



Promoting Accountability of Public Resources

AUDITOR GENERAL'S REPORT



Temple of Justice Peace Building Fund Project (ToJ-PBF)

For the Period July 1, 2012
to September 30, 2015

November 2016

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Auditor General, RL

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Acronyms/Abbreviations/Symbols

Acronyms/Abbreviations/Symbol	Meaning
AG	Auditor General
BEP	Bid Evaluation Panel
CGMA	Chartered Global Management Accountant
COSO	Committee of Sponsoring Organizations
CPA	Certified Public Accountant
CSA	Civil Service Agency
FAR	Fixed Asset Register
GAC	General Auditing Commission
GoL	Government of Liberia
INTOSAI	International Organizations of Supreme Audit Institutions
ISSAIs	International Standards of Supreme Audit Institutions
JUD	Judiciary
LBR	Liberia Business Registry
LoA	Letter of Agreement
M & E	Monitoring and Evaluation
MSC	Ministerial Steering Committee
PAC	Public Accounts Committee
PBC	Peace Building Commission
PBF	Peace Building Funds
PFM Act	Public Finance Management Act
PPC Act	Public Procurement Concession Act
PPCC	Public Procurement and Concession Committee
ToJ	Temple of Justice
ToR	Terms of Reference
USD	United States Dollar



Compliance Audit Report on the Peace Building funds Project (ToJ-PBF) Project of the Temple of Justice for the period July 2012 through June 2015.

We have audited the activities and financial transactions of the Peace Building Funds (PBF) Project of the Temple of Justices' compliance with relevant laws and regulations for the period ended October 2015 consistent with the Auditor General's mandate as provided for in Section 2.1.3 of the General Auditing Commission (GAC) Act of 2014 as well as the Audit Engagement Terms of Reference (ToR)

Management's Responsibility

The audit was conducted on the basis of or understanding that the Management of the PBF Enhancing Access to Justice and Security Project of the Temple of Justice has the responsibility to establish and maintain internal controls necessary to:

- Enable it undertake its contracts award, goods delivery, projects execution, evaluation and reporting in an effective and efficient manner as well as the preparation of documentation on the procurement/projects that are free from material misstatements whether due to fraud or error and in compliance with authorities that govern them;
- Provide reasonable assurance that adopted policies and prescribed procedures are adhered to and errors and irregularities, including fraud and illegal acts are prevented or detected; and to provide us with access to the following:
 - All information of which the Temple of Justice Management is aware of that is relevant to its contract awards, goods delivery, project execution, evaluation and reporting as well as their related documentation;
 - Any additional information that we may request from Management for the purposes of the review; and
 - Unrestricted access to persons within the Judiciary from whom we determine it necessary to obtain review evidence.

Auditor's Responsibility

Our responsibility is to independently express a conclusion on the financial records of the PBF Enhancing Access to Justice and Security Project based on our audit. Our audit was conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs) Fundamental Auditing Principles (FAP) and Guidelines for Compliance Audit (GCA). Those principles require that we comply with ethical requirements and plan and perform the audit so as to obtain reasonable assurance as to whether the use of the PBF Enhancing Access to Justice and Security Project Funds are in compliance, in all material respects, with stated laws and regulations.

An audit involves performing procedures to obtain sufficient appropriate evidence to support our conclusion. The procedures performed depend on the auditor's professional judgment, including assessing the risk of material non-compliance, whether due to fraud or error. The audit procedures



performed are those we believe are appropriate in the circumstances. We believe that the audit evidence gathered is sufficient and appropriate to provide the basis for our conclusion.

Basis for Adverse Conclusion

The Temple of Justice Peace Building Fund (TOJ-PBF) disbursed salary payments amounting to US\$9,000.00 for the period 2012/13 to various public defenders without the approval of the Court Administrator.

The TOJ-PBF Project Management did not withhold and remit income taxes into Government of Liberia Revenue Account in the amounts of US\$13, 450.00 (Thirteen Thousand Four Hundred Fifty United States Dollars) representing taxes from various contractors for the procurement of public defenders services for the period under review 2012/2013 through 2013/14.

The Management of the ToJ-PBF Project could not provide evidence of a procurement plan for the expenditure made in the amount of US\$246,362.25 (Two Hundred Forty Six Thousand, Three Hundred Sixty Two United States Dollars and Twenty Five Cents) for the renovation of Upper Buchanan circuit court, and US \$100,000.00 (One Hundred Thousand United States Dollars) for the construction of the Toe Town Magisterial Court. Additionally, the procurement process for the hiring of contractors for both the renovation of the Upper Buchanan Circuit Court and the construction of the Toe Town Magisterial Court appears not to have met the requirement of the PPC Act. There was no evidence of bid packages and bid evaluation reports for the period under review 2012/2013.

Physical verification of the Upper Buchanan Court renovated by the Twin Business Group at the cost of US\$246,362.25 (Two Hundred Forty six Thousand, Three Hundred Sixty Two United States Dollars and Twenty Five Cents) shows leakages on the roof and removed sliding windows which resulted to continuous flooding in the building. Also, the electronic injector pump which is responsible to pump water throughout the building appears to have been damaged without been replaced/repaired.

Adverse Conclusion

Based on the audit work performed, we found that, because of the significance of the matters noted in the Basis for the Adverse Conclusion paragraphs above, the activities and financial transactions of the PBF enhancing access to Justice and Security Project of the Temple of Justice are not in compliance, in all material respects, with stated laws and regulations.


Yusador S. Gaye, CPA, CGMA
Auditor General, R.L.

Monrovia, Liberia
November 2016



Background

The Liberia Peace Building Funds project is a three (3) years joint programme established in May 2011 between the Government of Liberia ,the United Nations and international partners to enhance access to Justice and Security for all people in the territory limit of the Republic of Liberia due to the consequences of the 14 (fourteen) years civil conflict.

The programme objective is built on the Peace Building Commission (PBC) priority plan for Liberia which was concluded on January 26, 2011. The aims are to respond to all key peace building gaps in Liberia that fall under the title of security sector reform, rule of Law and national reconciliation.

Based on the programme priority plan, the Government of Liberia and the international partners through the Judiciary embarked on the construction and rehabilitation of courts, training and recruitment of qualified lawyers who are assigned at various courts around the Country.

