power to access***

***information or data***), 4 (***power to summon, examine***, ***access, search and force delivery of information***) and 5 (***power to prosecute***).

19.3 By Section 29 of the ***Audit Act 1986***, offences and penalties are prescribed for obstructing or failing to assist the Auditor General.

19.4 In concert with the provisions of the ***Public Finances (Management) Act 1995***, it is clear that co-operation with the Auditor General is mandatory and enforceable. Yet for years, public servants have failed or refused to give this cooperation when it did not suit their agenda to do so.

19.5 This Committee has wide experience of failure by Departmental Heads and Officers refusing to cooperate with the Auditor General and with the Committee itself. This Inquiry into the Public Accounts for 2006 is no exception.

19.6 In his 2006 Part 1 Report, the Auditor General makes specific findings concerning this failure in the Departments of Finance and Treasury and we will address this matter later in this Report.

19.7 At this stage we state that these failures to cooperate strike at the heart of accountability and cannot be tolerated. The Auditor General should exercise his coercive powers to force assistance and cooperation.

## 20. THE INQUIRY.

### EVIDENCE RECEIVED BY THE COMMITTEE.

20.1 The principal evidence received by the Public Accounts Committee was the Statement of the Public Accounts for the financial year 2006. This Statement of the Public Account is produced by the Department of Finance as part of its Annual Parliamentary Report.

20.2 The Committee received the Part 1 Report of the Auditor General on the 2006 Public Accounts of Papua New Guinea. A copy of that Report is shown in Schedule 2.

20.3 These Reports were supplemented by oral explanatory evidence to the Committee from the Auditor General.

20.4 The Committee has given very careful consideration to the contents of both Reports and accepts the Report of the Auditor General as it is presented.

20.5 The Committee received no evidence contradicting or qualifying the Report of the Auditor General in any respect.

20.6 The Report of the Auditor General together with the Public Accounts for 2006 was tabled in the National Parliament on the 26th day of November 2008.

20.7 The 2006 Part 1 Report of the Auditor General on the Public Accounts of Papua New Guinea is presented in two Sections.

20.8 The first, Part A, presents the Public Accounts which the Minister for Finance in the terms of Section 3 of the ***Public Finances (Management) Act 1995*** caused to be prepared and sent to the Auditor General for audit.

## 21. QUALIFICATIONS

### Limitation of Scope - Public Account Funds

21.1 The balance of the Public Accounts as at the 31st December 2006 was K 1,449.22 million. The Trust Fund showed a balance of K 1,684.98 and the Consolidated Revenue Fund – a deficit balance of K235.76 million.

21.2 The Auditor General was unable to determine the correct balance of the Trust Fund and the reported balance of the Public Accounts, due to the following matters:

- Non-compliance by various Heads of Department to submit Statements of Trust Accounts at the end of each year and prepare monthly returns of receipts and payments together with bank reconciliations.

  It was therefore impossible for the Auditor General to verify the validity and completeness of transactions forming the basis of the above accounts.

- Unreconciled material differences of K478 million between two types of Trust Accounts. This extraordinary finding requires detailed and deep investigation.

- Variances in the reported Trust balances to the Bank Confirmations. In sixteen cases Bank records were in excess of Trust Account amounts by K7.6 million. Seventeen Accounts reported "nil" balance whilst the Bank records showed a total balance of K17.79 million and four of the Trust Accounts were listed under an incorrect Bank name.

## 22. TRUST FUND SUSPENSE ACCOUNT NO. 2

22.1 The Trust Fund Suspense Account No. 2 is the subject of considerable and detailed investigation by the Auditor General and this Committee for the Years 2004 and 2005. All the evidence showed planned, intentional and illegal conduct of this Trust Account and continued into 2006.

22.2 The Trust Account was established to hold temporary payments to Government such as bail money and Child Maintenance. Over the years, the receipts through this non-Bank Trust Account and payments from it had increased with material transactions being administered.

22.3 During this current financial year 2006, K47.89 million was receipted and K57.26 million was paid from the Account resulting in a deficit of K9.07 million.

22.4 This deficit was reduced to "nil" at the year end through journal transactions but the Auditor General was unable to verify the accuracy and completeness of the transactions because of:

- A lack of detailed ledgers maintained at the Department of Finance to track credits or withdrawals;

- Payments amounting to K10.23 million were made out of thirteen Provincial Treasuries without having sufficient balance on the Accounts;

- The Account was operated by the Provinces without delegated authority from Officials of the Department of Finance;

- The Trust Funds deficit of K9.07 million at year end represents a breach of Section 17(b) of the ***Public Finances (Management) Act*** **1995.**

22.5 We make comment as to the conduct of this Trust Account later in this Report.

## 23. EXPENDITURE BY NATIONAL DEPARTMENTS

23.1 Expenditure incurred by National Departments totaled K 2,801.41 million from a total K 7,451.29 million, development and recurrent expenditure of the State.

23.2 There is no effective reconciliation by National Agencies against their reported expenditure and the Auditor General could not extend Audit procedures sufficiently to verify them.

23.3 This is an extremely serious finding but one which mirrors the failures and incompetence of the Government Accounting system and all Government Agencies for the Financial Years 2004 and 2005.

23.4 Bank reconciliations are a key control to identify anomalies and errors in the payment and receipting processes and to minimize the risk of misappropriation or fraud and it is not occurring.

23.5 The Auditor General again finds some very large numbers of adjusting journal entries at the year end. In total a 196 journal entries were posted after the 31st December 2006 amounting to K 3,532.94 million.

23.6 This Committee has been quite unable to obtain any explanation at all from the Department of Finance (or any other source) for this practice. It is strongly suggestive of gross incompetence or fiscal malpractice. Whatever the explanation, it is entirely unsatisfactory but has been a pattern of conduct now for many years.

## 24. EXPENSES MADE IN 2007 ACCOUNTED FOR IN 2006

24.1 The Auditor reports that for the reporting period ended the 31st December 2006, accounts were not closed for payments. The total value of cheques drawn after the 3rd January 2007 and post-dated to the 31st December 2006 totaled an incredible K95.12 million.

24.2 The Cheque Usage Reports show that K41.90 million was processed outside normal working hours. This is a totally unacceptable practice but one which has commonly seen by this Committee and one which has been a feature of the Public Accounts for many years.

24.3 The effect of this practice is to render inaccurate and unreliable the Period End Report to ensure completeness of public expenditure and the Auditor General was not able to accept or audit on the basis of these documents alone.

## 25. CASH ADJUSTMENT ACCOUNT

25.1 The Cash Adjustment Account is used for accrual adjustments of month end/year end. As at the end of the financial year, the account balance was K62.48 million (overdrawn) comprising of receivables and payables.

25.2 The Account also facilitated recording of significant amounts of receipts and payments in 2005 resulting in a material carry-over for 2006.

25.3 The Auditor General has provided a list of transactions to the Department of Finance and recommended the Internal Audit Section investigate the appropriateness of the payments.

25.4 The Auditor General finds that:

> ***"In addition, disclosing accrual adjustments in a cash reporting environment is not in accordance with the requirements specified by the Financial Instructions for preparation of the Financial Statements. I am concerned that selective recognition of receivables and payables does not correctly disclose the financial position of the State. The nett effect of recognizing these "payables" and "receivables" reduces the Public Account balance by at least K62 million".***

25.5 So far as this Committee can ascertain, no response has been received from the Department of Finance and we accept the qualification imposed as a result of limitation upon the work of the Auditor General.

## 26. PROVINCIAL TREASURY OPERATING ACCOUNT

26.1 Statement "A" includes an amount of K95.90 million being held in the Provincial Treasury Operating Accounts. This represents a mix of National Government and Provincial Government funds.

26.2 The Auditor General could not accurately determine the amount that should be accounted for in the Public Account. Only the Receiver of Public Monies Bank balances of K0.42 million could be verified and this situation is exactly the same as 2004 and 2005.

26.3 The Auditor General makes the extraordinary finding that the Bank balance is potentially overstated to a maximum amount of K95 million. This can only have arisen as a result of incompetent record-keeping and in different accounting and is completely unacceptable.

26.4 This Committee accepts the limitation of scope and qualification placed on the Auditor General by this shortcoming.

## 27. DIRECT INVESTMENTS

27.1 Statement “F” discloses the State’s direct investment, capital contributions and equity option rights in various companies and public bodies. The total of this investment in 2006 was K11.27 million.

27.2 The Auditor General made the following finding:

***“While the values of the investments disclosed in the Financial Statements are generally based on the Financial Statements prepared by the Investment Entity, it is my view that these Statements may considerably understate the true value of the***

***investments as the assets of many of the investment entities have not been revalued for some years. In addition, the reliability of amounts reported as investments is affected by the number of entities audited. Financial statements being either in arrears or financial statements being qualified".***

27.3 This finding has remained the same for many years past. There has been no apparent attempt to address these problems which have been reported by the Auditor General for at least five years.

27.4 A formal Investment Register to assist with the tracking of all State Investments was also not maintained. How can the State possibly manage its affairs if it does not know the value of its investments?

## 28. WITHHOLDING INFORMATION

28.1 This is a matter of considerable seriousness and should be addressed immediately by the National Parliament.

28.2 Government agencies including and in particular the Department of Finance, do not produce documents for Audit records as they are required to do by law.

28.3 The Audit scope was significantly restricted as much of the information sought by the Auditor General was the result of statistical sampling.

28.4 Some of the documentary evidence was not complete where it was produced. There was no supporting documentation of the Department of Finance for ten journal entries amounting of K9.35 million, payment vouchers for thirteen payments totaling K175.90 million were missing and five payment vouchers totaling K96.64 million were not certified for payment.

28.5 This practice of withholding or selectively producing information and refusing to co-operate with the Auditor General is very familiar to this Committee. Indeed, Government Departments and agencies now ignore both this Committee and the Auditor General almost as a matter of course.

28.6 This attitude cannot be tolerated and should be addressed by the Auditor General by the joint use of his powers to summon and his power to prosecute.

28.7 As we have addressed in our 2004 and 2005 Reports it is clear that many Government Agencies avoid Audit by the simple expedient of not producing Financial Statements or records and they are subject to no form of control or oversight or accountability.

28.8 The Department of Finance simply did not seem to care and abandoned it's responsibility upon the basis that accounting functions have been devolved to individual agencies.

28.9 We accept the limitation of scope and therefore the qualification placed by the Auditor General on the Public

Accounts for the Financial Year 2006 as a result of the failure to produce to the Auditor relevant and crucially important statutory records.

28.10 The next limitation is a curious failure on the part of the Department of Finance and one which this Committee finds to be very significant.

28.11 The Public Accounts for the year ended the 31st December 2006 did not contain a Secretary's Statement for that year.

28.12 The Statement is a representation by the Head of the Department and the Chief Accountable Officer of the Government that he acknowledges the Departmental responsibility for the fair presentation of the Financial Statements and also represents the means of approving the Financial Statements on behalf of the Government.

28.13 Since Management has not provided the necessary representations, the Auditor General considers this to be a scope of limitation which affects every Statement presented by Management.

28.14 In light of the state of failure of Government accounting and the disclaimer of the Public Accounts for the years 2004 and 2005, it is not surprising that the Secretary for Finance disowns the work of his own Department.

28.15 The Committee wished to inquire from the Secretary the reasons for his failure to provide a Statement but he was not available and the witnesses who did appear from the

Department of Finance clearly had no knowledge of virtually any matter before the Committee and had not been briefed in any way at all for their appearance.

## 29. ACCOUNTS AND RECORDS

### Losses and Deficiencies

29.1 Appendix I of the Public Accounts reports Losses and Deficiencies of public monies and properties totaling K0.19 million. Most Departments do not maintain a record of Assets and as a result, the Auditor General was unable to determine the full extent of the misstatement or to accurately judge the value or amount of assets lost, stolen, sold or otherwise disposed off.

## 30. OWNERSHIP OF INSURANCE DEPOSITS

30.1 The Audit examination of Statement "E" – Bank Confirmations and details of deposits held as per the Insurance Commission's records indicate errors that require investigation.

30.2 Insurance Commission's records did not match those of the Department of Finance including Bank confirmations and in some instances Insurance Company deposits required to be held by the Government were held in the name of the Insurance companies.

30.3 Therefore in the event of a default or non-compliance with statutory obligations by insurance companies, the Government may not be able to recover the insurance deposits.

30.4 This is a fundamental flaw and one that should not have occurred.

## 31. REPORTING OF REVENUE

31.1 There were significant variations noted between the Department of Lands and Physical Planning and IRC – Customs and Taxation Revenue figures to balances reported in the Public Accounts. Any amendment due to variation would also affect Statements "B" and "A" to the same extent.

31.2 Taxation Revenue disclosed in the Statement "J" was overstated by K3.25 million compared to Revenue Summary Report from the IRC.

31.3 Bureau of Customs Revenue in Statement "J" was overstated by K13.42 million compared to the Revenue Report from IRC.

31.4 Total revenue of the Department of Lands and Physical Planning was understated by K0.54 million compared to Statement "J" and the Department of Lands and Physical Planning's records state that K18.81 million was collected at Head Office in Port Moresby, whilst K3.22 million was stated as having being received from the Provincial Treasury Offices based in the nineteen Provinces.

