MINISTRY OF PLANNING AND DEVELOPMENT
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July 31st, 2020

Ms. Jacqui Sampson-Meiguel
Clerk of the House
Office of the Parliament
Parliamentary Complex
Cabildo Building
St. Vincent Street
PORT OF SPAIN

Dear Ms. Sampson-Meiguel,

The Twenty-Sixth Report of the Public Accounts Committee on the Examination of the Audited Financial Statements of the Environmental Management Authority for the financial years 2010 to 2012 and the Authority's expenditure and internal controls for the years 2010 to 2018

Your letter Parl.: 5/2/60 dated June 24, 2020 on the subject at caption refers.

Please find attached the response of the Ministry of Planning and Development to the Committee's recommendations on the Twenty-Sixth Report of the Public Accounts Committee on the Examination of the Audited Financial Statements of the Environmental Management Authority for the financial years 2010 to 2012 and the Authority's expenditure and internal controls for the years 2010 to 2018.

Sincerely,

Honourable Cherrie-Ann Crichlow-Cockburn
Minister in the Ministry of Planning and Development

Enc.

Ministerial Response to the Issues/Recommendations contained in The Twenty-Sixth Report of the Public Accounts Committee on the Examination of the Audited Financial Statements of the Environmental Management Authority for the Financial years 2010 to 2012 and the Authority's Expenditure and Internal Controls for the years 2010 to 2018

INTRODUCTION

The Environmental Management Authority (EMA) in executing its mandate is committed to sustainable development, defined in the Brundtland Report as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". It is understood that economic development, social development and environmental management are interdependent, indivisible and mutually reinforcing components of sustainable development.

The 2018 National Environmental Policy (NEP) articulates the priorities determined by the people of Trinidad and Tobago as critical to achieving environmental sustainability and ultimately, sustainable development. This NEP reflects and strengthens the environmental pillar of Trinidad and Tobago's sustainable development thrust – focusing on sustainable management of the country's environmental assets rather than on the narrower concept of environmental protection, which tends to bring into conflict the environment and development.

The EMA has noted the issues and recommendations highlighted by the Public Accounts Committee (PAC) in its the Twenty–Sixth Report of the Eleventh Parliament which details its examination of ***the Audited Financial Statements of the Environmental Management Authority for the financial years 2010 to 2012 and the Authority's expenditure and internal controls for the years 2010 to 2018***, and the following is the EMA's response.

1. FUNDING

RECOMMENDATION 1:

(i) *The EMA should submit a report identifying the following:*

a. *the potential local and international sources of grant funding;*
b. *the Authority's plans to apply for such monies and the relevant timelines;*
c. *the sums involved; and*
d. *the ways in which these sums would strengthen the delivery of the Authority's projects.*

RESPONSE:

The landscape of environmental funding is dynamic and ever-changing, but it is important to note that pure grant funding is a small, and arguably diminishing, source of funding for environmental projects. These funds can be categorized as being local (national), bi-lateral (from a foreign country to another) or multi-lateral (pooled resources from multiple donor countries/organisations to another). It must also be distinguished that among donors, there are some funds that primarily target environmental objectives, while others may significantly benefit the environment even though finance may target another objective (e.g. Overseas Development Assistance [ODA] programmes).

Historically, the main source of the EMA's grant/project funding has been Trinidad and Tobago's Public Sector Investment Programme (PSIP), with some additional funding from the Green Fund of Trinidad and Tobago, and international donor agencies such as the European Union and the Global Environment Facility.

The following are current and potential local and international sources of funding that EMA is actively pursuing.

1. <u>Trinidad and Tobago Public Sector Investment Programme (PSIP):</u>

   The EMA is committed to the effective management of air quality and the continued assessment of pollution levels. As such, ambient air quality monitoring is an integral part of the Ambient Air Quality Management Programme for Trinidad and Tobago.

   The 2018 NEP, Section 2.02, Air Pollution, states that Government's policy is to "Mobilise resources, and seek global partnerships to secure resources, for the development of a national network of ambient air quality monitoring stations to provide accurate, real-time assessments of ambient air quality throughout Trinidad and Tobago." The Government of the Republic of Trinidad and Tobago (GORTT) is also committed to achieving the specific United Nations Sustainable Development Goals that relate to air quality: Goal 3 (Health), Goal 7.2 (Access to clean energy in the home), Goal 11.6 (Air quality in cities), Goal 11.2 (Access to sustainable transport), and Goal 13 (Climate change). The EMA recognizes the need to establish an Ambient Air Quality Management Programme (AAQMP) in order to achieve its broader mandate, and the policy objectives and commitments of the GORTT.