The Project which amounts US\$412,062.00 (four Hundred twelve thousands two United States Dollars) was approved on July 1, 2012 through September 30, 2015 with an implementation plan of 4 (four) years.

During the period under audit, the Temple of Justice-Peace Building Funds (ToJ-PBF) Project per the bank statement received the total amount of US\$412,062.00 in its United States Dollars account and disbursed a total of \$412,062.00.

The following key personnel managed the affairs of the project during the period under audit. **See Table 1 below for details:**

Table 1: ToJ-PBF Project Key Personnel

No.	Name	Title / Position Held	Tenure
Project Management Team			
1	Cllr. Elizabeth J. Nelson	Court Administrator	June 6, 2013 to present
2	Cllr. Ernestine Morgan-Awar	Assistant Court Administrator	November 1, 2007 to Present
3	Mr. John Sarkorh	Comptroller	February 6, 1994 to Present
4	Mr. John T. Toryor	Director Procurement	February 20, 1996 to Present
5	Mr. David Badio	Architectural Consultant (In house)	December 1, 2007 to Present
6	Mr. Eugence P. Merchant	Chief Accountant	January 2, 2008 to Present

Audit Objectives

The main objective of the audit is to gather sufficient appropriate audit evidence to conclude whether the activities and financial information of the ToJ-PBF Enhancing Access to Justice and Security Project for the period 2012 to 2015 are in compliance, in all material respects with policies, procedures, applicable laws, regulations, and are free of material errors.

Audit Methodology

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs) Fundamental Auditing Principles and Guidelines for Compliance Audit. Those standards require that we plan and perform the audit to obtain reasonable assurance that the financial information provided by the Temple of Justice PBF is in compliance, in all material respects with policies, procedures, applicable laws, regulations, and are free of material errors. In furtherance of this, we undertook audit procedures as would enable us to attain the above objective.

Our audit also took cognizance of the requirements under the Auditor General's mandate as spelt out under Sections 2.1.3 of the GAC Act of 2014. Our audit approach included observation, inquiries, inspections, re-performance, confirmation, and analytical procedures on areas we considered as high risk.

While the audit was not directed at reporting the following, we have reported on the below issues which came to our attention during the course of the audit:

- Non- effective performance of the program - relates to management's responsibility to undertake activities in a non-effective and non-efficient manner.
- Non-delivery of goods and services – relates to management's non-exercise of responsibility to ensure that all goods and services procured are delivered.
- Instances of non-compliance with applicable laws and regulations - relates to management's non-exercise of responsibility to use resources, and fulfill accountability requirements, in accordance with applicable agreements, laws and regulations governing contracts award, goods and service delivery, projects execution, evaluation and reporting.
- Waste – relates to management's non-exercise of responsibility to obtain and apply resources in an economical manner, without any public money being wasted.
- Instances of abuse- relates to management's non- exercise of responsibility to meet the expectations of the National Legislature and the public as they relate to appropriate standards of behavior.

Limitation of Responsibility

We reviewed the systems and management controls operated by Temple of Justice PBF only to the extent we considered necessary for the effective conduct of this audit. As a result, our review may not have detected all weaknesses that existed or all improvements that could be made.



1 DETAILED FINDINGS AND RECOMMENDATIONS

1.1 Financial Issues

1.1.1 Payments made without Approval

Observation

- 1.1.1.1 The Public Financial Management (PFM) Regulation 2009, B 25 section 3(a, b, c & d) states that " head of a government agency shall institute internal controls to ensure that:
- The officer ordering disbursement or effecting payment is authorized to do so;
 - Orders are made within the powers of and the funds available to the officer ordering disbursements or effecting payment;
 - Transactions are properly authenticated to show that amounts are due and payable;
- 1.1.1.2 Transactions are properly tracked, approval levels clearly documented and records maintained at each level; and
- 1.1.1.3 It was observed during the conduct of the audit that ToJ-PBF project salary disbursements vouchers amounting to **US\$9,000.00** for the period 2012/13 were made to various public defenders project numbers 00081617 without the approval of the Court Administrator. **See Table 2 below for details.**

Table 2: 2012/13 Payment made without Approval

Date	Name	Voucher #	Check #	Total Gross Salary US\$
30-Nov-2012 to 30-Dec-2012	Bobby W. Livingstone	USV-PBFPD-002-12/USV-PBFPD-003-12	2228955-2228957	3,000.00
30-Nov-2012 to 30-Dec-2012	Robertson P. Mehn	USV-PBFPD-002-12/USV-PBFPD-003-12	2228954-2228959	3,000.00
30-Nov-2012 to 30-Dec-2012	Mohamed P. Golafalley	USV-PBFPD-002-12/USV-PBFPD-003-12	2228956-2228959	3,000.00
Total				9,000.00

Risk

- 1.1.1.4 Disbursements made without approval could deny assurance of the authenticity of the transaction.

Recommendation

- 1.1.1.5 The Management of the ToJ-PBF project should provide substantive justification for expenditure made toward employees' salaries totaling **US\$9,000.00** without evidence



of the Court Administrator's (CA) approval.

Management Response

1.1.1.6 *In line with the public Financial Management (PFM) Regulation, payments by the Judiciary are appropriately authorized by the Authorities including the Chief Justice and or the Court Administrator and Comptroller as evident by the various payment vouchers provided to the GAC Auditors for their review.*

1.1.1.7 *It is unfortunate that the two vouchers in question representing November and December 2012 allowances in arrears were inadvertently paid unsigned to the payees due to over sight on the part of the account staff during the December 2012 holiday season. However, the right procedures were followed as evidence by:*

(a) Face form of these payments as duly approved by the Judiciary and the UNDP (Supporting partner),

(b) The payments are consistent with the Letter of Agreement (LOA), indicating that the payments were indeed authorized;

(c) The direct beneficiaries as payees signed the payroll; and

(d) The referenced payments are reflected on the bank statements

See Appendix 1

1.1.1.8 *List of supporting documents-Originals were submitted to and signed for by GAC auditors, which are still in their possession.*

- 1. Face form*
- 2. Letter of Agreement-LOA*
- 3. Signed payroll by Payee*
- 4. Bank Statement of Account*

Auditor General's Position

1.1.1.9 Management should ensure that all vouchers are signed by the relevant authorities to assure the regularity of the transactions. Payment without authorization is a breach of financial discipline as defined by Regulation A.20 of the PFM Act of 2009 for which Management should be held accountable.