31.5 The Auditor General is unable to verify these collections as there were no Collector Statements available. How can these primary and, more importantly, statutory records not be made available? Over years of experience, this Committee concludes that the statements, records and accounts required by law simply do not exist.

## 32. DEPARTMENTAL AUDITS

32.1 The Public Accounts financial statements are compiled from primary documentation generated by National Government Departments and Agencies.

32.2 Therefore, the result of the Audits of the Agencies has a direct impact on conclusions made in the Public Account or on the Public Accounts.

32.3 As the Auditor General has found significant control weaknesses and compliances during the Audit major Departments – see the Part 2 Reports of the Auditor General for the Financial Years 2004 – 2006, these directly impact on the quality of the primary documents and thereby the reliability of the Public Accounts themselves.

32.4 This Committee has already made Report to the National Parliament on the Part 2 Reports of the Auditor General for the Years 2004 and 2005 and at least the following weaknesses and failures were identified in Government Departments in 2006:

- Material unreconciled items reduced the level of assurance on bank reconciliations.

- A high rate of non-compliance with procurement and payment procedures and considerable use of Consultants with no supporting documentation for payments.

- No Asset Registers were maintained or those that were maintained were inadequate, incomplete or lacked detail.

- Salaries and Wages accounted for 20% of total Government expenditure that had considerable control failure such as unauthorized payments, incorrectly calculated entitlements, deductions made in excess of gross pay, excess staff over establishment level and absence of reconciliations.

32.5 The inevitable qualification and disclaimer of the Public Accounts in 2006 is, once again, a direct result of failed accounting across the entirety of governance and this is a matter which, in 2006, neither the Government nor any Department seems to have understood or addressed.

## 33. OTHER STATUTORY MATTERS

33.1 The Auditor General finds that, in addition to the accounts and records and the scope of limitations already discussed, that there have been breaches of the ***Constitution*** and the ***Public Finances (Management) Act*** in 2006. These were:

33.2 Expenditure exceeding appropriation

33.3 Statement "B" discloses actual expenditure against appropriated funds.

33.4 Separate appropriations are required for the National Parliament, the Judiciary, Recurrent Expenditure and Development Expenditure.

33.5 It is the role of the Parliament through the Appropriation and ***Supplementary Appropriation Acts*** and other Laws, to appropriate expenditure as required by Section 211(2) of the ***Constitution of the Independent State of Papua New Guinea.***

33.6 The Auditor General identified many instances during 2006, of expenditure exceeding the appropriation limits or expenditure being incurred without valid appropriation.

33.7 This is a practice which is becoming more frequent during the period 2004 – 2006 and clearly becoming more uncontrolled as time passes. It is a serious matter which requires immediate and urgent address by the National Parliament.

33.8 The Auditor General identified at least the following significant abuses:

- K95.12 million drawn in January 2007 against lapsed 2006 appropriation.

- Over expenditure totaling **K 742.58 million** under 1,151 items of the Vote for 59 Government Departments, Provincial Governments and Statutory Bodies.

  This huge fiscal misappropriation is a matter of very profound concern to this Committee and should be of immediate concern to the National Parliament.

- There was a transfer of K450.01 million from the Recurrent to Development Budget during the year 2006 in breach of Section 24(B) of the ***Public Finances (Management) Act 1995***. This transfer was beyond the delegated authority of the Secretary of Finance may approve (limited to 10% of the appropriation). The transfer between Recurrent and Development Expenditure represented an increase of 35%.

- No appropriation existed in 2006 for spending of K110.1 million. The appropriation for Special Support Grants was made in the 2005 Supplementary Budget in expectation that the Grants would be paid in that year.

A Trust Account with its own Bank Account was established with a purpose of financing Mining Projects in the Provinces. However, only a small amount was paid out in 2005, while the K110.1 million was transferred into a Trust Account in 2006 and paid out.

- Expenditure under Miscellaneous Vote 207 exceeded the revised appropriation by K 67.59 million.

33.9 These abuses have been occurring for some time but the amounts involved are becoming more as the years pass.

33.10 Public Servants ignore Appropriation Acts and ignore Government Directives with seeming impunity and no understanding of or concern for the effect of this misconduct.

## 34. TRUST ACCOUNTS

34.1 Statement "C" discloses closing balances for Trust Accounts forming the Trust Fund.

34.2 In 2006, the Auditor General identified the following matters:

- Twenty five Trust Accounts were revoked by the Minister but they continued to operate contrary to his Directive and the document of revocation.

- Monies were expended contrary to the purpose of the accounts.

- Instances were noted where accounts had been overdrawn.

34.3 Each of these matters constituted a breach of the ***Public Finances (Management) Act 1995*** and this derelict conduct has continued for years without any seeming concern within the Department of Finance or Government.

34.4 This Committee has made a separate Report to the National Parliament on the keeping of Government Trust Accounts in the period 2000 – 2008 and we recommend that all Members read and consider the revelations in that Report and consider the adverse impact on service delivery and development of the Nation as a result of abuses of Trust Accounts and monies held in them.

## 35. CREDIT DISCLAIMER OF AUDIT OPINION

35.1 The Auditor General is of the opinion that, as a result of the limitations which we have addressed in this Report, no opinion can be expressed on the Public Accounts of the Government of Papua New Guinea for the Year Ended the 31st December 2006.

35.2 This means that the Public Accounts of the Government of Papua New Guinea, the records and their transactions were not kept in a lawful manner as prescribed by the ***Finance Instructions.***

35.3 It also means that receipts and payments of investment and monies in the acquisition and disposal of assets during the period covered by the Financial Statements have not been in accordance with the ***Public Finances (Management) Act 1995.***

35.4 It also means that monies have been spent in excess of appropriation limits or without valid appropriation resulting in breaches of the ***Constitution***.

35.5 This Committee accepts the limits and accepts the disclaimer of the Auditor General for Public Accounts of the Government of Papua New Guinea for the Financial Year 2006.

35.6 This Committee also finds a collapse of Government accountability and mishandling, misappropriation and misuse of public funds, property and stores by Public Servants with seeming impunity.

35.7 The core problem is that the Executive has completely lost control of fiscal management in Papua New Guinea and the Government has completely lost control of the Public Service who act with immunity and impunity and ignore the law at will.

35.8 Not only is this a sign of a Nation in serious administrative turmoil. It is also directly and adversely impacting on service delivery and development.

35.9 Government generally allocates public monies in a responsible and well-meaning way to deliver services and development to the citizens who have an entitlement to demand and receive at least this from their Government.

35.10 Fiscal incompetence, malpractice and intentional illegality characterize the keeping of accounts and the handling of public monies, property and stores by the Public Service in this country and this diverts money from its intended and appropriated purposes.

35.11 It is high time that the Government of Papua New Guinea and the National Parliament reasserted the Constitutional system under which this Nation was established and reassert by whatever means are available, control over the management of public monies and thereby service delivery and the implementation of Government development policies.

35.12 It is also high time that the National Parliament stopped ignoring warnings and reports from the Auditor General and this Committee and understood that it is the only entity which is entitled to deal with public monies and decide where public monies will be spent and how they will be spent. The Public Service is an implementation body.

35.13 Over the last decade, the Public Service has arrogated to itself Constitutional fiscal power which it was never intended to have and cannot lawfully wield.

35.14 If this collapse of fiscal accountability continues we have significant and severe doubts that Papua New Guinea can continue as a modern sovereign nation in charge of its own destiny and, as we have reported in previous Reports to the National Parliament, the inevitable result of an Government acquiescing in the incompetence and malpractice exhibited by the Public Service in its fiscal management, can only result in a marginalized, deprived, disillusioned and increasingly angry citizenry.

35.15 His outcome is simply not acceptable and the National Parliament needs to move **immediately** to address the significant national failing.

35.16 Finally, we should advise the National Parliament that one of the five prerequisites of a failed state is a collapsed system of public accountability and service delivery.

35.17 It is our great fear that Papua New Guinea may have reached or is reaching that stage of fiscal collapse from which the other prerequisites may follow.

35.18 The warnings of the Auditor General are balanced, reasoned and supported by the evidence. The warnings and conclusions of this Committee over the last four years are reasoned, balanced and and grounded in the facts. The National Parliament will ignore these Reports and warnings at its very considerable peril.

## 36. SECTION "B" – THE AUDIT REPORT ON THE PUBLIC ACCOUNTS 2006 – FINDINGS OF THE AUDITOR GENERAL

**AUDIT RESULTS**

36.1 The Auditor General finds that the Department of Finance has put considerable effort into improving the year end preparation process of the Financial Statements and this is heartening news.

36.2 The Auditor General reports:

> ***"This included both improved documentation and supported and validated the Financial Statements balances as well as maintaining constructive relationship with the Audit Team. The Department had also rectified some previous Audit findings and then implemented Audit recommendations".***

36.3 The Committee commends the Department of Finance for at least recognizing that there have been problems. We have no doubt that the disclaimer of the Public Accounts for the Financial Years 2004 and 2005 should have and apparently did jolt the Department of Finance out of their previously complacent attitude.

36.4 However, the Auditor General does in 2006 report that the number and the magnitude of Audit issues identified in the course of the Audit indicate that overall there were significant weaknesses in the control environment. He states:

> ***"At present, the control activities, such as delegations, authorizations, reconciliations, date of processing, system access etc are not sufficiently robust to prevent detect or correct error or fraud".***

36.5 The Committee accepts that comment.

36.6 The entire system of Government accountability has been derelict and in a state of collapse for many years and there is no reason to suppose that it would change by the 31st December 2006.

36.7 However, there are some small encouraging signs that the Department of Finance might be starting to understand the gravity of the situation and **may** be attempting to reassert its statutory authority.

36.8 However, what is clear to this Committee from its examination of the entire system of Government's financial accounting in the years 2004 - 2006, is that there is great resistance to change.

36.9 The current chaotic situation will suit many vested interests that are in control of the Public Service and public money and the lack of accountability has seen the rise of very significant fraud, misappropriation, misapplication and misuse of public funds – a situation which presents a direct challenge to the assertion of the Rule of Law and has been encouraged by a collapse of Law Enforcement and oversight systems.

36.10 In short, there has developed a culture of impunity behind which very significant, unlawful, unconstitutional and uncontrolled misappropriation and fiscal mishandling has developed and thrived.

36.11 In this Inquiry, the Public Accounts Committee attempted to identify reforms or improvements in fiscal accounting across Government Agencies in 2006.

36.12 We detect the stirring of the beginning of change within the Department of Finance but a great deal more is required.

36.13 In particular, a major effort from the National Parliament on the Government of the day to reform and completely rejuvenate our systems of fiscal accountability is immediately required.

36.14 We now address the Audit observations for the Financial Year 2006:

**Statement "A"**

36.15 Statement "A" is intended to present the reserves of the state at year end that are represented by cash. However, a Cash Adjustment Account has been operated by the Department of Finance that included both accrual adjustments and receipts and payments of monies.

36.16 This are other Audit issues identified during the Audit and detailed below:

## Bank Reconciliation

36.17 ***Financial Instructions*** Division 1 Section 4.7 establishes mandatory requirements for monthly reconciliations by all Heads of Government Departments and Statutory Authorities of their Bank Accounts.

36.18 The overwhelming majority of Departmental Heads and of all Government Agencies have not complied with this requirement. In addition, there should a reconciliation process that ensures that the PGAS Cashbooks and the TMS Cashbooks are balanced on a periodic basis – but this simply does not occur.

36.19 As we have said in the past, reconciling a Bank Account is not a difficult task but it is one that hardly any Government Agency or a Department can perform.

36.20 If Government Departments cannot even reconcile their own internal Bank Accounts, how can they possibly manage large development budgets and very significant amounts of public money appropriated for specific developmental purposes?

36.21 The clear evidence before this Committee is that they cannot. This failure very largely explains the collapse of service delivery and the decline in standards of health, education and wellbeing of our citizens.

36.22 In the absence of bank reconciliations at years end, little or no reliance can be placed on the accuracy and balances of the respective Departmental Drawing Accounts.

36.23 Bank Reconciliations are a fundamental accounting tool which is intended to allow management to identify anomalies or errors in payment and receipting processes and to assist the Department of Finance to discharge its accountability requirements.

36.24 If for no other reason, bank reconciliations should be made to minimize the risk of misappropriation or fraud.

36.25 This Committee recommends that the Department of Finance and the Government of the day immediately move to ensure reconciliation of all Drawing Accounts, Treasury Operating Accounts and all other relevant cash accounts balances reconciled with Department of Finance records.

36.26 We also recommend monthly reconciliation by the Department of Finance to ensure that PGAS and TMS Cashbooks are in balance. This should assist and facilitate timely end of year reconciliations and both the Auditor General and Committee see this as a matter of absolute priority.

36.27 In respect of bank reconciliations, the Department of Finance advises the Auditor General (as it did in 2004 and 2005) that the Department has progressively been implementing a number of strategies to address the issue.

36.28 Exactly what those strategies are were not explained to the Committee and they do not seem to be having any effect that either we or the Auditor General can detect.