   Hence, in 2018 the EMA embarked on the project entitled "Establishment of an Ambient Air Quality Management Programme". The objective of the project is to establish a national Ambient Air Quality Monitoring Network (AAQMN) to collect data that can be used to make informed decisions to best manage and improve ambient air quality and safeguard human health and the environment; and develop and implement a real-time Air Quality Index (AQI) for Trinidad and Tobago. The EMA applied for PSIP funding for the establishment of the network and successfully received funding to establish one (1) station in Tobago in 2018. In 2019 the EMA launched the Air Quality Index (AQI) which reports air quality information to the general public. PSIP approval and funding was also received for two (2) additional stations for south and east Trinidad, which will be established by December 2020.

An additional proposal for PSIP funding was submitted for 2020/2021. This proposal seeks to secure funding to incorporate two (2) additional AAQM Stations for deployment in Trinidad, one of the locations being northeast and the other southwest of the Island. The project is envisioned to be executed over a 12-month period. Air quality data management software will be used to link the additional stations remotely, compile the data into an inventory system, perform data validation and produce an AQI that can be disseminated in real-time to the public. The AQI will graphically display the connection between air quality and health.

The project is estimated at a total cost of $3,388,183.00.

2. Trinidad and Tobago Green Fund:

The EMA is exploring the possibility of applying to the Green Fund for acquisition of Black Carbon analysers to incorporate into the Ambient Air Quality Monitoring Network.

Traffic contributes to a range of gaseous air pollutants being emitted into the atmosphere, which includes black carbon, a short lived climate pollutant (SLCP) and hazardous air pollutant. According to the Climate and Clean Air Coalition (CCAC), black carbon is an important contributor to warming because it is very effective at absorbing light and heating its surroundings, with a warming impact on climate that is 460-1,500 times stronger than Carbon Dioxide (CO2), per unit of mass. Black carbon and its co-pollutants are key components of Particulate Matter (PM2.5) air pollution, which causes a range of diseases, including chronic bronchitis and asthma, as well as premature deaths from cardiopulmonary disease, lung cancer, and acute lower respiratory infections. A compromised respiratory system makes an individual more vulnerable to respiratory illnesses such as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). In addition to persons being exposed during commute, a large number of persons reside in communities located in proximity to the highways and other major roads throughout the nation.

It is in this context that the EMA proposes to quantify the extent of black carbon pollution in Trinidad and Tobago. Baseline data is essential to determine the extent of the air pollution problem, as no local studies have been conducted. The data will aid in decision making and provide a sound technical basis for implementing strategies and plans to reduce vehicular emissions, target key sources of pollution and improve climate, air quality and health.

The objectives of the proposal are:

1. To quantify, through monitoring, the extent of black carbon pollution at three (3) sites in Trinidad and Tobago;
2. Develop data driven targeted strategies and plans to reduce its emissions and improve climate, air quality and health;
3. Establish a national emissions inventory of black carbon; and
4. Use the data and experience to expand the monitoring plan to cover all Ambient Air Quality Monitoring sites in Trinidad and Tobago.

This project will be included in the EMA's 2020/2021 work programme. The estimated cost of the project is $550,000.00.

3. <u>Climate and Clean Air Coalition Action Programme (CCAC) Funding (international):</u>

In collaboration with the Pan American Health Organization, the EMA submitted a proposal for funding on 29 June 2020, for USD $80,000.00, for the project entitled: "Increasing ambition by estimating the health co-benefits of integrated air pollution and short lived climate pollutants mitigation actions in Trinidad and Tobago."

According to the World Health Organization (WHO), in 2016, 44 deaths per 100,000 inhabitants were attributable to air pollution in Trinidad and Tobago (WHO, 2018). This is one of the highest death rates attributable to ambient air pollution in the Americas. The WHO estimations for Trinidad and Tobago were based on modelled PM2.5 concentrations that could lead to increased uncertainty. Since then, the country has deployed and strengthened a nationwide Ambient Air Quality Monitoring Network (AAQMN) that produces publicly available real-time air quality information. In June 2020, Trinidad and Tobago joined the *BreatheLife* campaign to showcase its action and raise awareness among its citizens, being the first Caribbean country to join the network. Trinidad and Tobago's effort to establish and expand its air quality monitoring network positions the country to improve the estimation of the air pollution burden of disease; identify the synergies between short lived climate pollutants (SLCPs) mitigation actions and air quality management, and raise awareness among the public and decision-makers about air pollution and its health impacts.