1.1.1.10 The documents were provided by Management for audit purpose which are unrelated to the disbursement of November and December 2012 allowances without the authority of the Court Administrator. Therefore, we maintain our findings.



1.1.2 Withholding Taxes

Observation

1.1.2.1 Section 905 (J) of the Revenue Code of Liberia Act of 2000 As Amended in 2011 stipulates "within 10 days after the last day of the month, a payer described in (a) is required to remit to the tax authorities the total amount required to be withheld during that month", and (m) stipulates "a person who has a withholding obligation under this section and fails to withhold and remit the amount of tax required to be withheld is subject to section 52 penalty for late payment and failure to pay".

1.1.2.2 It was observed during the conduct of the audit that TOJ-PBF Project Management did not withhold and remit income taxes into Government of Liberia Revenue Account in the amounts of **US\$13,450.00** (Thirteen Thousand Four Hundred Fifty United States Dollars) representing taxes from various contractors for the procurement of public defenders services for the period under review 2012/13 through 2013/14. **Refer to Annexure 1 for details.**

Risk

1.1.2.3 Failure to withhold and remit income taxes could deny GoL of the needed Tax Revenue.

Recommendation

1.1.2.4 The ToJ-PBF project Management should ensure that taxes are withheld and remitted to GOL Revenue Account. Additionally, the associated interest and penalties according to sections 51, to 52 of the Revenue Code of Liberia Act of 2000 As Amended in 2011 should be computed and remitted GoL Revenue Account.

1.1.2.5 Going forward, the ToJ-PBF Project Management should ensure that taxes are withheld and paid timely into GoL Revenue Account.

Management Response

1.1.2.6 *The Constitution of the Republic of Liberia, Chapter VII-The Judiciary: Article 72(a) reads as follows:*

The Justices of the Supreme Court and all Judges shall receive such salaries, allowances and benefits as shall be established by law. Such salaries shall be subject to taxes as defined law, provided that they shall not otherwise be diminished. Allowances and benefits paid to Justices of the Supreme Court and judges of subordinate courts may by law be increased but may not be diminished except under a national program enacted by the Legislature, nor shall such allowances and benefits be subject to taxation."

1.1.2.7 *Firstly, all personnel of the Judiciary on the Civil Service of Liberia payroll are duly taxed as the law of the Republic of Liberia.*



1.1.2.8 *Secondly, in relations to allowances and benefits, contained in Article 72(a) of the Constitution of Liberia, authorities of the Judiciary Branch have always maintained that the law did not intend to discriminate between Judiciary personnel on the basis of allowances and benefits with tax exemption of higher level personnel as against lower level personnel in the same institution. The Judiciary's efforts towards building an independent and well-function court system, with the level of integrity that leads to sustaining the peace and development of Liberia, rest upon the should of the Justices and Judges as well as upon other Judicial Officers including Public Defenders and supporting court and administrative staffers and these personnel are considered extension of the offices of the Justices and Judges. Hence it is the interpretation of the Judiciary that it is only fair that all of its functioning staffers also benefit from this exemption since indeed the services provided by these staffers are equally critical to enhancing the performance of the court system. The funding received from the UNDP was in support of the Judiciary's allowances/benefit due the payees/Public Defenders mentioned in the audit management letter.*

See Appendix 2

1.1.2.9 *Civil Service payroll Details for the Three Public Defenders.*

Auditor General's Position

1.1.2.10 The 1986 Constitution, Article 72(a) referenced by Management specifically exempted Justices and all other Judges from taxation on their benefits and allowances. The constitution did not make reference to other auxiliary staff. Therefore, the ToJ-PBF project Management should withhold and remit the Public Defenders income taxes amounting to US\$13,450.00 into GoL Revenue Account for the period 2012/13 through 2013/14.

1.1.3 Purchases made without three Quotation

Observation

1.1.3.1 Section 54 (1) of PPC Act of 2005 and 2010 Restated states that "Quotations shall be requested for in writing from as many bidders as practicable, but at least three (3) bidders. (2) The request shall contain a clear statement of the requirements of the procuring entity as to quality, quantity, terms and time of delivery, as well as any other special requirements."

1.1.3.2 It was observed during the conduct of the audit that ToJ-PBF project procured fuel and lubricants for the maintenance of vehicles in the amount of **US\$3,752.82** did not contain three quotations for the period of 2013/14. **See table 3 below for details.**



Table 3: Purchases made without the request for three Quotations (RFQ)

Date	Payee	Description	Voucher#	Check #	Amt. USD
16-Dec.- 2014	CICA motors(Liberia) Inc	Vehicle Repairs and Maintenance	JUPD-USV-029-14	102804	232.02
31-Dec.- 2014	Africa motors(Liberia) Inc	Vehicle Repairs and Maintenance	JUPD-USV-035-14	102803	1,282.00
10-Nov.- 2014	Super Petroleum	Purchase fuel	JUPD-USV-025-14	102743	2,238.80
Total					3,752.82

Risk

1.1.3.3 The Purchases made by the project management without at least three quotations deny assurance that the economical, transparent purchased was undertaken and undermine value for money.

Recommendation

1.1.3.4 The ToJ-PBF Project Management should provide the necessary supporting documents for the purchase made above for the period of 2013/14.

1.1.3.5 Going forward, the TOJ-PBF Management should ensure that purchases that relate to RFQ should adhere to Section 54 (1) and (2) of the PPC Act.

Management Response

1.1.3.6 *Regarding the three transactions mentioned, we submit as follows:*

1. ***In the case of CICA:*** Firstly, the "purchase" in question relates to Toyota Vehicles purchased and donated by the UNDP to the Judiciary. Under the agreement, the CICA being the Toyota Dealer was identified to do the first servicing for the vehicles and therefore, there was no need to collect three quotations. This is the case with CICA Motors, dealer of Toyota Vehicles in Liberia.
2. ***In the case of Africa Motors,*** the three quotations have been provided with the details of Africa Motors attached being the company selected.
3. ***In the case of Super Petroleum*** there is an existing contract between the Judiciary and the vendor.