36.29 It is clear to this Committee that the differences between TMS and PGAS Cashbooks and records is the result of years of neglect and indeed the Department of Finance states:

> ***"However, the TMS system is not rolled over at year end and processing continues to occur against the accounts of the previous year while the Public Accounts are being prepared. Over time, the volumes of transactions that are recorded in the TMS system (but not in the PGAS systems) have built up so that the TMS and PGAS systems are becoming increasingly out of balance and impossible to properly reconcile".***

36.30 The blame for that disgraceful situation lies squarely on the Department of Finance who for a decade or more have ignored their responsibilities and failed to fulfill their statutory obligations to virtually any degree at all.

## 37. CASH ADJUSTMENT ACCOUNT

37.1 The Cash Adjustment Account Code 31 – 003 is intended to be used by the Department of Finance for the purpose of accrual adjustment at month end or year end – such as receivables and payables.

37.2 The Auditor General concludes that upon examination of the receipts, cash payments and journal entry transactions, the Cash Adjustment Account is being inappropriately used.

37.3 The overdrawn closing balances of the Account clearly show that the Department of Finance, with no consideration to the availability of funds to facilitate payments, simply approves, authorizes or makes payment and disregards lawful requirements.

37.4 The Auditor General finds that examination of the ledger printouts shows that the Account has been used as another Miscellaneous Vote 207 by the Department of Finance – in exactly the same way as Trust Fund Suspense Account No. 2 was misused in previous years. The Auditor General considers a number of the transactions to be inappropriate and to require in-depth investigation.

37.5 The risk with this conduct is that funds in the Waigani Public Account could be depleted by the accessing of funds without proper budgetary processes. This is a contravention of the **Public Finances (Management) Act** and the ***Constitution***.

37.6 It is inconceivable to this Committee that the Department of Finance can conduct itself in this manner. The Department over the last five years has demonstrated an arrogant and cavalier disregard of law in its use of public monies and with no regard to Appropriation Acts or of policy and directives of Government. When one avenue of misuse (Trust Fund

Suspense Account No. 2) is shut off, another is created in the form of the Cash Adjustment Account.

37.7 The Committee therefore recommends that, if the Account was not closed, it should immediately be so. This is required because recording accruals on a cash basis is inadequate, expenditure is likely to occur in a wrong appropriation year and this will (and we believe has) exposed funds to the risk of misappropriation.

37.8 This Committee gave careful consideration to the response of the Department of Finance on this issue. The Department purported to explain that the course of this action:

> ***"The usage of the CAA is resorted to only when the implementation of the current Budget is negated i.e. where Supplementary Budget is passed and the current Budget year is about to end and when respective MPs fail to adhere to the Guidelines in securing the release of their DSG Funds as these are considered as Constitutional Grants".***

37.9 The Department of Finance went on to contend that the comments of the Auditor General regarding the overdrawn closing balances indicate a lack of understanding of the usage of this Account.

37.10 However, as the Auditor General has pointed out the closing balance of the cash adjustment account on the 31st

December 2006 is the same as on the 31st December 2005 except for a negligible amount. The explanation by the Department of Finance that the cause is the Supplementary Budget passed at the end of the year, is simply wrong.

37.11 Whatever the situation, the Auditor General's recommendations are endorsed and Government should address this matter immediately. This Committee will revisit this issue when we consider the 2007 Public Accounts to ascertain whether there has been any action taken in respect of the Auditor General's findings for 2006.

## 38. PERMANENT ADVANCES AND CASH IN TRANSIT

38.1 The same findings and comments concerning Permanent Advances and Cash in Transit in 2006 were made by the Auditor General in 2004 and 2005 and there appears to be no attempt to improve the systems of accountability in this regard.

38.2 What is notable is that the Department of Finance has, in 2006, endorsed the following recommendation of the Auditor General:

> ***"The Department of Finance has to scrutinize the transactions processed through the Permanent Advance and Cash in Transit Accounts and initiate necessary adjustments to close the account. The presentation of these accounts in the Public Accounts is likely to mislead the readers/users of***

***the Financial Statement. Alternatively, the Department of Finance could rename the two Accounts to best fit the types of transactions that are allowed through the respective accounts".***

38.3 The Committee commends the Department of Finance for its attitude and acceptance of the recommendations and we intend to revisit this matter in 2007 to ascertain whether there has been any improvement or change in the status or existence of these accounts.

## 39. PROVINCIAL TREASURY OPERATING ACCOUNTS

39.1 The Operating Accounts of Provincial Treasuries have been a source of constant failure and weakness in the primary documentation from which the Public Accounts are compiled, for many years. The situation continues in 2006.

39.2 Statement "A" shows an amount of K95,900,736 as held in the Provincial Treasury Operating Accounts.

39.3 This balance comprises 19 Provincial Treasury Operating Accounts balances representing a mix of National Government and Provincial Government funds during 2006.

39.4 The Auditor General could not determine the part of that money which belonged to the National Government that should be accounted for in the Public Accounts. In other words, the ability to trace the monies, as a result of unaccounted mixing of funds.

*39.5* The implication for the Auditor General was that the Bank balance is overstated up to the amount of K96 million representing the Provincial Treasuries Operating Bank Account and the Auditor General recommends:

> ***"As the National Government Grants for Provincial Governments are transferred into the respective Provincial Treasury Operating Bank Accounts, the Department of Finance should review the composition of these balances with the Provincial Treasuries and account only for funds that are related to the National Government".***

39.6 This Committee agrees.

39.7 The Department of Finance in its response to this finding offered to provide the Auditor General with a PGAS trial balance for each of the Provincial sites which would detail all current year receipts and payments for both National and Provincial money.

39.8 This apparently would enable the Auditor to trace these receipts and payments to the Bank Statement. Why this was not produced in the first place was not explained. Why the Auditor General should have to carry out work that is properly the province of the Department of Finance was not explained.

39.9 However the Department of Finance did, correctly, point out that the problem would not be fully addressed until there is a separate PGAS database and Bank account for Provincial monies.

39.10 This Committee agrees that this should have been established years ago and will recommend that the Department of Finance do so as a matter of urgency.

## 40. STATEMENT "D"

### Lapsing of Recurrent Appropriations

40.1 Statement "D" represents summary of the receipts and expenditures of the Consolidated Revenue Fund.

40.2 Section 27 of the PFMA states that all recurrent appropriation out of Consolidated Revenue made in respect of a fiscal year, lapsed at the end of that fiscal year.

40.3 However, during the Audit of the 2006 year end closing processes which included the review of cheque users reports processed at the 31st December 2006, the Auditor General identified unused appropriation funds at year end that continued to be utilized in January 2007. He found:

> ***"33 Cheque Usage Reports totaling K125, 137,224. The first Cheque Usage Report was drawn on the 31st December 2006. The subsequent Cheque***

***Usage Reports were drawn from the 3rd January 2007 onwards and predated. Payments mainly related to system upgrade, cash advances, legal fees and general purchases."***

40.4 In other words, this was an unseemly rush to dispose of huge amounts of public money before the end of the financial year but after the financial year had closed, by the simple device of backdating cheques.

40.5 In the Committee's opinion, this may be a fraud and a misappropriation and it should be visited with immediate investigation and prosecution of the Officers involved.

- Huge amounts of public money were involved – the total value of the cheques drawn after the 3rd January 2007 and predated, amounted to K 95,122,274. These were drawn against lapsed appropriations and are utterly unlawful.

- By careful scrutiny of Cheque Usage Report, the Auditor General has found 30,000 cheques with serial numbers that are not accounted for. However, the manual adjustment of cheque numbers indicated that the Computer Operator was able to alter the sequence of cheque numbers. Why this should be done is beyond our understanding.

40.6 This behavior exposes the system (particularly at year end) to unauthorized changes and increases the risk of misappropriation and fraud.

40.7 The Department of Finance explained that the transposition error had been "accidentally typed" on the cheques. We do not accept this explanation but, if true, it is merely another example of the slip shod and negligent attitude displayed in that Department to public monies and accounting.

- The actual cheque payment dates recorded in the Department of Finance from the 2006 appropriations were paid in January 2007.

- The times recorded on the Cheque Usage Report showed clear processing outside normal business hours. Two examples are:

  - Nine Cheque Usage Reports were printed between 10.00pm – 11.45pm for a total value of K 34,825,877; and

  - Three Cheque Usage Reports were run between 5.00am and 6.19am for an aggregate value of K 7,116,677.

40.8 Why should this be occurring? The Auditor General recommends that the Department should investigate whether this was fraudulent activity or information system weakness and this Committee agrees with that recommendation.

40.9 This unlawful conduct breaches the ***Public Finance (Management) Act*** and is completely unacceptable although it appears to have been a behavior indulged in as a matter of course for many years. The Auditor General recommends:

- Department of Finance cease raising payments relating to the preceding fiscal year once the year has ended. This is serious misconduct.

- Internal controls are strengthened over cheque usage in the processing of payments.

- The Department should implement efficient and effective Financial Management Planning to avoid late payments.

40.10 To the surprise of the Committee the Department of Finance made no attempt whatsoever to justify this practice. The Department made a bland admission of the conduct and agreed with the recommendation of the Department of Finance.

40.11 The Department gave the following assurance:

> ***"Finance will continue to investigate ways to improve their end of year processes".***

40.12 This dismissive and meaningless assurance will be the subject of further investigation by this Committee when we consider the 2007 Public Accounts.

40.13 We do note that the Department of Finance blamed overwork and heavy workloads after the 15th December for this conduct. In the opinion of this Committee that is no justification at all for improper conduct.

## 41. DIFFERENCES IN ACTUAL EXPENDITURE FIGURES

41.1 Total expenditure figures disclosed in Statement "D" exceeded the total expenditure figure shown in Statement "L" by K 196,406,577.

41.2 This situation has arisen in the 2004 and 2005 and the explanation given by the Department of Finance is exactly the same, viz, that the difference in actual expenditure was attributed to the change to the Cash basis of accounting. Payables and Receivables amounting to K 153.9 million are retained within the accounting system and could not be included in Statement "L".

41.3 The Auditor General again recommended that consideration be given to adopt the more integrated financial management system and the Department of Finance agreed, commenting that the issue would be rectified as and when IFMS is in place and ***"up and going".***

41.4 The Committee will revisit this when we consider the 2007 Public Accounts to ascertain whether any and what improvement has occurred.

## 42. REVISED APPROPRIATION FORMAT

42.1 The Auditor General finds that the appropriation column in Statement "L" for 2006 states the amount of the original appropriation adjusted by the Supplementary Appropriation and Sections 3 and 4 transfers. He also finds that the presentation is inconsistent with the previously accepted format and good accounting practice.

42.2 It is our recommendation that the revised format is inappropriate and the Department of Finance should retain the existing presentation. The Department of Finance actually agrees with this recommendation as it was made by the Auditor General.

## 43. EXPENDITURE EXCEEDING ALLOCATION/APPROPRIATION

43.1 In 2006 there was over expenditure totaling a staggering K 742,579,999 under 1,151 items of the Votes for 59 Government Departments, Provincial Governments and Statutory Bodies.

43.2 The Auditor General found a transfer of K 450,014,000 from the Recurrent to the Development Budget during the year 2006 which was a breach of Section 24(B) of the ***PF(M)A***.

43.3 This Committee concludes that the appropriation between Recurrent and Development Budgets reported for the Financial Years 2003 – 2005 continues to be a breach of Sections 24 and 25 of the ***Public Finances (Management) Act 1995*** in 2006.

43.4 Once again, we must find that the transfer of huge sums from Recurrent to Development Budgets is beyond the delegated authority of the Secretary and is a breach of the ***PF(M)A*** . We intend to make referrals, investigation and prosecution in this regard.

43.5 The Department of Treasury disagrees with this conclusion and is still awaiting legal advice from the State Solicitor – which he was waiting on in 2005.

43.6 The terms of the ***Public Finances (Management) Act*** should be obeyed until any legal advice to the contrary is received. We will revisit this matter in the 2007 Public Accounts Inquiry to ascertain progress made by the State Solicitor and the Department of Treasury.

## 44. SUPPLEMENTARY APPROPRIATION OF K152 MILLION

44.1 In early 2006 Special Support Grants totaling K152 million were paid under the Appropriation made in the 2005 Supplementary Budget.

44.2 It was anticipated that the Grants would be paid in 2005 and Trust Accounts were opened for the purpose of financing mining projects in provinces as follows:

- K85.5 million for Western Province;
- K40.8 million for Enga Province;
- K25.5 million for New Ireland Province; and
- K0.2 million for Central Province.

44.3 In 2005 only K 41.9 million was transferred into the Trust Account with the remaining balance of a K 110.1 million transferred on the 17th February 2006.

44.4 The transfer in 2006 against the 2005 Supplementary Budget is a breach of the ***PF(M)A***. The appropriation had lapsed on the 31st December 2005 and another appropriation existed in 2006 for spending K 110 million.

44.5 The situation was worsened by the fact that the Secretary, Department of National Planning and Rural Development did not comply with the conditions of the Trust Account despite a number of requests from the Department of Finance for information – we have already discussed this in our Report on the 2005 Public Accounts.

44.6 As no funds were spent in 2005, it is not clear why the Supplementary Appropriation was made in that year and not 2006.

44.7 No provision was made in the 2005 Cash Adjustment Account for the balance of K 110.1 million.

44.8 The Department of Finance explains that the 2005 Supplementary Budget provided for SSG back payments prior to 2005 amounting to a K 193.9 million. A total of K 41.9 million was transferred to a Trust Account held at the Bank of PNG and the balance of K 152.0 million was set up under Cash Adjustment Account.