The deliverables of the proposed project include:

1. Report and training on the estimation of the Air Pollution Burden of Disease and Sustainable Development Goal indicators 3.9.1 and 11.6.2;
2. Integrated Road Map on air quality, short lived climate pollutants and health; and
3. Delivery of a workshop with key stakeholders and a regional virtual meeting.

Other CCAC funding opportunities to be explored (international):

a. The small scale funding window (with an overall 500K envelope per year) supports strategic/time sensitive proposals of up to 100K that are approved by the Steering Committee. They can be submitted at any time to the Secretariat by CCAC partners.
b. Through the Solution Centre public entities can request expert assistance on technological options, mitigation measures, funding opportunities, application of measurement tools, and policy development.

4. Green Climate Fund

The EMA is currently undertaking the processes of becoming an Accredited Entity to the Green Climate Fund (GCF) which will allow the country to have direct access to the largest international pool of climate financing. However, to achieve this it must first build its capacity to become accredited, and it is successfully doing this with the help of GCF money released through its Readiness and Preparatory Support Programme. A first Readiness project was completed in October 2019 with the help of PricewaterhouseCoopers.

The EMA will apply for a second Readiness Project by 31 July 2020 with the help of the Caribbean Community Climate Change Centre. This second application to the GCF for Readiness and Preparatory Support will significantly improve the delivery of present and future projects of the EMA. It focuses on developing the EMA's capacity in the areas of fiduciary management, project management, environmental and social safeguards, and gender. New policies, procedures and systems developed and implemented in these areas will make the authority more transparent, accountable, and efficient at delivering climate change projects and beyond.

The sum of money to be applied for as part of the second Readiness and Preparatory Support is projected to be approximately $400,000 USD.

5. BIOPAMA Action Programme's Rapid Response Grant facility

In the context of biodiversity, the EMA is considering making an application for grant funding to the BIOPAMA Action Programme's Rapid Response Grant facility. The BIOPAMA is collaborative, biodiversity programme funded by the EU and the African, Caribbean and Pacific Group of States. The Rapid Response Grant is specifically for increasing the resilience of protected areas and local communities' livelihoods facing the risks and difficulties of the global COVID-19 pandemic. Pending approval from the Management Advisory Committees of the Environmentally Sensitive Areas, the application would be submitted before 31 December 2020. The BIOPAMA grant will strengthen the relationships between the EMA and its stakeholders which have a critical role in managing protected areas. These bonds of trust are priceless to the delivery of future collaborative efforts.

The sum of money applied for under the BIOPAMA Rapid Response Grant is $50,000 EUR.

RECOMMENDATION 1 (ii) – *The EMA should submit a copy of its Investment Policy by July 31, 2020.*

RESPONSE:
A copy of the EMA's Investment Policy and Procedures (March 2019) is attached as **Appendix 1**.

2. CONTRIBUTION TO NATIONAL REVENUE

RECOMMENDATION 2 (i)

The EMA should explain the reason for recent sharp decline in sums collected in respect of violations and damages by July 31, 2020.

RESPONSE:

The EMA's Compliance and Enforcement regime received judicial scrutiny in the matter of **Concerned Residents of Cunupia v Environmental Management Authority and RPN Civ App. No. P 195 2015**. Given the dicta of the Court, the Authority was required to implement important changes in its enforcement response which impacted on the financial penalties instituted against Violators. Reflected below is a synopsis of the Judgment of the Court and the resultant impacts on the enforcement processes of the EMA, that have contributed to a decline in sums collected in respect of violations and damages.

Background Facts

Concerned Residents of Cunupia ("CROC") challenged the establishment in 2011 of a concrete batching plant in their community by RPN Enterprises Limited ("RPN"). The RPN did so contrary to section 35(2) of the Environmental Management Act Chap 35:05 ("the Act") which imposes a mandatory requirement to apply for and obtain a Certificate of Environmental Clearance (CEC). The RPN later applied for a CEC but this application was the subject of a Notice of Refusal by the Authority. The Authority then issued and served a Notice of Violation on RPN which the Parties resolved by entering into a Consent Agreement which permitted the operation of the plant subject to certain conditions and contained a financial penalty.