See Appendix 3 Supporting Documents

- *CICA Motors first Service (Letter of Request from the Vehicle Assignee and Purchase Order-PO#1160)*
- *Africa Motors additions provided*



- *SP Petroleum (Contract with the Judiciary)*

Auditor General's Position

- 1.1.3.7 We reviewed the documents provided in reference to Africa Motors and CICA, and have therefore, modified our recommendation. With respect to Super Petroleum, the Letter of Agreement specifically stated that all ToJ-PBF project activities should be separated from the operations of the Judiciary. Therefore, the project Management should have gathered minimum three quotations as required by the Request for Quotation procurement method for the procurements below the threshold.

1.2 Compliance Issues

1.2.1 No Evidence of Procurement Committee at the ToJ

Observation

- 1.2.1.1 PPC Act section 26 (1) of 2010 state that "(1) Every Procuring Entity must establish a Procurement Committee to which this Act applies."

- 1.2.1.2 It was observed during the conduct of the audit that there was no evidence of the establishment of a procurement committee at ToJ to ensure that procurements are conducted in line with the PPC Act.

Risk

- 1.2.1.3 Absence of a procurement committee could cast doubt on the authenticity of the procurement process.

Recommendation

- 1.2.1.4 The Management of ToJ, PBF Project should provide substantive justification for not adhering to the provision mentioned in the PPC Act of 2010 for the period under audit.

Management Response

- 1.2.1.5 *Below, is a listing of the Judiciary's procurement committee at the time of the Audit:*

NAME	POSITION
1. <i>Cllr. Ernestine Morgan-Aware, Acting Court Adm</i>	<i>Chairperson</i>
2. <i>David Y. Badio, Jud. In-house Architect</i>	<i>Member</i>
3. <i>John B. Sarkorh, Comptroller</i>	<i>Member</i>
4. <i>Henry B. Kparteh, Jud. Budget Director</i>	<i>Member</i>
5. <i>John T. Toryor, Procurement director</i>	<i>Secretary</i>

- 1.2.1.6 *Currently a new Procurement Committee has been recently appointed by Chief Justice:*

NAME	POSITION
1. <i>Cllr. Elizabeth J. Nelson</i>	<i>Chairperson</i>
2. <i>John B. Sarkoh, Comptroller</i>	<i>Member</i>



- | | |
|--|--------|
| 3. David Y. Badio, Jud. In-house Architect | Member |
| 4. Atty. Andrew N. Nimley, Jr. | Member |

1.2.1.7 **See Appendix 5.** Exhibit of letter of appointment of Judiciary's current Procurement Committee Members.

Auditor General's Position

1.2.1.8 The ToJ-PBF Project Management provided a list of names without evidence that the individuals performed any of the functions provided by Section 27 of the Amended and Restated PPC Act of 2010. Management did not provide minutes or reports of the procurement committee as evidence of a functional procurement committee. Therefore, the Management should ensure that Procurement committee is functional. Therefore, we maintain our findings.

1.2.2 Expenditure without Procurement Plan

Observation

1.2.2.1 Paragraph 3 of the Letter of Agreement (LoA) of project 0007618, required that the Judiciary (ToJ-PBF) shall be fully responsible for carrying out with diligence and efficiency, all activities in accordance with it's financial regulations and rules.

1.2.2.2 In addition Section 40(1-2), PPC Act of 2005 and 2010 Restated, states that "all procuring Entities shall undertake procurement planning with a view to achieving maximum value for public expenditure. The procurement plan is intended to support the procuring entity's approved program and budget. It shall also indicate-contract packages, estimated cost of each package and the procurement method"

1.2.2.3 It was observed during the conduct of the audit that Management of the ToJ-PBF Project could not provide evidence of a procurement plan for the expenditure made to Twin Business Group in the amount of **US\$246,362.25** (Two Hundred Forty six Thousand, Three Sixty Two United States Dollars and Twenty Five cent) for the renovation of upper Buchanan circuit court, and **US\$100,000.00** (One Hundred Thousand United States Dollars) for the construction of the Toe Town Magisterial Court and scratch cards value at **US\$400.00** (Four Hundred United States Dollars) for the period of 2012-2013.

1.2.2.4 Additionally, the procurement process for the hiring of contractors for both the renovation of the upper Buchanan circuit court and the construction of the Toe Town Magisterial Court appears not to have met the request of the PPC Act. There was no evidence of bid packages and bid evaluation reports for the period under review 2012-2013.

Risk

1.2.2.5 Failure to prepare a procurement plan by a procuring entity could lead to the non-



achievement of value for money as expenditure may be incurred outside the scope of the project.

Recommendation

1.2.2.6 ToJ-PBF Project Management Team should provide substantive justification for expending **US\$346,762.25** without undertaken procurement planning as required by Section 40 PPC Act of 2005 and 2010 Restated.

1.2.2.7 Going forward, the Management of ToJ-PBF Project should ensure that procurement plans are prepared and submitted to the Public Procurement and Concession commission for approval before entering into procurement proceedings.

Management Response

1.2.2.8 *It was not clear how Donor's funds were to be considered under the Government National plan until recently when Director James Dorbor Jallah took over at PPCC, into putting place the necessary steps to bring Government Institution into full compliance with the PPCC regulations. Under these circumstances, the amount of US\$346,762.25 was provided through UNDP, which advised and monitored the procurement process used by the Judiciary for the vetting and selection of the contractors for the Toe Town Magisterial Court (100,000.00) and the 2nd Judiciary Circuit Court in Upper Buchanan, Grand Bassa County at a cost of (US\$246,302.25).*

1.2.2.9 *The required competitive bidding process was completed with the most responsive bidders awarded the projects.*

- ✓ *Publication of Bid*
- ✓ *Bid Opening*
- ✓ *Bid Evaluation Report*
- ✓ *Procurement Committee Members*
- ✓ *Contracts*

1.2.2.10 *Regarding the communication cards, the amount of US\$400.00 was for the purchase of scratch cards for public Defenders, all of whom were using the Lone Star Cell sim card hence there was no need to collect three (3) quotations. Lone Star Cell Invoice and Receipt are attached.*

See Appendix 6 and 7 for:

- *Bidding process documentations (appendix 6)*
- *Judiciary 2014/2015 Plan placing the Judiciary in compliance with PPCC regulation going forward (appendix 7)*

Auditor General's Position

1.2.2.11 If Management had difficulties with the implementation of the PPC Act as it relates to use of donor funds, Management should have contacted the PPCC for guidance. All



Government institutions are required to adhere to the provisions of the Amended and Restated PPC Act of 2010.