44.9 The Department contends that that provision was made in 2005 for the transfer of a K110 million to the Trust Account held at the Bank of PNG.

44.10 Further, the Department of Finance agrees that there was no appropriation in 2006 for the K 110.1 million but the fact that K 152 million provisions was made in 2005 under the CAA allowed it to implement the payment without any funding impairment for the 2006 Budget.

44.11 This Committee finds that the 2005 Supplementary Budget was for the payment of SSG of K 193.9 million of which K 41.9 was transferred to Trust Accounts held at BPNG. The balance not transferred was K 152 million.

44.12 Therefore, payments amounted to K 76,538,356 in 2005 and receipts and journals amounted to K 14,609,122. They therefore could not have included the higher figure of K 152 million. The Department of Finance explanation is proven wrong by the figures.

44.13 This Committee finds that this is yet another example of the unilateral, uncontrolled and unlawful ignoring of Appropriation Acts and the Law in general. This is a very profound problem which clearly shows a loss of control over fiscal management and accountability by the Executive and the National Parliament.

44.14 This form of misappropriation has characterized fiscal management by the Department of Finance for many years and we intend to revisit this situation when we consider the 2007 Public Accounts to ascertain whether there has been any improvement or change.

## 45. STATEMENT "C"

45.1 Statement "C" reports on Trust Funds managed by the State on behalf of donor organizations, special projects or funds set aside for the benefit of individuals or groups.

45.2 There are two types of Trust Accounts – those with bank accounts and those that are operated within the account of the Waigani Public Account known as Non-Bank Trust Accounts.

45.3 The Auditor General finds that the Departments and Agencies managing Trust Accounts have in 2006, not been complying with Section 19 of the ***PF(M)A*** in that they have not submitted financial statements and/or Section 14(4)(c) of the same Act requiring submission of monthly return of receipts and payments together with Bank reconciliations of Trust Accounts.

45.4 This Committee can simplify the situation somewhat. There has been a collapse of Trust Accounting to the point where nobody knows the number of Trust Accounts, the identity of Trustees, the amount of money held in the Trust Accounts or the amount of interest (if any) earned on those Funds.

45.5 Further, the Trust Instruments are breached on a daily basis and the Law of Trust Accounting is almost completely ignored by virtually every trustee and the Department responsible for management of Trust Accounts – in particular Royalty Trust Accounts held for and on behalf of landowners or resource owners.

45.6 Departmental Heads have failed in their duty to ensure that proper reports, reconciliations and statements are made and submitted and the Department of Finance has failed in its duty to insist on obedience to the requirements of law.

45.7 By October 2007 only 42 Bank Reconciliation Statements to the 31st December 2006 had been received and there are ***"probably"*** approximately 386 Trust Accounts in existence.

45.8 The effect on the Auditor General of these failures was an inability to verify whether transactions accorded with Trust Instruments and the Law.

45.9 The Auditor General recommends in 2006 (as he did in previous years) the Department of Finance work to fulfill its obligation to bring Trust Accounts under some form of control by forcing Departmental Heads to provide the Report which it is their duty to make and submit. The comment from the Department of Finance was as follows:

> ***"Finance notes the recommendation. Finance is continuing a program aimed at improving lodgment of Trust Bank Reconciliations by responsible Departments and Agencies, as required under the Public Finance (Management) Act."***

45.10 This response is simply inadequate. There has been no improvement in 2006 in this most vital area of public accountability. In fact, the failure to provide Trust Accounts records and reports is worse than it was in previous years and, we believe, continued to worsen in 2007.

45.11 This Committee has in fact provided a Report to the National Parliament on the state of Trust accounting to the end of 2008 and on the evidence which was available to us the deterioration and collapse in trust accounting continued until the 31st December 2008.

## 46. REVOKED TRUST ACCOUNTS

46.1 This issue was addressed in our 2004 and 2005 Reports on the Public Accounts. There the Committee found that revoked Trust Accounts were still being used and a great many Trust Accounts that should have been revoked were not.

46.2 The whole situation clearly showed a complete loss of control by the Department of Finance and a perfect willingness in that Department and other Departments to ignore and defy Ministerial Directives to close Trust Accounts.

46.3 The evidence also clearly showed that there was no system or systems capable of being used to revoke or close Trust Accounts and this Committee intended to consider whether there had been any improvement in 2006.

46.4 In 2006, 165 Trust Accounts were revoked by the Minister for Finance. 260 had also been revoked in 2005.

46.5 In at least 25 instances, where Trust Accounts have been revoked, the accounts continued to be used and in many instances Trust bank accounts include bank balances.

46.6 There seems to be no order or coherence in this particular exercise which appears to be quite beyond the capability of the Department of Finance to implement.

46.7 The Auditor General concludes in 2006:

> ***"There is a breach of PFMA Act where Trust Accounts continue to be operated without formal***

> ***authority. Further, a number of bank accounts in respect of these Trust Accounts continue to be operated illegally. Overall, there is a lack of compliance with the PFMA Act and Financial Instructions which exposes the Government to the risk of loss of public monies through misappropriation or fraud".***

46.8 This Committee recommends that the Department of Finance immediately address this issue and bring Government Trust Accounts under some form of legitimate control and oversight.

46.9 If that requires the removal of Heads of Department or the disciplinary action to be taken against these Officers – so be it.

46.10 We also recommend that the National Parliament and the Government immediately legislate to bring Trust Accounts under some form of proper, competent, lawful experienced and honest trust management in a specialized agency created for that purpose and staffed by Trustees of impeccable qualification and repute.

46.11 Trust accounts are the conduit between Government and Service delivery to our people and they have failed to fulfill this role to any degree of acceptable performance.

46.12 It is also the conclusion of this Committee that the standard of Trust Accounting and responsible trust reporting considerably worsened during the period 2004 – 2006. Some examples of the worsening situation are:

- In 16 cases Trust Account closing balances exceeded amounts disclosed in Statement "C" revealing a difference of K 7,559,059. The Department of Finance responded (as they did in 2004 and 2005) that the balance "probably" represented unpresented cheques.

- 17 Trust Accounts revealed "nil" balances. However BSP Bank records confirmed the Accounts had balances aggregating K 17,790,956. How is this possible? The only explanation can be a failed and non-performing system of Trust Reporting and accounting and the Department of Finance which simply does not care whether the figures that it replicates in the Public Accounts are correct.

- Statement "C" does not reveal the names of the administering agencies and follow up the queries by the Auditor General is extremely difficult to make particularly when there is no Registrar of Trust Instruments or of Trust allocations.

- Bank names were incorrectly recorded for four accounts listed in Statement "C". This chaotic situation has given rise to a very serious finding by the Auditor General which this Committee finds to be reasonable and proper in the circumstances, viz:

***"It is not possible to determine the completeness and accuracy of the Trust Accounts reported in Statement "C". The response received from the Department of Finance is that Statement "C" is largely complete and correct.***

***Bank accounts should be open for all trust accounts for the currently book balances.***

***The Trust Ledgers must contain all the transactions of each Trust Account and ensure that these figures agree with the Bank Reconciliation Statements of all agencies that operate these trust accounts.***

***A suggestion for improvement is for the Department of Finance to include the details of the bank account numbers and the names of administering agencies to facilitate an accurate Audit trail and easier access during external verification process.***

***In addition, Department of Finance could classify the bank balances on Departmental drawing accounts, Provincial RPM Accounts and the Provincial Treasury Operating Accounts under the respective headings to facilitate easy reference.***

***Every attempt should be made to confirm the balances and the names of the Banks, review bank reconciliation statements together with attachments, before their inclusion in the notes to the Financial Statement".***

46.13 The Committee agrees with these recommendations and notes that the Department of Finance claims that details of Bank information, responsible Departments and Agencies are available for all Trust Accounts managed by Finance. Why was this information not provided to the Auditor? Why was it not provided to this Committee when we requested it for the 2004 and 2005 Inquiry into Trust Accounts?

46.14 In Summary, we recommend that all Members read our Report into Trust Accounting for the period 2000 – 2008 and that immediate and sweeping change and reform system of Government Trust Accounts is urgently required.

**47. TRUST FUND SUSPENSE ACCOUNT NO. 2.**

47.1 Trust Fund Suspense Account No. 2 is administered by the Department of Finance and it was established to hold and record temporary payments made to or from Government for such matters as Bail Money or Child Maintenance.

47.2 The Trust Instrument is addressed in our 2004 and 2005 Public Account Reports. We have now ascertained that there is no record of the delegation of authority to Provincial Treasury Offices to operate this account. At present, the Trust Account is operated at Provincial level without any delegated lawful authority at all.

47.3 Trust Fund Suspense Account No. 2 has been the subject of widespread blatant and hidden misuse by the Department of Finance over seven years from 1999. Huge amounts of money have passed through this Account without any seeming lawful basis at all.

47.4 In the course of this Inquiry, the Committee was advised by a representative of the Department of Finance that there was a legal opinion given by the State Solicitor approving the use of the Trust Instrument for any purpose which the Secretary decided was appropriate.

47.5 This document suddenly emerged despite detailed requests for evidence over a period of 12 months from this Committee when it considered the 2004 and 2005 Public Accounts.

47.6 The Department of Finance was questioned on several occasions as to the legal basis upon which Trust Fund Suspense Account was operated and used for inappropriate, unbudgeted and in many cases fraudulent payments.

47.7 The Department of Finance flatly refuse to cooperate, assist with, appear before or provide any information to this Committee on this (or any other) subject.

47.8 Suddenly a legal opinion is produced to the Committee apparently in response to an unspecified request from Mr. Thaddeus Kambanei as to the meaning of a Trust Instrument.

47.9 The Trust Instrument clearly did make provision for use of the Trust Account for virtually any purpose that the Minister or the Secretary wished to direct, but this gives no legal basis for the huge amounts of misappropriated monies unlawfully passing through the Account for purposes which were neither temporary nor, in many cases, lawful.

47.10 What really concerns this Committee is the fact that unaccountable and unelected Public Servants well knowing that their conduct is illegal continue to operate this Trust Account in a manner which not only breaches the Trust Instrument but the **Public Finances (Management) Act** and the ***Constitution*** <u>and</u> knowing that the Trust Account has been revoked.

47.11 Moreover the account showed a debit balance at the end of the year which is a legal impossibility. This Committee again makes the following recommendations in respect of this Trust Account:

1. The Department of Finance must immediately ensure that Trust Fund Suspense Account No. 2 is wholly suspended from being operated by Officers at the Provincial level and to ensure that only delegated officers as per the Trust Instrument operate the Account in any event.

2. The Trust Account is closed and should not be used for any purpose whatsoever. The Department of Finance should expedite alternative arrangements in the Provinces and immediately bring some order into this unlawful and blatant misconduct within its own Department.

**48. STATEMENT "E"**

48.1 Statement "E" records Government investments. The investments earning interest are credited to various accounts and this Statement is compiled from Trust Fund Investment Ledgers maintained by the Department of Finance.

**49. OWNERSHIP OF INSURANCE DEPOSITS**

49.1 The Auditor General was unable to reconcile the data recorded in Statement "E" to Bank confirmations. The records of the Insurance Commissioner did not agree with the Department of Finance records.

49.2 The Auditor General recommends an examination of Statement "E", Bank confirmations and details of deposit held as per the Insurance Commissioner's records which will require amended statements to be furnished.

49.3 The Department of Finance should review the current Legislation relating to the withholding of insurance deposits on behalf of Insurance Companies with a view to ensuring that the Government has full ownership of the deposits until these are required to be relinquished.

49.4 This Committee agrees with the recommendations and we note that the Department of Finance accepts the findings and the Auditor's suggestion.

## 50. STATEMENT "F" - EVALUATION OF INVESTMENTS

50.1 Statement "F" summarizes the State's direct investments, capital contributions and equity options in various companies, public bodies and other organizations.

50.2 There have been qualified Audit opinions resulting in Part from the failure of the Auditor General to determine the correctness of Statement "F" for the last two years i.e. 2004 and 2005.

50.3 The reasons for this inability are:

- The 2006 Financial Statements with some Statutory Bodies listed as investments have been qualified by the Auditor General.

- The Department of Treasury does not maintain a formal investment register to assist with tracking State investments.

- These issues remain unresolved in 2006 despite the Auditor General making a similar finding for some years.

50.4 There are no valuations of investments managed by IPBC. The Auditor General was advised that it is considered impractical to have an independent valuation performed every year. However, International Financial Accounting Standards requires this to be conducted at least once every three years – which has not been done.

50.5 The Department of Treasury has advised that it intends to address the matter in 2008. Why this has not been done in past years, is not explained. Treasury has advised that it wishes to use its Internal Audit Section to carry out checks to identify investments unless the Auditor General recommends to the contrary.

50.6 The Department of Treasury has requested that the Auditor General contact the Independent Public Business Corporation to provide relevant information as well as to address issues arising in the 2006 Public Accounts Audit.

## 51. STATEMENT “G”

51.1 Statement “G” sets out the borrowings made by the State together with repayments of principal and interest to the lending authority. The Statement also shows net gains and losses caused by fluctuation and currency exchange rates.