Justice Dean-Armorer in the High Court ruled for the Authority on the basis that the Authority did not Act illegally when it entered into a Consent Agreement without first requiring RPN to obtain a CEC and that CROC had committed material misrepresentation/ non-disclosure.

The Findings of the Court of Appeal

On November 17, 2017 the Court of Appeal found in favour of CROC and reversed the decision of Justice Dean-Armorer in the High Court concluding that the Authority's decision to enter into a Consent Agreement with RPN was illegal. The Court of Appeal reasoned that the contention that the jurisdiction to issue a CEC is somehow terminated once the activity has commenced and the facility becomes operational because a different regulatory regime applies – that is, enforcement and compliance provisions under s. 62, is misconceived.

The Pre-Judgment approach of the Authority to the CEC application process

- The understanding that after establishment no CEC can be processed for the operation of the facility; and
- The practice that a different regulatory/permitting (the Consent Agreement) regime applies in circumstances where the Applicant for a CEC embarks on the Designated Activity without securing a CEC. The Consent Agreement would contain a financial penalty.

The Effects of the Judgment on the systems of the Authority

The Judgment of the Court of Appeal in the CROC matter required a sea change in the *modus operandi* of the Authority, the approach to the CEC application process, its enforcement regime and consequently the financial penalties contained in a Consent Agreement. The following effects should be noted:

- The deepening of the Authority's established relationships with other institutional stakeholders, for example Town and Country Planning Division ("TCPD") in accordance with section 38 of the Act, the fourteen (14) Regional Corporations and the Public Health Department was pursued. The Authority and TPCD met on October 30, 2017 and decided the following:
    1. To institute written changes on the CEC Receipt of Application Form that accompanies the CEC application form (namely an indication whether an application for planning permission was made or not);
    2. Weekly updates from TCPD on the total number of CEC applications received at the various TCPD offices so that the Authority could cross reference with its own; and
    3. Shape file of the most recent Land Use Map for Trinidad and Tobago to be supplied to the Authority.

  It should be noted that in the instant matter RPN was refused planning permission by TPCD which resulted in the relocation of the concrete batching plant;

The Authority will now be required to issue CECs for the operational stage of a Designated Activity. Previously, the Authority had been engaged in permitting the operational element of a Designated Activity through the Enforcement process via the entering into a Consent Agreement which included a financial penalty and mitigation measures. The Court has ordered that this practice cease and the Authority require violators to apply for and receive a CEC which will include conditions for the operation of the Facility

RECOMMENDATION 2 (ii):

The EMA should provide a forecast/example of how much a progressive penalty scheme would increase revenue collection.

RESPONSE:

Under the 2019 Water Pollution Rules (WPR), the Annual Discharge Fee/Permit Fee is calculated for all the effluent discharges from a facility as identified in the issued Water Pollution Permit (WPP). It is calculated at the end of each monitoring year. For example if the WPP is issued in 2020, in 2021 the Annual Discharge Fee for 2020 will be due. The Annual Discharge Fee Calculation is described below.

Annual Discharge Fee Formula:
DF= MI + B – U

DF is the annual discharge fee;
MI is the annual monitoring and inspection fee per facility;
B is the pollutant discharge fee considering the sensitivity of the receiving environme
(annual for all relevant pollutants and for all discharge points);
U is the savings fee from the beneficial use of effluent (annual for all discharge poin
used for irrigation or other beneficial use)

At present, the WPP applications under the 2019 Water Pollution Rules do not have the data to conduct an estimation, given the early stages of implementation. From the WPR 2001 (as amended) there are five (5) facilities from which data could be utilized to provide the estimated Annual Discharge (DF) Fees. For these five (5) facilities the expected Annual Discharge/Permit fees by 2021 are presented in **Table 1.**

Table 1: Estimated First Year Annual DF for five (5) facilities in 2021 (based on WPR, 2001)

Facility Size	# facilities	Facility Type	Estimated Discharge Fee TT$
Small	2	Chemical Manufacturing	88,210
		Poultry Processing	62,945
Medium	1	Petroleum Tank Farm	228,314
Large	2	Chemical Manufacturing	1,682,253
		Food and Beverage	906,009
TOTAL (5 facilities)			**TT$2,967,731**

As indicated, it is difficult to provide estimates for 2022 to 2025 for these facilities during the early phase of implementation of the WPR 2019.

RECOMMENDATION 2 (iii):
Given that the fees currently in force were established in 2001, the EMA should seek to have the fee structure reviewed. The EMA should consider the possibility of setting higher noise pollution-related fees/penalties to derive more income for the Consolidated Fund and submit a report by July 31, 2020.