1.2.2.12 In reference to the Management's assertion regarding the purchase of scratch cards, Management should be aware that there are various scratch card vendors who provide different prices whom Management should have obtained quotations. Therefore, Management should be held accountable for the violation of the PPC Act.

1.2.3 Payroll and Personnel Management

Observation

1.2.3.1 Chapter 1 section (1.2.5) of Civil Service Standing Order states "Personnel records on all Classified Civil Servants throughout their careers are maintained by the Division of Personnel Records and Research".

1.2.3.2 It was observed during the conduct of the audit that twenty- four (24) personnel files of public defenders recruited from the Judiciary Scholarship program did not contain Letter of Application, scholarship test result, interview panel evaluation report, school documents, academic credentials, contract agreement, etc, as per the CSA Standing Order of 2012. **See Table 4 below for details:**

Table 4: Summary of Personnel file with incomplete Documentation

Employees without Application Letter	Employee without scholarship test result	Employee without interview panel evaluation report	Employee without school document	Employees Without Academic Credentials	Employee without contract agreement and letter of Assignment	Employees without CVs
24	24	24	24	1	12	12

Risk

1.2.3.3 The failure of management of ToJ PBF project to maintain the following records and obtain approval for all Employment could lead to the following:

- The inclusion of ghost workers on payroll
- Unqualified individuals could be hired/employed
- Management could have limited or no personal information of their employees.

Recommendation

1.2.3.4 The Management of ToJ PBF project should put in place the necessary institutional controls and policies to ensure that the file of each employee within the ToJ PBF project is up dated to reflect the he civil service requirement.



1.2.3.5 The Project Management Team of the ToJ PBF project should provide substantive justification for recruiting public defenders without meeting the requirements by keeping complete documents.

Management Response

1.2.3.6 *The Judiciary takes the note of this recommendation. However, following a comprehensive review of the Judiciary's administrative management system by Moore Stephens Auditing Firm and their Liberia Associates, Parker PLC Auditing Firm, with support from the UNDP in 2016, the Judiciary's Personnel Section is currently updating all personnel files as per the Standards and requirements of the Civil Service Agency. The files updates shall include but not limited to the following documentations:*

- *Application Letter*
- *Curriculum Vitae*
- *Academic and Professional Credentials*
- *Appointment Letter*
- *Contractual Agreement (s)*

1.2.3.7 *A New recruitment Committee has been appointed by the Chief Justice to implement the Judiciary personnel recruitment process:*

NAME	POSITION
1. <i>Cllr. George Katakpah</i>	<i>Chairman</i>
2. <i>Atty. Sandra Howard</i>	<i>Co-Chairman</i>
3. <i>Atty. Andrew A. Nimley, Jr.</i>	<i>Member</i>
4. <i>Mr. Henry S. Dolopei, Sr</i>	<i>Member</i>
5. <i>Mrs. Roberta Barclay-Francis</i>	<i>Member</i>

Auditor General's Position

1.2.3.8 We acknowledge Management's assertion regarding Payroll and Personnel Management. We will validate Management's assertion during the audit of the Judiciary.

1.2.4 Daily Attendance Record

Observation

1.2.4.1 Chapter 5 section 1 (5.1.1) of CSA standing order states that "Employees are normally required to work 5 days per week. Normal working hours are from 8.00 am to 4.00 pm subject to the approval of the supervisors. A period of one hour is allowed for lunch. No employee is permitted to leave his place of work without the knowledge of his supervisor."

1.2.4.2 Chapter 5 section 1 (5.1.2) of CSA standing order states that "All agency head shall maintain attendance records and shall submit a report to the Agency , at monthly intervals, on the approved report form shall reach the Agency on ,or before, the tenth day of the month following the period covered by the report."



- 1.2.4.3 It was observed during the conduct of the audit that the ToJ-PBF Project Management did not provide evidence of maintaining Daily Attendance Records of public defenders for the period under audit. In the absence of the daily attendance records we could not validate whether project employees were present at their various places of work for the period of October 30, 2012 to August 3, 2013 and February 28 to December 30, 2014 respectively. **See Annexure 3a and 3b for details.**

Risk

- 1.2.4.4 In the absence of daily attendance records employees who were not present at work could be paid, thereby resulting to wasteful expenditure.

Recommendation

- 1.2.4.5 The Management of the ToJ PBF project should put in place the necessary institutional controls and policies to ensure that the project maintain daily attendance records.

Management Response

- 1.2.4.6 *The judiciary takes note of this point, which is already being implemented as part of the on-going Judiciary's Court Inspectors monitoring and inspection plan. At the Temple of Justice, daily attendance record books are maintained for all administrative sections and the courts. These books are monitored regularly by the Judiciary's Personnel Section and periodically by the Civil Service Agency.*
- 1.2.4.7 *Courts in the leeward counties have been supplied the required stationery to maintained similar daily attendance record books for all staffers of the courts including the Public Defenders, who are supervised by Residence Circuit Judges in the leeward counties who report on the performance of the Public defenders working in their Circuits. Clerks of court are required to monitor the daily attendance ensuring that all Judiciary personnel are signing into the record books. These books are also inspected by the Court Inspectorate Unit from the Supreme Court during quarterly field missions. The Supreme Court established the Court Inspectorate Unit, with the mandate to inspect all courts in the Judiciary Court system with the aim of monitoring performance including attendance of court personnel of which the Public Defenders are included. Logistical and other challenges may delay the positioning of the required supplies to be in place at all times. Also, because assignments of Public Defenders in the leeward counties demand frequent travel within the counties to provide legal defense services for indigents, at times, tracking their movements and performance in the local environment is challenging. Hence, the work performance of the public Defender is also tracked through their quarterly reports to the National Program Coordinator based at the Temple of Justice and the end of court term reports presented by the Circuit Judges to the Office of the Chief Justice.*



Auditor General's Position

- 1.2.4.8 We acknowledge Management's assertion regarding Daily Attendance Records. We will validate Management's assertion during the audit of the Judiciary.

1.2.5 Non-Maintenance of Fixed Asset Register

Observation

- 1.2.5.1 Regulation C.8 (4e), PFM Regulations, stipulates that "a head of a GOL Agency or Spending Unit in collaboration with the General Services Agency must compile and maintain assets register of the Government Agency as determined by the Comptroller-General".

- 1.2.5.2 It was observed during the conduct of the audit that the ToJ-PBF Project Management did not maintain a Fixed Asset Register to track assets purchase dates, depreciation etc. for the period under audit.