## 52. DIFFERENCES IN REPORTED AMOUNTS AND CONFIRMATIONS

52.1 The Auditor General has found that while figures for Treasury Bills Inscribed Stock for 2006 in Statement "G" agree with the records maintained by Treasury, there are differences when the figures are compared to confirmations received from the Bank of Papua New Guinea.

52.2 The Auditor General has identified methodology problems as well as communication difficulties between the internal processes for the accounting and management of Treasury Bills and inscribed stock. These exist both internally and externally between Bank of Papua New Guinea and the Department of Treasury.

52.3 How this situation came to prevail for years is beyond the Committee's understanding. It would seem that there is finally some attempt to resolve the issues but again this has only occurred after the Public Accounts were disclaimed by the Auditor General.

52.4 The Auditor General recommends the following course of action:

- The Department of Finance and Department of Treasury resolve the reconciliation difficulties including formalizing an accepted format for accounting entries which accurately identifies the value of Treasury Bills and Inscribed Stock.

- That a proper reconciliation of Treasury Bills and Inscribed Stock be periodically undertaken with a view to ensuring that the value on hand is reconciled back to the Bank of PNG records.

- Department of Finance could improve the disclosure of the public debt by providing:

  - Details about public debt management strategy activities and the performance during that period.

  - Commentary on the risk management framework for example equity risk and exposure of the foreign risk.

  - Details of the net value of public debt in addition to the published information on total borrowing. Disclosure of the net value of public debt will provide more meaningful information to the user of the Financial Statements.

52.5 The Committee views these recommendations as practical and necessary and endorses them.

**53. MONITORING OF LOANS**

53.1 There is inadequate verification of the financial data disclosed in Statement "G" to source data. The lack of monitoring of loan conditions exposes the State to the risk of penalties that are imposed or that public funds are not being appropriately utilized.

53.2 We endorse the recommendations of the Auditor General that:

- Treasury’s work papers and reconciliation of their records:

  - Be consistent across all four groups involved.

  - Be presented to Audit in the similar manner as Statement “G” showing that the figures are in accord with the General Ledger, and

  - The calculation of the balance of the loan principal in kina value is included on the worksheet.

53.3 The Department of Finance ensure that independent verification for accuracy and completeness be conducted prior to submission to the Auditor General.

53.4 Treasury review their practices to include the monitoring and managing of agency compliance with loan conditions.

53.5 A mechanism be established which ensures that when a new Trust is established as a result of a loan agreement, Treasury liase with the Department of Finance Trust Office to ensure proper records are updated accordingly.

53.6 No response was received from Treasury.

53.7 This Committee endorses the recommendations and will revisit this matter when we consider the 2007 Public Accounts.

## 54. REVENUE COLLECTION

54.1 The Auditor General identifies a discrepancy between the Departmental records of the Department of Finance and Statement “J” in respect of IRC – Customs and Taxation and Department of Lands and Physical Planning.

54.2 In Summary, taxation revenue is overstated as is revenue from the Bureau of Customs.

54.3 Further, revenue from the Department of Lands and Physical Planning is understated and the Auditor General is unable to verify debt collections in Provinces as there are no Collector Statements available to support claimed revenue of K 3,217,386.

54.4 This significant differences may require amendment to Statement “J” (which is rendered uncertain by the discrepancies) which will in turn affect Statements “B” and “A” to the same extent.

54.5 This same problem manifested in 2004 and 2005 and there appears to have been no steps taken to rectify the situation.

54.6 The Department of Finance purports to explain that the differences are immaterial and that they “may” be due to time differences between the time of deposit and the transfer of monies to the Waigani Public Account.

54.7 This Committee recommends that the Department of Finance and the Department of Treasury should ensure records of IRC and the Department of Lands are reconciled and adjustments made to correct variations. Revenue procedures at the Department of Lands should also be reviewed so that the Budget recognizes the total of "demand notices" raised to lease holders.

54.8 The chaotic accounting situation within the Department of Lands has been known at least since our Report on that Department four years ago but nothing appears to have been done to modernize, rectify or rebuild the defective processes in the Department.

## 55. INADEQUATE FORECASTING OF REVENUE

55.1 This matter is of considerable concern to the Public Accounts Committee.

55.2 The Auditor General finds the forecasting of revenue including revised Budget reviews receipt estimates is not satisfactory as there were significant variances between the revised estimate revenue figures and actual revenue received.

55.3 Further, in four instances the original estimates were not revised to cater for an increase or decrease in revenue collection.

55.4 It is clear that Departments are not estimating revenues or updating estimates. This is a serious matter as poor or inaccurate forecasting and record keeping impacts directly on the reliability of the Public Accounts.

55.5 This Committee strongly recommends that revised updates be performed whenever necessary and performed accurately to ensure variations are kept within reasonable limits and control. This is important to facilitate proper, thorough planning.

55.6 The Department of Finance agrees that this area requires improvement but make the point, which this Committee accepts, that there are variables which render completely accurate prediction impossible.

## 56. DIFFERENCES IN APPROPRIATION

56.1 This is a further area that is a concern to the Committee.

56.2 Statement "L" provides detailed descriptions of budgeted and actual expenditure against the Expenditure Vote. It is a crucially important Statement containing very basic information for the use of Government and for the purposes of planning and budgeting.

56.3 The information is produced from the Department of Finance Transaction Management System.

56.4 Statement "B" records Recurrent and Development Budget Estimates and payments made during the year. The data used to compile that Statement comes entirely from TMS 40 and it should reconcile with Statement "L".

56.5 A very significant difference of K 1,332,500,100 was noted in the original appropriation figures in Statement "L" when compared to Statement "B" for the year 2006. This represents the supplementary Budget in that year.

56.6 The very considerable difference is apparently due to the fact that the format for presentation of Statement "L" changed in the 2006 Financial Year. Statement "L" cannot be adjusted but Statement "B" has been manually prepared and the original appropriation between Statements "B" and "L" differed in the sum recorded above.

56.7 This is not satisfactory. Reconciliation between the two Statements should be a matter of course.

56.8 The Department of Finance has apparently recognized the discrepancy and states that:

> ***"The recording of the Supplementary Budget in the original appropriation rather than separately identified is currently being discussed with the Information Systems Division. To ensure transparency, Finance will continue with the current presentation format in Statement "B" which includes the original appropriation plus any***

> ***supplementary Budget plus any Section 3 and 4 adjustments".***

56.9A Given the current technical difficulty, that is probably the best that can be done, but the situation is not satisfactory and should be resolved as recommended by the Auditor General.

**OTHER MATTERS**

**Receiver of Public Monies**

56.9 The Auditor General identifies delays in banking of monies noted from the Collector Statements ranging between 2 – 8 days.

56.10 Confirmations of year end bank balances of funds in the respective Provinces RPM Bank Accounts were not obtained by the Department of Finance and as a result, little reliance can be placed on the accuracy of the total Provinces RPM Bank Account balances.

56.11 All balances in the Provinces RPM Bank Accounts should be remitted to the Waigani Public Account at the end of the Financial Year leaving nil balances.

56.12 This is clearly not known to at least the Central Provincial Treasurer and this information should be promulgated and enforced by the Department of Finance.

56.13 No balances recorded in the TMS 130 Type 2 Ledgers could be verified by Audit as there is no supporting documentation.

56.14 This Committee can therefore place no reliance on year end bank balances and bank confirmations are not received from Provincial Treasury for RPM Bank Accounts. Further, banking is not performed daily at the Finance FCB Branch and there were delays in banking of money.

56.15 This is fundamental accounting and management procedure which should be easily rectified.

56.16 The recommendations for change from the Committee are:

- Collection should be banked daily to avoid the risk of theft or unauthorized activities.

- RPM Bank balances of the Provinces need to be confirmed as at the 31st December 2006 in order to report the true balance at year end.

- Management should inform Provincial Treasuries of the established practice for omission of funds.

56.17 We received assurances in the 2005 Public Account Inquiries that the Department of Finance had addressed this issue but clearly they have not. We will revisit this matter in 2007 to inquire as to any progress obtained in enforcing these simple standards and requirements.

**EXCEEDED LIMITS IMPOSED BY THE APPROPRIATION ACTS**

56.18 In 2006 a total of K 1,252,500,000 was appropriated by Appropriation Acts against the Secretary's Advance (Miscellaneous Vote).

56.19 The Administrative Directive issued by the National Parliament provided a total of K 626,714,800 that was to be transferred/paid out in the manner prescribed with the balance of K 725,785,200 under the Secretary's advance.

56.20 However, Statement "L" disclosed a net figure of K 698,572,100 as being transferred out resulting in an amount of K 72,786,900 being over the appropriation limit.

56.21 Section 24 transfers aggregated K 2,806,348,320 contrary to the provisions of the Appropriation Acts which allowed for only K603,184,980.

56.22 The appropriation limits set by Parliament was exceeded by a staggering **K2,203,163,340**.

56.23 Further, the limits set for transfers of the ***Development Expenditure Appropriations Act Supplementary (Priority Expenditure) Act*** and the additional ***Supplementary (Priority Expenditure) Act*** provided a limit of transfers by the Development Expenditure Appropriation at K 168,718,320. The net transfer was actually K 401,387,100 which exceeded the set limit by **K 232,668,780**.

56.24 In short, the Auditor General finds breaches of Section 24(a) of the ***Public Finances (Management) Act 1995*** and thereby breaches of the ***Appropriation Act*** and quite possibly the ***Constitution.***

56.25 There was no response on this issue from the Department of Treasury – Budget Division. Indeed, what answer could they give other than to admit that they acted unlawfully?

56.26 The blatant disregard of the terms of Appropriation Acts and Government Directives was a feature of the Public Accounts Inquiry for the years 2004 and 2005 but has reached new heights in 2006.

56.27 When unaccountable and unelected Public Servants can ignore Appropriation Acts and thereby the National Parliament, the Law, the Constitution and the sound fiscal management principles, this Nation has a problem which must be addressed immediately.

56.28 As if the actions were not bad enough, there was no attempt to justify or explain these huge excesses or to argue any basis of Law for them occurring.

**REALLOCATION OF FUNDS BETWEEN BUDGETARY APPROPRIATION ACTS**

56.29 Funds can only be reallocated from Recurrent to Recurrent Expenditure Budgets and from Development to Development Expenditure Budgets.

56.30 Funds could be reallocated subject to conditions expressed in the respective Appropriation Acts and the ***Public Finances (Management) Act 1995.***

56.31 The Auditor General has formed the view that:

- Reallocation of funds appropriated under a current budget can only be used for recurrent purposes in accordance with the conditions expressed in the recurrent Appropriation Act.

- Reallocation of funds appropriated under Development Budget can only be used for development purposes in accordance with the conditions expressed in the ***Development Expenditure( Appropriation) Act.***

- Any deviation from the ***National Parliament (Appropriation) Act*** would require amending the original Appropriation Act.

- Any deviation from the ***National Judiciary (Appropriation) Act*** would require amending the original Appropriation Act.

56.32 This means that unless specifically provided for, funds appropriated under one Appropriation Act are not permitted to be reallocated to fund operations of another Appropriation Act.

56.33 The Auditor General found clear evidence of very significant transfers between Appropriations and concludes that the conditions of reallocating funds within the means of each Appropriation Act had been ignored by the Department of Treasury.

56.34 Once again, as in 2004 and 2005, these reallocations occurred in respect of the National Parliament and the Judiciary.

56.35 These two arms of Government should surely be setting an example for all other Agencies of Government at least insofar as fiscal management is concerned but for some years, have not done so.

56.36 In 2004 and 2005 Treasury at least attempted to explain their actions and find tenuous legal grounds for their decisions.

56.37 In 2006 they made no attempt to explain and made no response to the findings of the Auditor General.

**MAINTENANCE OF RECORDS**

56.38 As we have found in past years, supporting registers such as the Recurrent Budget movements, Warrant Register and the Development Budget movements and Warrants Register contained errors and inaccuracies.

56.39 These errors and inaccuracies were not minor but involved very significant amounts of money. For instance, the differences in figures for the Secretary's advance in Statement "L" were K 1,284,572,100.

56.40 The Auditor General concludes, and this Committee agrees that the accuracy of Note 5.1 of the Public Accounts Financial Statement is not assured or accepted.

56.41 This Committee recommends that reconciliation of the Budget Movements Register and the Budget Movements and Warrants issued for Departments be undertaken by the Department of Treasury in order to account for all movement of funds.

56.42 Once again, no response was received from the Department of Treasury.

**IMPROPER USE OF SECRETARY'S ADVANCE VOTE**

56.43 The Secretary's Advance Vote is intended to be used as a contingency fund to transfer funds to meet unforeseen circumstances.

56.44 An amount of K 4,970,669 was paid from the Secretary's Advance Vote without appropriated authority by the Department of Finance. The Auditor General also found:

- Breaches of the ***Public Finances (Management) Act* 1995** by the Department of Finance in that proper authorization from the Secretary of the Department was not obtained for a write off in the sum of K 4,970,669; and

- The ***Appropriation Act*** stipulated that the Secretary of Treasury was responsible to administer funds provided under the Secretary's Advance Vote. The Department of Finance had not obtained the appropriate approval from the Department of Treasury.

- There is no apparent reason to charge expenditure to this Vote and that the Department of Treasury made no response to the findings of the Auditor General.