RESPONSE:

<u>WATER POLLUTION</u>

Water Pollution (Fees) Regulations were revised in 2019. The major changes were:

a. Fixed fee for Water Pollution Permit application (initial $2,500 and renewal $5,000) was removed. The application fee is now based on total volume effluent discharge from a facility.

Facility Type	Effluent Discharge Volume (m^3/day)	Initial application fee TT$	Renewal application fee TT$
micro-/mini	<10	14,000	5,800
small	10-100	15,000	5,900
medium	100-500	18,000	6,400
large	>500	20,000	6,600

b. Fixed Annual Permit Fee (initial $10,000 and renewal $15,000) was removed. This will be calculated annually by the EMA. The calculation is based on pollutant load (facility's effluent discharge), EMA's Monitoring and Inspection Fee, as well as Beneficial Use.
c. Encouragement of wastewater re-use through Beneficial Use Discount.

NOISE POLLUTION

The Noise Pollution Control (Fees) Regulations, 2001 prescribes the fees associated with Noise Variations as outlined in the Schedule. These fees are outlined in **Table 2.**

Table 2: Noise Pollution Control (Fees) Regulations, 2001

NPCR Rule	**Description**	**Fee**
9(5)	Annual Fees for a Variation for a period in excess of one year	$2500.00 per annum or part thereof
10(1)(c)	Application for a Variation - Single event - Multiple events	 $250.00 $1000.00
17(1)	Application for changes after grant of Variation	$250.00
18(4)	Application for transfer of Variation	$250.00
19(1)	Application for renewal of Variation	$2000.00
19(4)	Annual Variation fees for a renewed Variation for a period in excess of one year	$5000.00 per annum or part thereof
25(1)	Application that Information Supplied be omitted from the Noise Variation Register	$250.00

The Noise Pollution Control Rules (NPCR) has not been revised, amended or updated since 2001. The EMA has developed recommended amendments to the NPCR, to improve its effectiveness and relevance in a modern society. As such, work is in progress to develop an accompanying revised fee schedule has been developed for alignment to those recommendations. The recommended fee categories are as follows:

1. Registration Certificate
    - Application Fee
    - Renewal Fee

2. Permits: Event Variations
    - Single event
        - Application fee per day **or** fee based on activity: nature, scale, potential impact
    - Multiple event
        - Application fee
    - Special purpose
        - Application fee
        - Renewal

3. Permits: Facility Variations
    - Facility Variation
    - Renewal of a Facility Variation
    - Transfer of a Facility Variation

4. Notice to Public re: Noise Variation application – fee for placement on EMA's website

5. Application for Extract from the Noise Register

6. Application for a Confidentiality Claim

7. Bonds:
   - Individual
   - Company

The proposed fees have not yet been calculated, however the following factors will be considered in determining these fees:

- Administration – administrative costs.
- Monitoring – cost of the equipment (capital and maintenance) required for the monitoring of compliance with permissible levels, as well as the personnel costs.
- Enforcement – repeat offenders mechanism whereby repeat violators of the requirements of the NPCR will be required to place bonds which increase incrementally with each violation.
- Impact on receptors – a disturbance factor is proposed.

<u>CERTIFICATE OF ENVIRONMENTAL CLEARANCE</u>

THE CURRENT FEE STRUCTURE

The Certificate of Environmental Clearance (CEC) (Fees and Charges) Regulations, 2001, sets out the fees payable for activities defined in the CEC (Designated Activities) Order, as amended, as follows:

1. The fee payable to the Authority for and in relation to—
   (a) an application under rule 3(1) is $500.00;
   (b) an extract from the Register under rule 9(2) is $0.50 per page; and
   (c) a transfer of Certificate under rule 11(3) is $500.00.

2. The charges payable to the Authority for and in relation to the processing of an Environmental Impact Assessment (EIA) under rules 4(1)(d) and 5(1)(c) are as follows:

   a) in respect of activities listed in items 1, 2, 3, 4, 5, 6, 10, 11, and 31 is $5,000.00;

   b) in respect of activities listed in items 7, 8, 9, 13,14, 15, 16, 17, 18, 33, 38 and 43 is $10,000.00;
   c) in respect of activities listed in items 22, 23, 30, 32, 35, 37, 40, 41 and 44 is $20,000.00; and

d) in respect of activities listed in items 12, 19, 20, 21, 24, 25, 26, 27, 28, 29, 34, 36, 39 and 42, is a minimum of $100,000.00 and a maximum of $600,000.00.