Risk

- 1.2.5.3 In the absence of fixed assets listing, the ownership and existence of the projects assets cannot be assured.

Recommendation

- 1.2.5.4 The Management of ToJ-PBF should provide fixed assets listing for all assets acquired for the period under audit. Additionally, proper fixed assets internal controls policies and procedures aligned with PFM regulations should be adopted and implemented for the maintenance of fixed assets.

Management Response

- 1.2.5.5 *The Judiciary takes note of this critical point. However, before now a listing had been generated by the Judiciary for the Temple of Justice but this list remains in-exhaustive. The judiciary has now put into place a Fixed Assets Management Unit, which shall be responsible to compile, maintain and report on all Judiciary Fixed Assets through the fixed Assets Register in collaboration with the General Services Agency.*

Auditor General's Position

- 1.2.5.6 We acknowledge Management's assertion regarding the non-maintenance of Fixed Asset Register. We will validate Management's assertion during the audit of the Judiciary.

1.2.6 Fixed Asset Management

Observation

- 1.2.6.1 V.1 (2a & b) of the PFM Regulations of 2009 state that "The Head of Government Agency must take full responsibility of assets assigned to him by the General Services Agency and ensure that proper control system exist for assets and that: (a) preventive



mechanisms are in place to eliminate theft, losses, wastage and misuse; and (b) inventory levels are at an optimum and economical level

- 1.2.6.2 It was observed during the physical verification of the ToJ-PBF Project assets that some of the assets verified are not coded or recorded in the project assets listing submitted for audit. Refer to **Annexure 4 for details.**

Risk

- 1.2.6.3 ToJ PBF project assets not coded or recorded in the asset listing could be exposed to theft or converted to personal use.

Recommendation

- 1.2.6.4 The ToJ PBF project Management Team should ensure that fixed assets belonging to the project are properly coded and recorded in the project assets listing (register).

Management Response

- 1.2.6.5 *In connection with the establishment of the fixed assets register, the Judiciary Asset Management Unit which has recently been institutionalized, shall ensure the coding and recording of all judiciary assets. The Unit shall also undertake periodic monitoring and verification of all assets listed in the assets register. It is expected that a significant achievement should be recorded by end December 2016 when Unit becomes fully operational depending on the availability of funding as this is a national budgetary challenge.*

Auditor General's Position

- 1.2.6.6 We acknowledge Management's assertion regarding Fixed Asset Management. We will validate Management's assertion during the audit of the Judiciary.

1.2.7 Toe Town Magisterial court

Observation

- 1.2.7.1 Section 41 of the PPC Act of 2005 and 2010 restated states that "the procuring entity shall be responsible for the administration and monitoring of contracts entered into by the entity."
- 1.2.7.2 A.15(1) of the PFM Regulations of 2009 states "ahead of government agency must exercise all reasonable care to prevent and detect unauthorized, irregular, fruitless and wasteful expenditure, and must for this implement clearly defined business processes, identify risk associated with these processes and institute effective internal control to mitigate these risks."
- 1.2.7.3 It was observed during the physical inspection exercise of the Toe Town magisterial court constructed by Twin Business Group at the cost of **US\$100,000.00** (One Hundred



Thousand United States Dollars) appears not to have achieved value for money. The building dedicated on December 8, 2012 is now experiencing major cracks as observed on June 9, 2016. **See appendix 1 for detail.**



GAC Photo 1: Crack on the newly constructed Foundation



GAC Photo 2: Crack on the wall

Risk

- 1.2.7.4 Failure to ensure the construction of the building based on the scope of work could lead to sub-standard construction thereby denying the achievement of value for money.

Recommendation

- 1.2.7.5 ToJ PBF management should provide justification for the defects noted in the Toe Town magisterial court project.

Management Response

- 1.2.7.6 *The Judiciary takes note of this observation. The Toe Town Magisterial Court was constructed nearly six years ago on a plot of land given to the Judiciary by the citizens of Toe Town. A principal cause of occurrence of cracks in a building is that of "permeability of concrete". As deterioration process in concrete begins with penetration*

of various aggressive agents, low permeability is controlled by factors like:

- 1.2.7.7 *1 Water-cement ratio, 2. Degree of hydration/curing, 3. Air voids due to deficient compaction, 4. Micro-cracks due to loading and, 5. Cyclic exposure to thermal variations.*
- 1.2.7.8 *The first three are allied to the concrete strength as well. The permeability of cement paste is a function of water-cement ratio given good quality materials, satisfactory proportioning and construction practice of the permeability of the concrete is a direct function of the porosity an interconnection of the pores of the cement paste. The major cracks observed in the Toe Town Magisterial Court building could have resulted from poor construction practice (use of improper ratio of cement + mortar in masonry and by not delaying plaster work till masonry has dried after proper curing and undergone most of its initial shrinkage.*
- 1.2.7.9 *The observed cracks shall be made good by chiseling the spots, and putting mesh wire with class 'A' mortar (1:2 mix) well plastered and painted. The Judiciary shall undertake the necessary repairs in line with its overall court buildings repairs and maintenance priorities during the 2016/2017 fiscal year based on available budgetary allocation. The Judiciary iterates that contrary to the Auditor's comments, the building has indeed achieved value for money because the Toe Town magisterial is one of eight Magisterial courts in the Seventh Judicial Circuit of Grand Gedeh, which has remained active in the dispense of justice in the county, adjudicating cases and contributing to the maintenance of peace and justice in the region. It is this type of judicial intervention that has prevented conflicts, loss of lives and property damages.*

Auditor General's Position

- 1.2.7.10 Management's assertion that "*The major cracks observed in the Toe Town Magisterial Court building could have resulted from poor construction practice (use of improper ratio of cement + mortar in masonry and by not delaying plaster work till masonry has dried after proper curing and undergone most of its initial shrinkage*" is a confirmation of our finding that the Toe Town Magisterial Court construction did not achieve value for money. If the construction had been properly monitored to ensure that the standards of materials conforms to specification, the building could not have cracked six years after construction. Therefore, the Management should ensure that the defects are corrected and the report submitted to the PAC 30 days after the submission of the report to the National Legislature.

1.2.8 Upper Buchanan Circuit Court

Observation

- 1.2.8.1 Section 41 of the PPC Act states that "the procuring entity shall be responsible for the administration and monitoring of contracts entered into by the entity.