- Once again, improper use of the Secretary's Advance Vote was an incident of management or mismanagement of the Public Accounts for the years 2004 and 2005 and does not seem to have been addressed or controlled in any way at all.

**INSTRUMENT OF DELEGATION**

56.45 The Auditor General sought copies of an Instrument of Delegation under Section 26 of the ***Public Finances (Management) Act 1995*** from the Minister to the Departmental Head but none was produced by the Department of Treasury.

56.46 The Auditor General concluded that the Department had blindly followed past practice and did not have written and documented procedural guidelines or delegation instruments.

56.47 This failure to obtain basic legal authority clearly shows negligence in the performance of duties by the Office of the

Department of Treasury and this Committee recommends that the Department should document the provisions of Legislation, learn them and obey them.

56.48 It is notable the Department of Treasury made no response at all to this finding.

**MISCELLANEOUS EXPENDITURE VOTE 207**

56.49 An original appropriation of K 411,002,000 made under the Miscellaneous Vote 207 increased to K 1,175,691,500 in 2006 and total expenditure exceeded the revised appropriation (and limit) by K 67,593,500.

56.50 Total expenditure of K 1,243,285,000 reported in Statement "B" differs to that of TMS 6 – 10 Ledger and Statement "L" which reported the figure of K 1,116,667,961 – a difference of K 126,617,039.

56.51 Examination that was conducted 56 random selected payment vouchers and the result was:

- Payment vouchers for 13 payments totaling K 175,901,755 were not available.
- Five payment vouchers totaling K 96,644,844 were not certified.
- Copy of Journal Entry No. 164 for an amount of K 800,000 and all supporting documentation was missing.

- Ten journal entries totaling K 9,347,439 had no supporting documents.

- Three cheques drawn in the name of David Imig for a total of K 300, 000 were cancelled but copies of the cheques were not attached to the journal entries and it was not possible for the Auditor General to confirm that the cancellations actually occurred.

56.52 These failures of the Department of Finance to keep proper basic and adequate records requires the following rectification:

- The Department should strengthen the controls within the payment system so that money is not paid out without valid appropriation.

- The Department must improve current record keeping practices and ensure documents are maintained and retained.

- Approval of journal entries may have to be confined to the FAS in charge of the Expenditure Division.

56.53 The Department of Finance made response to these findings. Basically the Department agreed with the recommendations and claimed that significant effort had been put in place to improve record keeping.

56.54 This Committee has still to see the results of such an effort and we will be revisiting this issue in 2007.

**INTERNAL AUDIT**

56.55 Internal Audit failures were a significant feature of the Public Accounts in 2004 and 2005 and the situation appears to continue.

56.56 The Auditor General finds that while the Department of Finance Internal Audit Branch did conduct six major internal control reviews in 2006 the overall internal control environment is very weak and requires ongoing internal audit review particularly in high risk areas.

56.57 The Department of Finance Internal Auditors did not following up on issues specifically reported and did not undertake periodic reviews. There are also legislative compliance matters that Internal Audit should be addressing but does not.

56.58 The Auditor General recommends, and this Committee agrees:

- Secretaries of both the Departments of Finance and Treasury should review those Departments Internal Audit Branch with a view to effectively utilizing those resources.

- Roles and lines of control and appearance of independence need to be assured within the Department of Finance.

- The Secretary should review the Annual Strategic and Operational Plans to ensure there is an ongoing review of high risk areas.

- The Secretary should ensure adequately qualified and experienced staff are involved.

- Staff should conduct Internal Control checks and compliance reviews rather than investigative work.

- At least two dedicated Inspectors should be formally allocated to specifically investigate Trust Account non-compliance. This must include physically following up completion and lodgment of Bank reconciliations, trust reconciliations and other statutory records.

- The Secretary should undertake periodic reviews to ensure that bank reconciliation of bank accounts managed by the Department of Finance including Trust Accounts, advances and drawing accounts are being performed in a timely manner.

- Internal Auditors should report on the risk and occurrence of legislative non-compliance to the Secretary.

- The failure of Internal Audits Groups across the whole of the Government Agencies is a matter of continuous comment by the Auditor General and by this Committee and is one of the major reasons for the collapse of fiscal accountability in Government.

- The tenor of the Report of the Auditor General for 2006 suggest that there are stirrings of reform but a very significant effort must be made across Government to establish competent, trained Internal Audit systems to try and bring fiscal accounting back to some form of order.

56.59 We will revisit this matter in 2007 Public Account

**JOURNAL ENTRIES POSTING IN PERIOD 13.**

56.60 196 Period 13 Journal Entries were posted into TMS (after PGAS had been closed) amounting to a huge K 3,532,937.836.

56.61 Quite a number of these postings are due to donors not being able to provide Financial Statement until after the end of the Financial Year and in 2006, the total of entries pertaining to donor funding amounted to K 674,300,000.

56.62 However these postings of donor funding are not material in the scale of postings in Period 13.

56.63 An indication of the enormity of this expenditure is shown when the TMS 40 Ledger printed on the 22$^{nd}$ October 2007 is considered.

56.64 That Ledger revealed expenditure between periods 12 and 13 amounting to K 708,965,975 largely due to the PGAS and TMS not being reconciled at the end of every month with items that make up the discrepancies corrected during Period 13.

56.65 The failure to keep proper accounts and records means that Departments whose overpayments and underpayments are the subject of journal adjustment are simply not aware that the increase/decrease has occurred.

56.66 There is further a risk of the transfer may not be correct and this in turn facilitates irregular activities or a cover up of the actual Department's expenditure and large numbers of errors not corrected during the year causing delays in the preparation of the Public Accounts Financial Statement.

56.67 Simply put, the lack of audit trails and a failure to keep even Statutory records increases the risk of error, misappropriation or fraud that may not be detected in a timely fashion or at all and also result in additional resources and time spent in correcting errors which should have been obvious at a much earlier time.

56.68 The unseemly rushed in Period 13 to correct errors and, we believe, to create figures where no records exist is simply not acceptable.

56.69 There will always be a need for some adjustments in Period 13 in the normal course of accounting, but the huge amounts of money and the sheer number of adjustments in Period 13 clearly show a failed system which produces unreliable data.

56.70 As we did in 2004 and 2005, we recommend:

- All journal entries should be referred and properly authorized by the responsible Departments and Agencies – not solely by the Department of Finance. In this situation it is clear that devolved accounting has failed.

- The Department of Finance should monitor the monthly reconciliation of PGAS and TMS. This they have failed to do for years.

- All clearing accounts should be reconciled by the Department of Finance each month.

- Consideration to encourage donors to provide expenditure reports before the end of the financial year should be made. If this cannot be done, then interim statements and reports could be provided.

- The Department of Finance reinforce the policy of proper cross-referencing of journals to staff involved in preparing and authorizing journal entries.

- The accuracy of journal postings should be subject to periodic independent verifications by the Internal Audit and Compliance Branch of the Department of Finance.

- Simply put, the Public Accounts are drawn from primary documents which have themselves failed and are the products (where they existed at all) of a collapsed system of accounting and record keeping.

  The requirements of the ***Public Finances (Management) Act 1995*** and the ***Constitution*** and the **Financial *Instructions*** are not onerous or difficult to understand yet no Department is capable of complying with them.

- Period 13 adjustments must be brought under control immediately and if this requires some form of statutory control, the Government should enact such legislation.

**DEPARTMENTAL AUDITS.**

56.71 As we have said on several occasions' Departmental accounting and record keeping and fiscal management has collapsed.

56.72 In 2006 ten Departments were not audited at all. Not one Department complied with all requirements of law and most complied with almost none. Of thirty Departments the following were the results of the investigations of the Auditor General:

| **Legal Requirement** | **Number of Departments Complying** |
| --- | --- |

| | |
|---|---|
| Corporate Governance | 2 Departments |
| Financial Reporting | 2 Departments |
| Budgetary Controls | 10 Departments |
| Procurement and Payment Procedures | Nil Departments |
| Salaries & Wages | 2 Departments |
| Advances Management | 6 Departments |
| Assets | 7 Departments |
| Motor Vehicles | 13 Departments |
| Trust Accounts | 14 Departments |
| Cash Management | 6 Departments |

56.73 This Committee detects no improvement from the years 2004 and 2005 and in respect of corporate governance, financial reporting or budgetary controls, the situation has worsened.

56.74 In respect to Procurement and Payment procedures the fact that not one Government Department complies should be a matter of very profound concern and bespeaks a complete loss of control of Government accounting and fiscal management by the Executive.

56.75 These matters have been the subject of considerable analysis and recommendation by this Committee in previous Reports to the National Parliament and we reiterate our findings and recommendations in respect of the 2006 Public Accounts.

## 57. FINDINGS

57.1 The Committee has been deeply concerned by the revelations made during and as a result of this Inquiry.

57.2 It is clear that the disintegration of our systems of fiscal management and accountability evident in 2004 and 2005 continued into 2006.

57.3 One major question raised by the evidence was – how could the national accounting system have reached such a state of collapse?

57.4 The Committee has carefully considered the evidence and we can only conclude that the situation in 2006 represented a failed Executive control over national finances compounded by mala fides in the Officers and Departments controlling and accounting for public funds encouraged and protected by a culture of impunity that has increasingly characterized Governance and society in Papua New Guinea.

57.5 We say this because the Executive Government is vested with responsibility to formulate budgets and effective management, control of, and accounting for, the Budget. If this responsibility is met, responsible fiscal management and application can be expected to follow. The Executive has failed in this role for many years and the Public Service have moved into that vacuum and assumed power that it does not have.

57.6 This shift in power is very largely responsible for the failed accounting system and the huge fiscal misconduct that we now see.

57.7 Some incidents of this loss of command and control are:

- Overspending by Departments resulting from the inability of the Department of Finance to control public spending – notably in its own Department.

- Ministers failing to demand Agency Heads be responsible for transparent and compliant spending of Agency budget allocations;

- Considerable abuse and diversion of public monies that goes undetected and unpunished;

- A large and seemingly uncontrolled increase in the number of Section 32 Officers who are authorized to approve expenditure. This merely increases the pressure points for the application of blandishments, threats and intimidation for payments to be made. Only persons of proven moral and intellectual qualities should hold such designations.

- There is a real lack of qualified Finance Officers in every Department and agency, but particularly in the agencies that expend money;

- Low managerial capability and commitment resulting in declining service delivery;

- No critical analysis of managerial capacity across all agencies;

- Poor or non existent procurement practices delivering poor value for money and quality procurement for Government;

- No action by top management on external or internal recommended changes, reforms or restructuring or on reported irregularities;

- Inadequate or no information and communication technology or infrastructure. For example, current payroll and PGAS budget management systems are not capable of preventing invalid budget codes from being attached to payroll variation advices, purchase orders or payment vouchers. This situation has prevailed for years;

- No regular or recurrent monitoring and review of budget implementation, together with timely corrective action;

- Low level of staff competency, performance and risk management failures;
- Physical separation of staff around PNG;
- Language barriers;
- Ability to hide malpractice and minimal risk of detection and less of prosecution or punishment;
- Failed lines of control and accountability horizontally and vertically across all of Government.

## 58. RESOLUTIONS OF THE COMMITTEE

58.1 The following Resolutions were made unanimously by the Public Accounts Committee:

1. This Report is accepted as the Report of the Committee.

2. The title of the Report is approved in the form:

   **"INQUIRY INTO THE PUBLIC ACCOUNTS OF THE GOVERNMENT OF PAPUA NEW GUINEA FOR THE FINANCIAL YEAR 2006."**

3. The appendices in Schedules to the Report are approved.

4. There is no dissenting Report.

5. The Committee will make this Report to Parliament under Section 86 (1) (c) and (d) ***Public Finances (Management) Act 1995*** with findings and recommendations concerning the Part 1 Reports of the Auditor General for the financial year 2006.

6. That the Committee accepts the findings of the Office of the Auditor General in respect of the Public Accounts in the Part 1 Report for the financial year 2006, and will report to Parliament on necessary changes to the keeping of the Public Accounts as set forth in Section 86 (1) (d) (i – iv) of the ***Public Finances (Management) Act 1995.***

7. To accept and endorse the referrals set forth in Para. 59 herein.

8. To accept and endorse the recommendations in Para. 58 hereof.

9. To accept the qualifications and limitations on audit found by the Auditor General.

10. To reject the Public Accounts for the financial year 2006 as unreliable, incomplete or not based on proper records or accounts.

11. To reject the Public Accounts for the financial year 2006 as not giving a proper, true or fair view of the financial operations or results of Government.

12. To censure Heads of Department and all other accountable Officers for failing to keep, make or submit lawful, timely and accurate financial accounts, records or reports in 2006.

13. To censure Heads of Departments and all other accountable Officers for failing to obey or breaching the ***Public Finances (Management) Act 1995***, the **Constitution**, the ***Financial Instructions*** and/or ***Appropriation Acts.***

14. To censure the Department of Finance for failing to enforce lawful and correct accounting and recording of the use of public monies, property and stores in the financial year 2006.

15. That the Chairman brief the Minister for Finance and the Prime Minister on the findings and resolutions of this Committee.

16. The Committee resolve that this Report will be sent to the Minister for Finance and Treasury and the Prime

Minister with a recommendation for urgent attention to its contents.