The services for which charges are payable include consideration of applications, and the use of specialised expertise external to the Authority, site inspections and the preparation of Terms of References.

In the case of the CEC Application Fee, the $500.00 is a flat application fee which is payable for processing any CEC application, regardless of the nature, scale or location of the proposed activity. Charges payable for activities, which require an EIA, differ based on the Designated Activity (as seen in point 2 above).

This fee structure has been in place since the CEC Rules came into force in 2001 and has not been revised since implementation.

PROPOSED REVISIONS TO THE EXISTING STRUCTURE

There have been no revisions or amendments to the CEC Fees and Charges Regulations, 2001 since inception. An initial study (still in draft form) was therefore conducted to assess the economic appropriateness of the associated CEC fees and charges, and to inform the revision of the fee structure. The current flat rate of a TT$500.00 application fee does not cover administrative, monitoring or enforcement costs.

The following factors were taken into consideration:

i. Inflation rate;
ii. Complexity and Impact of proposed projects;
iii. Administrative Costs;
iv. Monitoring and Inspection of Issued CECs; and
v. Polluters Pay Principle.

An evaluation of the EMA's current CEC application and EIA assessment fees against existing permit charges across various jurisdictions was done to determine best practices. Also considered were socio-economic and environmental factors in the CEC/EIA fee/charge adjustment. The comparison revealed that the EMA's charges are considerably lower and should not be a flat fee for all activities. The existing TT$500 fee does not take into account costs associated with monitoring and inspection processes, inclusive of the administrative costs, neither does it take into account the costs associated with more complex applications or impacts from these types of applications.

Suggested Outcome from Study:

Consideration of full cost accounting to include:

- Direct cost inclusive of labour capital and raw materials;
- Hidden costs which consist of reporting and monitoring;
- Contingent liability costs which entail remedial actions and fines; and
- Less tangible costs which includes good will and public relations,

Additionally, consideration of:

1. An update of the charging systems based on the inflation rate of Trinidad and Tobago;
2. Review of EIA Range and Tier according to size / scale of operation based on categorisation of facilities and available information (nature, scale and location and complexity of project);
3. Monitoring, inspection and enforcement mechanisms and the determination of the frequency of monitoring and inspection.
4. Proposed CEC expiry timeframes and associated renewal fees.

Further assessment of the considerations above are to be conducted, which will feed into suggested revisions and amendments. Robust stakeholder engagement will be a critical factor in moving forward.

AIR POLLUTION

The Air Pollution Rules, 2014 and the Air Pollution (Fees) Regulations, 2014, came into effect in 2015. The Rules and Regulations are approximately five (5) years old. The current fee structure is based on the categorization of emitter facilities into four categories: mini and macro, small, medium and large. The category is determined based on the facility asset value, sales per annum and number of employees. The fees include various application fees and processes, including:

- Application for Registration Certificate
- Collection of Terms of Reference for Air Quality Assessment
- Application for Transfer of Registration Certificate
- Application for Permit
- Annual Permit Fee on Grant of Permit
- Application for Changes after Grant of Permit
- Application for Transfer of Permit
- Application for Renewal of Permit
- Annual Permit Fee on Grant of Renewed Permit
- Application for Extract from Air Polluters Register
- Confidentiality Claims

Currently, the EMA is examining both the Rules and the Fees Regulations for potential amendments, which may include the amendment of the fee structure to consider the polluter pays principle.

RECOMMENDATION 2 (iv):

The EMA should identify the desired enforcement-related amendments to the EM Act and provide a status update on its efforts to secure said amendments.

RESPONSE:

The EMA's Legal Services unit conducted a preliminary examination of other pieces of environmental legislation, with specific focus on compliance and enforcement sections from other countries with full-bodied environmental legislation such as Costa Rica, New Zealand, Australia and Canada. This was done with the aim of examining and determining the most effective regimes internationally. This research will be used, in time, to propose amendments to the enforcement section of the Environmental Management Act, Chapter 35:05 so as to improve upon and increase the effectiveness of the EMA's compliance and enforcement regime. The EMA is still in its initial stages of this overall exercise. Competing priorities such as litigation have hampered its steady progress but it remains a high-priority, strategic objective of the organisation.