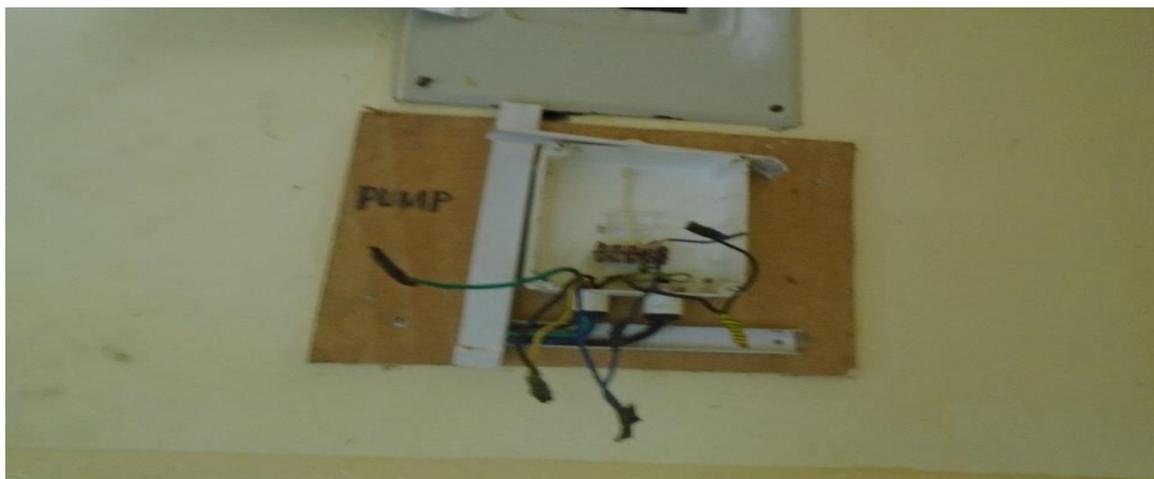
- 1.2.8.2 A.15(1) of the PFM Regulations of 2009 states "ahead of government agency must exercise all reasonable care to prevent and detect unauthorized, irregular, fruitless and wasteful expenditure, and must for this implement clearly defined business processes, identify risk associated with these processes and institute effective internal control to mitigate these risks.
- 1.2.8.3 The Upper Buchanan Circuit Court was renovated by Twin Business Group at **US\$246,362.25**. The Judiciary moved in the building January 2013. It was observed during the physical verification that leakages on the roof and removed sliding windows resulted to continuous flooding in the building. Also, the electronic injector pump which is responsible to pump water throughout the building appears to have been damaged without been replaced. **See the appendix 2 for detail:**



GAC Photo 3: Sliding window fell out



GAC Photo 4: Leaking Roof



GAC Photo 5: Injector pump not connected

Risk

- 1.2.8.4 Poor maintenance on the part of ToJ PBF project Management could lead to wasteful expenditure and deny the achievement of value for money.

Recommendation

- 1.2.8.5 ToJ PBF Management should ensure that the Upper Buchanan Circuit Court is routinely repaired and maintained to ensure that the project objective is achieved.

Management Response

- 1.2.8.6 *The required technical assessment of the court building has been conducted by the Judiciary In-House Architectural Engineer. The 2nd Judicial Circuit Court building in Grand Bassa County was renovated nearly six years ago roofed with corrugated alloy roofing sheet. Situated along the seacoast in Upper Buchanan, the building has experienced corrosion causing rust and leakages to the alloy roofing sheets.*
- 1.2.8.7 *The Judiciary shall undertake the necessary technical assessment and repairs in line with its overall court buildings repairs and maintenance priorities. However, prevailing GOL budgetary challenges may present some delays.*

Auditor General's Position

- 1.2.8.8 We acknowledge Management's assertion regarding the Upper Buchanan Court Building. We will validate Management's assertion during the audit of the Judiciary.

2 ACKNOWLEDGEMENT

- 2.1 We acknowledge the cooperation and assistance provided to the GAC Audit Team by the staff of the ToJ-PBF Project and other individuals as well as institutions. The efforts and commitment of GAC staff in conducting this audit are also gratefully acknowledged.


Yusador S. Gaye, CPA, CGMA
Auditor General, R.L.

Monrovia, Liberia
November 2016

ANNEXURES

Annexure 1: Unremitted GOL Withholding Taxes – 10%

2012 / 2013					
Date	Name	# of Months	Check #	Total Gross Salary US\$	10% Income tax not Deducted from Payment US\$
30-Oct-2012 to 31-Aug-2013	Bobby W. Livingstone	11	2228951-2228955-2228957-2234453-2307901-2307230-2305879-2354320-2228962-2428741-2429354	16,500.00	1,650.00
30-Oct-2012 to 31-Aug-2012	Robertson P. Mehn	11	2228952-2228954-2228958-2234455-2307902-2306302-2306475-2354121-2228964-2228964-2429353	16,500.00	600.00
30-Oct-2012 to 31-Aug-2013	Mohamed P. Golafalley	11	2228953-2228956-2228959-2234454-2307902-2306301-2307082-2354273-2228963-2428742-2429352	16,500.00	1,650.00
Sub Total				49,500.00	4,950.00

Annexure 2: Unremitted GOL Withholding Taxes – 10%

2013 / 2014					
Date	Name	# of Months	Check #	Total Gross Salary US\$	10% income tax not deducted from payment US\$
28-Feb-2014 to 30-Dec-2014	Gerald G Appleton	11	36251-36252-36262-36264-36269-41387-102753 102738-102742-103187-102786-	16,500.00	1,650.00
28-Feb-2014 to 30-Dec-2014	Nyonkpao R. G. Daye	11	36250-36256-36261-36265-36270-41388-102750-103885-102739-103184-102785	16,500.00	1,650.00
28-Feb-2014 to 30-Dec-2014	Jerome C. Pour	11	36249-36255-36260-36266-36271-41391-102747 103182-103186-103181-102780	16,500.00	1,650.00



2013 /2014					
Date	Name	# of Months	Check #	Total Gross Salary US\$	10% income tax not deducted from payment US\$
28-Feb-2014 to 30-Dec-2014	Alphonso B.C. Bah	11	36247-36253-36258-36267-36272-41392-102744-103179-103183-103178-102777-	16,500.00	1,650.00
28-Feb-2014 to 30-Dec-2014	William M. Johnson	11	36248-36254-36259-36268-36273-41393-102741-103176-103180-103175-102774-	16,500.00	1,650.00
Sub Total				82,500.00	8,250.00
Grand Total				132,000.00	13,450.00

Annexure 3a: Summary Public defenders salaries payments without attendance record.