17. The Committee resolve to recommend to the National Parliament through the Chairman that a debate of National importance be called pursuant to SO 109 of the Parliamentary Standing Orders concerning the state of management of public monies by Government.

18. That the Committee resolve that the PAC will consider the 2007 Part 1 Report of the Auditor General as soon as possible and Report to the National Parliament as a matter of urgency.

19. That the entire structure, function and performance of the Department of Finance be considered by the National Parliament as a matter of urgency and, if necessary, the Department be removed and replaced with a specialized, competent, controlled and accountable agency to rebuild and maintain or perform the systems of fiscal accounting in Government.

20. That the Committee resolve that the current system of Trust Accounts has failed. Trust accounting and the lawful management and application of monies by the Public Service through Trust Accounts had failed by 2006 and should be replaced.

21. That the Government give urgent consideration to the establishment of a specialized, transparent, accountable, responsive agency staffed by honest,

competent and overseen experts (recruited from overseas if necessary) to manage Trust Accounts and trust monies – in particular monies appropriated for development, infrastructure maintenance and service delivery.

22. That Government accept that the fiscal management by the Public Service has failed at all levels of Government and that this is a matter of first national importance impeding, as it does, Government service delivery and development policies.

23. That the Executive reassert its fiscal power and control by whatever lawful means are available to it.

24. That the Government reassert control over and accountability for the use and handling of public monies.

25. That the Government restore and reassert the Constitutional power and systems of fiscal management as a matter of national urgency.

26. That Government demand and enforce zero tolerance for fiscal mishandling in Government and form a specialized agency to investigate and prosecute those found to be engaged in such conduct.

27. That Government embark urgently on a program of training and capacity building for officers charged with handling or applying public monies. In particular the

establishment of training colleges and ongoing courses of training and retraining throughout the country must be established.

28. That Government recognize that the failures reflected in the Public Accounts directly dictate the reputation and effectiveness of Government itself. Failed Government accounts reflect adversely on the Government concerned and the patent loss of control of public monies by the Executive is a matter of National importance.

29. That Government must immediately institute a competent investigation into the National public debt to establish it with accuracy.

30. That Government must immediately institute an independent investigation into the number of Trust Accounts, the status of each Trust Account, the balance where appropriate of each account, the nature and terms of each Trust Instrument across all of Government including the Provincial Governments, the identity of Trustees, signatories and to obtain reconciliations of Trust Accounts.

31. Devolved accounting functions should be revoked. A central and expert accounting agency capable of timely reporting and accounting should be established. On line daily reconciliations and reports should be introduced and maintained and accounts should be open to all who require to use them.

32. Government should consider the establishment of an expert and fully funded and resourced agency staffed by qualified and effective officers capable of detecting and dealing with corrupt practices in Government and with power to prosecute.

33. Government should consider the appointment of a Minister responsible for reestablishing probity, ethical behaviour and transparency in Government – particularly in the handling of public monies, the keeping of accounts of public monies, the conduct of public officers responsible for same and the application, oversight and effectiveness of development budgets.

34. The Government should effect specialized legislation to deal with illegal conduct by Public officers and proclaim draconian punishment therefore.

35. The ***PF(M)*A** requires updating and modernization as do the ***Financial Instructions***.

36. The ***Audit Act 1986*** requires updating and modernizing.

37. The Public Accounts Committee needs a single, new Act to govern its operations.

38. The IRC should be modernized and given wide power to investigate and prosecute for tax fraud or avoidance.

39. All recipients of monies from Trust Fund Suspense Account No. 2 should be referred to the IRC for investigation to ensure that tax liabilities have been declared and paid.

40. Funding to any agency that does not comply with its requirements under the ***PF(M)A*** of the ***Financial Instructions*** should cease until those requirements are fulfilled.

41. Interference with, defalcation or diversion or misappropriation of monies appropriated for development or service delivery – especially aid donor funds - should be met with severe penalties.

42. All Royalty Trust Accounts should be immediately removed from the control of agencies and vested with trained, independent, experienced, honest and accountable professional Trustees who understand their obligations, duties and liabilities.

43. Interference with or refusal to obey or effect Appropriations made by the National Parliament, should be met with severe penalties.

44. Trustees or signatories responsible for any failure of accounting or proper management of monies in Trust Accounts should be removed, prosecuted and never again be allowed to handle public monies – and certainly not Trust monies.

45. Appointment of senior officers – particularly Heads of Departments should be finally approved by an independent Board constituted of representatives of Church/State/private enterprise and aid donors with power to investigate, interview and refuse appointment.

46. Section 32 Officers should be carefully and selectively appointed and the positions should be made only where the officer is trained, competent and honest.

47. Trustees should be independent of the Department or agency that administers the Trust Account and should never be Head of the responsible Department – in particular the Department of Finance. Professional Trustees who understand their responsibilities and can manage Trust funds should be the only persons permitted to act as Trustees of Public monies.

48. Government Trust Accounts should be real Trust Accounts as that term is known to Law – with Rules, and Trust Instruments which are comprehensible and lawfully effective to protect the Trust, account for monies and control the Trustees.

49. Trustees, before they are appointed, be subject to tuition and testing to establish that they understand the obligations, duties and legal position of a Trustee

and the obligation to properly manage and account for all monies passing through a Trust Account.

50. Trustees should, before their appointment, be subject to a “fit and proper person” test and their conduct and decisions as Trustees be subject to biannual audit by either the Office of the Auditor General or an independent auditor.

51. Signatories to Trust Accounts should only ever be experienced and carefully chosen. They should have clear and precise controls.

52. Every limitation and failure reported by the Auditor General needs to be individually addressed.

53. Government must adequately and properly fund the Office of the Auditor General and the Public Accounts Committee as the ***Constitution*** requires.

54. The NEC should reassert its power and those powers and its control of public monies, should be reasserted by whatever means may be required.

55. Every public servant who has failed to perform his duties under the ***PF(M)A*** or the ***Financial Instructions*** should be immediately replaced.

56. Every public servant who has failed to cooperate with this Committee and/or with the Auditor General should be immediately replaced.

57. That Government immediately recruit, deploy and adequately fund and resource Internal Audit Units in every agency of Government.

58. That Law Enforcement agencies be immediately revitalized, improved, properly staffed and resourced and adequately funded to deal with financial failure and fraud in Government.

59. Proven interference with the discretion or duty of a Trustee should be met with a deterrent punishment.

60. That the form and content of the Public Accounts be modernized and replaced to allow easily read and understood statements.

61. That the recommendations of the Auditor General made in his Part 1 Report for the financial year 2006 be accepted and actioned by Government by any means lawfully available.

62. Accounting processes in all agencies should be reviewed and modernized or reformed in accordance with recommendations by the Auditor General.

63. Asset lists should immediately be established.

64. The Government should demand and obtain Guarantee Register, Loan Register, Trust Instrument Register, Trust Account Register and all other running records which were not produced to the Auditor General.

65. Government must immediately ascertain actual losses and deficiencies.

66. The Government (and the Executive in particular) and the Department of Finance must regain control over and demand accountability of Agency spending.

67. Government must demand an immediate account of Investments and interest earned.

68. Government must study and implement all the recommendations made by the Auditor General and endorsed by this Committee.

## 58. RECOMMENDATIONS;

58.1 This Committee recommends that:

1. The findings and resolutions of the Committee, to be effective, need to be actioned by the Government, without delay.

2. The Government accept this Report, debate same and immediately begin the process of reform and the reestablishment of the Constitutional fiscal scheme.

3. The National Parliament immediately move to rectify the collapse of accountability for the use and application of public monies by the Public Service.

4. The National Parliament immediately reassert the Constitutional system of fiscal management by the Executive.

5. The National Parliament immediately reestablish and enforce the Constitutional power which is the sole province of the Executive.

6. The National Parliament immediately bring the Department of Finance under control and enforce accountability in that Department for fiscal management.

7. The National Parliament re-establish the political and social contract with the citizens of Papua New Guinea and bring the application of appropriated monies under control for the benefit and betterment of the people of Papua New Guinea.

8. The National Parliament of Papua New Guinea accept that the Public Service has failed to lawfully and properly manage, apply and account for public monies, for years.

9. The National Parliament accept that it has failed to enforce and demand lawful and proper fiscal accountability for the use of and transactions with public monies, property and stores, for years. It has failed to understand or fulfil its Constitutional duty in this regard.

10. The National Parliament recognize that the result of this failure has been to cede fiscal power to unelected and unaccountable officers of the Public Service.

11. The National Parliament accept that this failure has resulted in the development and protection of significant abuses of public monies by the very persons charged with lawfully managing and applying public monies to the betterment of our country.

12. The National Parliament accept that this failure has resulted in deteriorating services to our people and a failed system of delivering development to our citizens.

13. The National Parliament accept that, by 2006, the Constitutional system of public fiscal accountability had collapsed and that misappropriation, theft, misapplication, fraud and illegal and improper handling of public monies had become an incident of Governance in Papua New Guinea.

14. The National Parliament accept that the Department of Finance had, by 2006, arrogated to itself sovereign power over the use and application of public monies, often in open defiance of Appropriation and Government policy and directive.

15. The National Parliament accept that it is the only entity that can remedy or rectify the collapse of fiscal management and administration.

16. The National Parliament accept that the Public Service, by 2006, were without control or oversight in their fiscal management and acted with impunity and immunity in their handling of public monies.

17. The National Parliament accept that the major agencies responsible for fiscal management, by 2006, acted just as they wished in respect of public monies and, in many instances, in direct defiance of Law, Constitutional requirements and Government policy and appropriation.

18. The National Parliament accept that, by 2006, there had developed a culture of impunity for Public servants in their dealings with and application of public monies such that the Accounts of the Government of Papua New Guinea were rendered unreliable (at best).

19. The National Parliament accept that there is a collapse of law enforcement in the application of, or obedience to, the ***Public Finances (Management) Act 1995*** and every other dictate of Law relating to fiscal accountability across the entire span of Government.

20. The National Parliament accept that the Auditor General and the Public Accounts Committee are, as a matter of routine, treated with contemptuous disregard by the Public Service – and in particular by the Department of Finance.

21. The National Parliament accept that, by 2006 and continuing to the present, not one Department of

Government can, will or is capable of complying with all lawful requirements of fiscal accounting. Many could not comply with virtually any such requirement.

22. The National Parliament accept that this collapse of accountability is so complete that almost no Agency could, or can, even reconcile or account for its own internal financing – much less deal with or apply development or service orientated appropriations.

23. The National Parliament accept that Government policies, directives, appropriations and funding for service delivery and development are diverted, misappropriated, mishandled or not applied and that there was not in 2006, (or 2008), any competent, lawful or proper accounting or record of the application of money for these purposes.

24. The National Parliament accept that there is a direct correlation between the collapse of public fiscal accountability and failure of service delivery.

25. The National Parliament accept that the failure of service and development delivery will, and has already, resulted in significant social unrest. In other words, the loss of Parliamentary power and fiscal control, and thereby policy implementation, has created an increasingly angry, impoverished and disillusioned citizenry.

26. The National Parliament accept that the collapse of public fiscal accountability is a failure of Government and a failure

of the National Parliament and Executive to understand or fulfill its Constitutional role.

27. The National Parliament must accept that this collapsed system cannot continue.

28. The National Parliament must accept that there is no more urgent issue of national importance than the collapse of fiscal accountability and the attendant collapse of law enforcement that has allowed this to occur.

29. Government should seek assistance and expertise wherever it can to replace failed individuals, failed systems and intentional refusal by Officers of the Public Service to act properly and lawfully.

30. The Department of Finance be brought under control and be made accountable. The Department could not and cannot control public spending or fulfill even basic accounting tasks. Government should seriously consider degazetting the Department and replacing it with a specialised accounting and fiscal agency to guide and implement development and service delivery budgets.

31. Power to expend monies be removed in whole or in part from the Department of Finance pending restructuring of that Department.

32. A new and specialized agency is required to control, approve and account for the expenditure of public monies. If necessary, that agency should be recruited from private

enterprise and/or from overseas if the necessary expertise cannot be sourced in Papua New Guinea.

33. Decentralised accounting has failed. No agency or Department of Government has the expertise or capability to account for the use of or transactions with public monies. Either the devolution is reversed and made the task of a specialised and effective independent agency or a very significant training and oversight effort must be injected into public accountability at every level of Government right down to LLG, District and Board level – and even then, we doubt that decentralized accounting can succeed.

34. The number of Section 32 Officers be strictly circumscribed and that delegation to expend public monies must be restricted to officers with a proven record of honesty and who are trained and experienced.

35. Ministers must assume responsibility for transparent accounting by their Departments and not acquiesce in the current failed system.

36. The culture of impunity attending failure and malpractice in our Public Service should be addressed immediately. There is no fear of detection or sanction for fiscal mishandling – and there must be.

37. Senior management has failed to enforce standards of accounting required by Law and no analysis of capability has ever been conducted – this must change.

38. The ***Public Finances (Management) Act 1995*** and ***Financial Instructions*** be updated and modernized.

39. The ***Audit Act 1989*** be updated and modernized.

40. The Public Accounts Committee draft Bill be enacted to modernize and empower the PAC.

41. Executive power must be reasserted over fiscal management and power over and accountability for expenditure reclaimed by the Executive.