3. INTERNAL AUDIT

RECOMMENDATION 3 (i):

The EMA should provide a status update on the filling of the vacant posts of Senior Internal Auditor and Internal Auditor, and specify the terms of employment to Parliament by July 31, 2020.

RESPONSE:

The post of Senior Internal Auditor was filled on 06 May 2019 on a three (3) year revolving contract, under the following Terms and Conditions, and subject to such deductions as may be due under the law:

- A monthly base Salary of Twenty Three Thousand Dollars ($23,000.00)
- A Travelling Allowance of Two Thousand Seven Hundred Dollars ($2,700.00)
- A Cell Phone Allowance of Four Hundred Dollars ($400.00)
- An Entertainment Allowance of Five Hundred Dollars ($500.00)
- A Gratuity equivalent to 20% of gross annual salary, upon satisfactory completion of the three (3) year period of engagement
- Annual Vacation Leave - Twenty-Five (25) working days
- Sick Leave - Fourteen (14) days
- Business Leave - Three (3) days per year
- Bereavement Leave - Three (3) days

Please see the Job Description for the Senior Internal Auditor at **Appendix 2**. There is currently no immediate need for an Internal Auditor. However, this position will be filled as the need arises.

RECOMMENDATION 3 (ii):

The EMA should develop measures to evaluate the performance of its Internal Audit Unit and report to Parliament.

RESPONSE:

The EMA has a companywide performance management system, which is utilised to assess all employees.

Additionally, the Internal Audit Unit is measured against:

1. Development of Internal Audit Plans
2. Execution of Internal Audits
3. Execution of unplanned reviews
4. Monitoring of open internal audit recommendations
5. Investigation of reports made through the silent whistle system

The Internal Audit Function reports administratively to the Managing Director and functionally to the Audit Committee of the Board of Directors. Audit Committee meetings are scheduled quarterly and on a needs basis, if required.

RECOMMENDATION 3 (iii):

The EMA should conduct an assessment of the adequacy of its current internal audit staff complement in comparison to other organisations of similar size and report to Parliament.

RESPONSE:

Specific research on the effective sizing of Internal Audit Departments has indicated that the appropriate size of the internal audit department should be based on the specific mission of the function — as determined by management and the audit committee — and should vary with the scope of internal auditing's mission, experience of its personnel, the technology it uses, the control, compliance, and operational audit emphasis, and geographic areas covered. A comparison of five (5) organisations of similar size was done and is presented in **Table 3.** below.

Table 3. Comparison of five (5) organisations of similar size to the EMA.

No.	Organization	Nature of operations	No. of employees	Size of Internal Audit function
1	EMA	Environmental Public Education, Permitting, Compliance & Monitoring	150	1 Senior Internal Auditor
2	Caribbean Industrial Research Institute (CARIRI)	Research and testing	Not shared	Outsourced
3	Chaguaramas Development Authority (CDA)	Ecotourism	150	No internal audit function
4	Institute of Marine Affairs (IMA)	Marine and Environmental Research	84	1 Internal Auditor & 1 Audit Assistant
5	Trinidad and Tobago Bureau of Standards (TTBS)	Goods and services compliance	220	1 Auditor
6	Solid Waste Management Company Limited (SWMCOL)	Solid waste management	312	1 Internal Auditor & 1 Audit Assistant

The current complement of the Internal Audit Department is one (1) Senior Internal Auditor. However, the current organisational structure also allows for two (2) Audit Assistants.

The EMA undertook a Human Resource consultancy during the period 2017-2018 to review the institutional arrangements to position itself to achieve its statutory mandate and strategic objectives. As part of the process, a revised organisational structure was created based on the needs of the organisation. The resulting recommendation was one (1) Manager, Internal Audit and one (1) Audit Assistant to comprise Internal Audit at the EMA. The recommendation for a revised organisational structure for the EMA is awaiting Cabinet approval.

4. Risk Management Policy

RECOMMENDATION 4 (i):

The EMA should report on the development of its Risk Management Policy, including the cost and timeline for the development and implementation of the policy.

RESPONSE:

The EMA does not have a Risk Management Policy, however risk is managed through the Internal Audit Department and ISO 9001 Quality Management System (QMS) project. Work to develop comprehensive Risk Management Policy will require financial and human resources.

The estimated cost for contracting a consultant to develop a Risk management Policy is approximately TT$ 200,000 - $250,000. The development of this policy will be dependent on the sum released to the EMA in the 2020/2021 Financial Year.