2012/2013					
Date	Name	# of Months	Check #	Total Gross Salary US\$	
30-Oct-2012 to 31-Aug-2013	Bobby W. Livingstone	11	2228951-2228955-2228957-2234453-2307901-2307230-2305879-2354320-2228962-2428741-2429354	16,500.00	
30-Oct-2012 to 31-Aug-2012	Robertson P. Mehn	11	2228952-2228954-2228958-2234455-2307902-2306302-2306475-2354121-2228964-2228964-2429353	16,500.00	
30-Oct-2012 to 31-Aug-2012	Mohamed P. Golafalley	11	2228953-2228956-2228959-2234454-2307902-2306301-2307082-2354273-2228963-2428742-2429352	16,500.00	
Sub Total				49,500.00	

Annexure 3b: Summary Public defenders salaries payments without attendance record.

2013/2014					
Date	Name	# of Months	Check #	Total Gross Salary US\$	
28-Feb-2014 to 30-Dec-2014	Gerald G Appleton	11	36251-36252-36262-36264-36269-41387-102753-102738-102742-103187-102786-	16,500.00	
28-Feb-2014 to 30-Dec-2014	Nyonkpao R. G. Daye	11	36250-36256-36261-36265-36270-41388-102750-103885-102739-103184-102785	16,500.00	



2013/2014				
Date	Name	# of Months	Check #	Total Gross Salary US\$
28-Feb-2014 to 30-Dec-2014	Jerome C. Pour	11	36249-36255-36260-36266- 36271-41391-102747 103182-103186-103181-102780	16,500.00
28-Feb-2014 to 30-Dec-2014	Alphonso B.C. Bah	11	36247-36253-36258-36267- 36272-41392-102744-103179- 103183-103178-102777-	16,500.00
28-Feb-2014 to 30-Dec-2014	William M. Johnson	11	36248-36254-36259-36268- 36273-41393-102741-103176- 103180-103175-102774-	16,500.00
Sub Total				82,500.00
Grand Total				132,000.00

Annexure 4: Asset not coded or recorded in the assets listing

Purchase Date	Description	Serial #	Code	Cost	Condition	Assignee/Location
N/A	Dell Computer(Latitude)	307841RISDPP/20 3/2558E6440	N/A	N/A	Good	River Gee Co.
N/A	Photo copier	Rc2- 1219>PC+ABS- FR(40)<	N/A	N/A	Good	River Gee Co.
N/A	USB(Computer Backup 1)	WX71A6449PXN	N/A	N/A	Good	River Gee Co.
N/A	HP-Laser Jet Printer-(1)	CE285A	N/A	N/A	Good	River Gee Co.
N/A	Single Desk(2)	N/A	N/A	N/A	Good	Grand Gedeh Co.(Circuit court, Public Def. Office)
N/A	Cabinet(1)	N/A	N/A	N/A	Good	Grand Gedeh Co.(Circuit court, Public Def. Office)
N/A	Executive Chair(1)	N/A	N/A	N/A	Good	Grand Gedeh Co.(Circuit court, Public Def. Office)
N/A	Dell Computer(Latitude)	E6440	N/A	N/A	Good	Grand Gedeh Co.(Circuit court, Public Def. Office)
N/A	HP-Laser Jet Printer-(1)	RC2- 1219PCABSRF(40)	N/A	N/A	Good	Grand Gedeh Co.(Circuit court, Public Def. Office)
N/A	Office Desk(2)	N/A	N/A	N/A	Good	Gbarnga, Bong Co. (Circuit court, Public Def. Office.)



Auditor General's Report on the Audit of the Temple of Justice, Peace Building Funds Project (ToJ-PBF) For the Period July 1, 2012 to September 30, 2015

Purchase Date	Description	Serial #	Code	Cost	Condition	Assignee/Location
N/A	Cabinet(1)	N/A	N/A	N/A	Good	Gbarnga, Bong Co. (Circuit court, Public Def. Office.
N/A	Executive Chair(1)	N/A	N/A	N/A	Good	Gbarnga, Bong Co. (Circuit court, Public Def. Office.
N/A	Office Desk(2)	N/A	N/A	N/A	Good	Gbarnga, Bong Co. (Circuit court, Public Def. Office.
N/A	Office Desk(1)	N/A	N/A	N/A	Good	Margibi Co.(Circuit Court, Public Def. Office
N/A	Office Chair(2)	N/A	N/A	N/A	Good	Margibi Co.(Circuit Court, Public Def. Office
N/A	Semi Executive Chair(1)	N/A	N/A	N/A	Good	Margibi Co.(Circuit Court, Public Def. Office
N/A	Cabinet(1)	N/A	N/A	N/A	Good	Margibi Co.(Circuit Court, Public Def. Office
N/A	Semi Executive Chair(1)	N/A	N/A	N/A	Good	Grand Bassa Circuit Court(Public Def. office)
N/A	Office Chair(1)	N/A	N/A	N/A	Good	Grand Bassa Circuit Court(Public Def. office)
N/A	Office Desk(1)	N/A	N/A	N/A	Good	Grand Bassa Circuit Court(Public Def. office)
N/A	Peal Bran Shell(18)	N/A	N/A	N/A	Good	Grand Bassa Circuit Court(Court room/Hall)
N/A	Semi Executive Chair(4)	N/A	N/A	N/A	Good	Grand Bassa Circuit Court(Court room/Hall)
N/A	Office Chair(1)	N/A	N/A	N/A	Good	Grand Bassa Circuit Court(Court room/Hall)
N/A	Semi Executive Office Chair(2)	N/A	N/A	N/A	Good	Grand Bassa Circuit Court(filling Office)
N/A	Office Desk(2)	N/A	N/A	N/A	Good	Grand Bassa Circuit Court(filling clerk office)



APPENDIX 1



Toe Town Magisterial Court Building



Crack on the newly constructed wall



Crack over the door frame



Crack on the wall



Crack on the wall



APPENDIX 2



Upper Buchanan Circuit Court Building



Leaking Roof caused flooded office



Injector pump not maintained