42. Ongoing training and supervision of accounting staff must be implemented and maintained at all levels of Government.

43. Departments and agencies that fail to make statutory records or accounts should be penalized by a reduction of funding or removal and replacement of failed staff and management. There should be zero tolerance for failure or refusal to comply with the requirements of the ***Public Finances (Management) Act 1995.***

44. Inadequate IT systems need urgent attention and rectification. The fact that PGAS budget management systems cannot prevent invalid budget codes is totally unacceptable. The fact that PGAS and TMS cannot communicate is not acceptable.

45. Qualified Finance Officers only should be deployed in self accounting agencies and constantly controlled and

overseen. Ready assistance and advice should be available to these Officers if it is required.

46. No agency should be designated as self accounting unless strict prerequisites are met. Departments and agencies considered by this Committee were bad enough when they were not self accounting, but since gaining this status, they have failed completely to keep even basic accounts or records.

47. The oversight and monitoring agencies should be properly and fully funded. The Office of the Auditor General is simply unable to meet its mandate due to lack of resources and this is not acceptable – or lawful.

**Format of the Public Accounts:**

48. There is a need for improved financial reporting and an improved format for the Public Accounts. The current system is voluminous and not easily read or understood.

49. An improved systematic approach to presenting Government financial information needs to be implemented.

50. We recommend a format or Report similar to that used by corporations in the Public Sector and/or public sector entities in other countries. This would allow a reader who is not an accountant to easily find and understand the information.

51. The "**Financial Reporting under the Cash Basis of Accounting"** standard is used by other countries and would seem to be suitable for Papua New Guinea.

52. Although the Department of Finance has issued instructions for Departments to use this standard, the Department does not seem to use it itself and it should.

53. Timely reporting and auditing of Public Accounts receipts and expenditure would assist the Parliament in its assessment of the finances of the State.

54. Rather than allowing the Minister for Finance to provide a detailed statement of receipts and expenditure as soon as possible after the end of the fiscal year, the **PF(M) A** should require these statements to be produced by the end of March to allow audit by the end of June.

**Modified cash basis of accounting*:***

55. Revenue and expenditure are accounted for by Government on a cash basis i.e. when the cash is received and not when revenue is earned or expenditure incurred. Cheques are accounted for when raised and issued – not when the cheque is presented at bank. However, the Department of Finance applies a modified cash basis of accounting – contrary to the publicly disclosed accounting policy. This distorts the Public Accounts and should not be permitted.

**Control over Appropriation limit:**

56. Controls over payment of public monies are not sufficiently robust to prevent spending over appropriation limits. The following should be instituted by Government:

- The new Financial Management System currently under development at the Department of Finance should have in built controls to prevent payments over appropriation limits.

- Senior management of the Department of Finance should be held accountable for overspending appropriation because overspending by entities results from a failure by those Officers to control public spending.

- There should be regular monitoring and review of budget implementation together with timely corrective action by the Department of Treasury.

57. Budgetary framework should include a programmed supplementary budget process which would allow entities to submit requests for mid-year funding for unforeseen circumstances.

**Transactions after the end of the accounting period:**

58. This practice demonstrates poor internal controls and constitutes poor or crisis management across all agencies. The Department of Finance should be required to monitor the monthly reconciliation of PGAS and TMS to ensure that the variations are promptly corrected.

59. The Department of Finance should be required to reconcile clearing accounts each month so that outstanding amounts are cleared promptly.

60. Government must, by any and all means available, demand and enforce accountability of senior managers to act on recommendations made by review bodies, including internal and external audit and audit committees.

61. Audit units must be immediately deployed and properly resourced at all levels of Government to oversee and enforce accountability and lawful handling of public monies.

**Trust Accounts:**

62. The system of Trust Accounts established by the ***PF(M)A*** has failed to ensure either the proper and lawful handling of public monies or to effect Government policy – especially development and service delivery.

63. Trust Account accounting by Trustees and responsible officers had collapsed by 2006 and has not improved since.

64. The Auditor General could not audit the Trust Account due to a lack of records or accounts for individual accounts comprising the whole.

65. There was and is widespread and significant misconduct, misappropriation and defalcation by Trustees and/or signatories across the whole span of Government from National agencies right down to District level.

66. There was significant misappropriation and misconduct toward Trust Accounts and the funds in them, within the Department of Finance itself.

67. Trustees regularly breach their duties and obligations with no fear of detection or punishment.

68. The system of oversight and control of Trust Accounts had failed by 2006 and remains in a state of failure.

69. There is no register of Trustees, accounts, bank accounts, Trust Instruments or monies held in Trust Accounts.

70. Neither the Committee nor the Government know or can ascertain the number of Trust Accounts, the amount of money in them, the true balance of the Trust Account, the identity of Trustees, the terms of Trust Instruments or any other incident of the Trusts.

71. Trust Accounts are regularly overdrawn – a legal impossibility.

72. Trust Accounts were and are abused and funds mishandled on a daily basis.

73. The Department of Finance is both unwilling and incapable of managing, controlling or enforcing lawful accounting requirements for Trust Accounts.

74. As we have reported in past Inquiries, Departments responsible for service delivery, co-ordination, development and applying appropriated monies for these purposes have failed to do so and treat Trust monies as they please – often as acting on political or other direction or pressure.

75. By 2006, not one agency of Government complied with all Trust Accounting requirements and almost all obey none of those requirements. This situation still prevails.

76. Trust Funds are hidden and records were and are intentionally not kept, we believe to avoid audit and detection.

77. Mishandling of Trust Accounts and the money in them was so widespread by 2006, that the Executive had lost all control over this aspect of Government and therefore failed in its Constitutional duties.

78. In this regard, the Public Service had, quite illegally, assumed unfettered power of and discretion over the use and application of Trust monies, regardless of Appropriations in many instances. That power has been used in a further

unlawful fashion and public monies misappropriated on a huge scale. This situation prevails in 2008.

79. Trust Instruments, when they can be found, are poorly drawn, often ambiguous (where they make any sense at all) and often outdated.

80. Trust Accounts which had been closed are still operating.

81. Trust Accounts which had been unused for years are still open.

82. Trust Accounts recorded as having a nil balance actually had funds at bank.

83. Trust Accounts shown as having balances at bank actually had nil balance.

84. The senior line Departments of Government responsible for administration of Law and Justice acted illegally and unconstitutionally in its handling of Trust monies and Trust Accounts.

85. By 2006, the very Department responsible for proper and lawful administration of Trust Accounts and accounting functions, the Department of Finance had, as a matter of course, engaged in illegal, unconstitutional and significant mishandling and application of Trust Accounts and funds under its control.

86. Law enforcement systems and agencies intended to control and account for Trust Accounts and Trust funds had, by 2006, failed. This failure continues.

87. Trustees were clearly incapable of understanding their duties. This situation continues currently.

88. The refusal and failure to keep records, make reconciliations or accounts of Trust Accounts or funds was intentional. This had, by 2006, lead to huge misappropriation, mishandling and diversion of funds to non-appropriated purposes.

89. This misconduct was so significant that it has derailed National service delivery and National development and very largely rendered Government impotent to effect its Plans and Policies. In many ways, this single collapse of accountability has, and continues to, impoverish and marginalize many of our citizens through failed health, education and other service provision.

90. The law of Trust establishment, management and control in the ***PF(M)A***, was and is ignored by Trustees and is ineffective and outdated.

91. Penalties for mishandling of Trust funds or Accounts are inadequate.

92. A culture of impunity has developed in the Public Service behind which unelected and unaccountable individuals access and misuse public and Trust monies.

93. Trustees should be persons of the highest repute and proven probity who understand their duties, act independently and exercise their discretion in accordance to precise rules and stated intentions. Trustees appointed to manage trust accounts of Government do not meet these requirements.

94. Considering the chaotic, dishonest, incompetent, corrupt and failed mismanagement of the system of Government Trust Accounts that existed in 2006 and for years before that (and that exists still), Trust Accounts or at least monies appropriated for development and service delivery should be removed from the Public Service pending reform of that entity and given to a specialized Trust agency constituted by persons of proven expertise, independence and probity guided by precise Trust Rules and charged with properly and fruitfully implementing Government development and service delivery policies and the appropriated funding therefore, by lawful and accountable management of Trust Accounts.

If such persons cannot be recruited in PNG, international recruitment should be made. Other countries do so, and so should we.

95. Government should consider whether Trust Accounts are the proper and responsive mechanism to effect lawful application of public monies. The current system established by the ***PF(M)A*** does not establish true Trust Accounts or a real Trust relationship with appointed Trustees as those concepts are known to Law. We recommend that the method of

conduiting money from Government and applying public monies be carefully considered.

96. Royalty Trust Accounts have been significantly abused by Trustees and public servants in 2006 and to the present day.

97. Government should immediately remove Royalty Trust Accounts and every other trust Account that contains or administers money held for Landowners or resource owners from the Public Service and vest those Accounts in a specialized, independent, expert agency operated by professional, educated, experienced and honest Trustees.

98. Fault for the failure of Trust Account management lies not only with those citizens who have abused and misappropriated Trust monies. It was also a direct result of a failure of governance, oversight and control by the Executive and the National Parliament to fulfil their Constitutional duties and roles.

99. Those agencies, the Auditor General, this Committee and fiscal governance in general has been hostage to intentional, planned and deliberate refusal to act lawfully and to account properly (or at all) for the use of public monies – in particular the huge amounts in Trust Accounts – by the Public Service who, by 2006, had abandoned any pretence of lawfully managing Trust Accounts for the National good.

100. In the interest of our future, our viability and our peoples welfare, this situation must change and change immediately.

## 59. REFERRALS.

1. There is little point in referring Public Servants for investigation or prosecution for events that occurred in 2006. The Royal Papua New Guinea Constabulary seems incapable or unwilling or both of investigating or prosecuting complex fiscal crime, time has probably elapsed for prosecution due to the gross delays in producing and tabling the Public Accounts and the Reports of the Auditor General, the Auditor General has made some referrals in the past with no success, this Committee has made many referrals in the past four years with no action taken by any law enforcement agency and if we were to refer accountable Public Servants for failure to perform their duty or fiscal mismanagement, there would scarcely be an officer who would remain.
2. In summary, the very culture of impunity that we have identified in this Report means that any referral by us would be a hollow gesture – and it is high time that the National Parliament realized the extent and terrible effect that this collapse of law enforcement has had on our National Institutions.

3. Despite our first comments in this Paras. 1 and 2, we do refer the Trustees and signatories and the Head(s) of the Department of Finance in the period 1999 – 2006 to the Ombudsman and the Constabulary for full investigation and possible prosecution for their respective roles in the conduct of Trust Fund Suspense Account No.2 in that period.

4. We also refer those parts of this Report and the Part 1 Report of the Auditor General for 2006 which deal with Trust Fund Suspense Account No.2 to the Office of the Attorney General and the Solicitor General with the strong recommendation that those Offices consider whether any grounds exist to issue civil proceedings against the Trustees of that Account for a full and complete account of monies passing through the account and possible recovery of misapplied money from those persons personally.

5. We also refer the same parts of both Reports to the Internal Revenue Commission with a strong recommendation that all recipients of payments from this Account be subject to a tax audit and investigation to ensure that relevant tax and other imposts have been paid or declared.

6. This Report and the Part 1 Report of the Auditor General for 2006 is referred to the Office of the Ombudsman for consideration as to whether any breach of the Leadership Code has occurred.

**60. CONCLUSION.**

1. The Committee has been deeply concerned by the revelations made during and as a result of this Inquiry.

2. The gross neglect of duty, defiance of our Constitution and Laws and the sheer waste, misappropriation, inept and deviant handling of public monies and the absence of

accounts, records or even the most basic reconciliations, is clear evidence of deliberate and planned diverting of Government policy and appropriated funding by unelected and unaccountable individuals.

3. This has led to the Public Accounts of the Government of Papua New Guinea being unreliable and misleading and their disclaimer by the Office of the Auditor General.

4. This Committee rejects the Public Accounts for the year 2006 and censures every agency of Government and every Head of Department for a failure to make, keep, submit or produce even fundamental statutory records or accounts in 2006.

5. The National Parliament must address this National state of failure immediately. The future, viability and reputation of the Government of Papua New Guinea and the welfare of its citizens demand it.

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**Signature of the Chairman**

**Hon. Timothy Bonga OL MBE MP**

**Date of adoption by the Committee: 2009**

## SCHEDULE ONE

## LIST OF WITNESSES

**25th May 2009**

| Names of Witnesses | Comments |
|---|---|
| Mr. Simon Tosali | Secretary – Treasury |
| Mr. George Sulliman | Auditor General |
| Ms. Marina Cvetanovska | Office of Auditor General |
| Philip Nauga | Office of Auditor General |
| Gabriel Koh | Office of Auditor General |
| Mr. K. Mahendran | Office of the Auditor General |
| Mr. C. Doss | Office of the Auditor General |
| Mr Enoch Elpat | Department of Treasury |
| Mr Frank Gaudi | Department of Finance |
| Ms Jo Hoffman | Department of Finance |
| Mr Mario Cueva | Department of Finance |
| | |

# SCHEDULE TWO

## LIST OF EXHIBITS AND DOCUMENTS BEFORE THE INQUIRY