RECOMMENDATION 4 (ii):

The EMA should explain the feasibility and timeline for the establishment of a Risk Management Department.

RESPONSE:

The EMA does not see the need for a Risk Management Department at this time. Instead, the organisation will continue to develop the capacity and systems of the Internal Audit Department and ISO 9001 QMS to address risk.

RECOMMENDATION 4 (iii):

The EMA should indicate whether the new Risk Management Policy will replace or be implemented alongside the QMS.

RESPONSE:

ISO 9001 does not have a requirement for a specific policy to address risk and as such the Quality Management System (QMS) that is currently being implemented by the EMA will not replace an organizational Risk Management Policy, but become part of risk management.

Clause 6.1 of ISO 9001:2015 requires actions to address risk and opportunities that are *"proportionate to the potential impact on the conformity of products and services."* and as such the QMS will support/complement the EMA's risk management initiatives. The following activities have been completed under the ISO 9001 QMS project:

- ✓ Training sessions were conducted in October 2019 in risk-based thinking for members of its Management Team and its Quality Internal Audit Team.
- ✓ The eQMS software has been purchased and installed. This software has a risk application that will be used to automate a Risk register.

A consultant will be engaged to develop and implement the QMS, which will include the development of a Risk Register to meet the ISO 9001 requirements.

5. WHISTLE BLOWER POLICY

RECOMMENDATION:
The EMA should develop an interim Whistle Blower Policy and submit a copy to Parliament.

RESPONSE:
The Whistleblower Policy and Procedure Guide was developed and approved by the Board of Directors on 18 July, 2019. This policy/procedure guide was shared with EMA staff via a general staff notice on 17 September, 2019 and at a general staff meeting held on 26 September, 2019. The policy/procedure guide and accompanying declaration form currently reside on the EMA's intranet, which can be accessed by all staff.

Additionally, third party services from NAVEX global were enlisted on a five (5) year contract to provide an anonymous mechanism for the lodging of whistleblower reports. This facility can also be accessed via the EMA's intranet. The Whistleblower Policy and Procedure Guide and Whistleblower Declaration Form can be found at **Appendix 3**.

6. SEGREGATION OF DUTIES

RECOMMENDATION:
The EMA should create a register identifying the employee or official with access to cash and those who record the cash receipt, cash disbursement or journal entry transactions. This would ensure that incompatible duties are segregated and that employees and officials are prevented from controlling all phases of the accounting function. An update should be submitted to Parliament.

RESPONSE:
The following is a summary of the procedures for receiving, disbursing and recording cash at the EMA, inclusive of the employees/officials with access to cash.

Recording Cash Received:

- Receptionist receives cash & records on receipt books
- Assistant Accountant balances cash & passes to another Assistant Accountant for verifying and completing deposit voucher for bank.
- Assistant Accountant who balances cash enters journal transactions.
- Journal transactions are approved by the Financial Accountant.

Recording Cash Disbursements:

- Petty cash vouchers are prepared by the department requesting same.
- The department manager/unit head countersigns the voucher or provides an accompanying memo.
- The Financial Accountant approves the payment of petty cash by signing same.
- An Assistant Accountant disburses the petty cash and stamps and sign the voucher indicating the date on which payment was made.
- The petty cash custodian, an Assistant Accountant, reconciles the petty cash prior to reimbursement.
- Another Assistant Accountant verifies the cash on hand.
- The Financial Accountant authorises the reimbursement of petty cash.

7. BANK RECONCILIATIONS

RECOMMENDATION 7 (i):

The EMA should write to Parliament detailing how it plans to ensure that its bank reconciliations are prepared on a monthly basis.

RESPONSE:

The EMA has been preparing the bank reconciliations on a monthly basis or as soon as the bank statements are received. We are currently up to date with our Bank Reconciliations.

RECOMMENDATION 7 (ii):

The EMA should develop a mechanism to specifically ensure that all bank reconciliation statements and cash count schedules are reconciled and signed by the relevant parties, and report to Parliament on the development of this mechanism.

RESPONSE:

All Bank Reconciliations are prepared by an Assistant Accountant, checked by another Assistant Accountant (one who did not prepare them) and approved by the Financial Accountant on a monthly basis. These are currently up to date.

The Cash Count is conducted by the Petty Cash custodian, an Assistant Accountant. Another Assistant Accountant verifies the cash on hand. The Financial Accountant authorises the reimbursement of petty cash. These protocols are currently in effect and are executed each time a reimbursement is done.