

MINISTRY OF EMPLOYMENT, PRODUCTIVITY AND INDUSTRIAL RELATIONS

RESPONSE TO THE 2015 PUBLIC ACCOUNTS COMMITTEE

GENERAL ADMINISTRATION SECTOR (VOLUME2)

CLARIFICATION OF ISSUES

7.3 Trust Statement of receipts and Expenditure

No	Name	Balance as at 30 th April 2017	Remarks
1.	National Occupational Health and Safety Education and Accident Prevention	5,986,412.54	<p>Fund applied by the Minister, on the advice of the Board, for the purposes of:-</p> <ul style="list-style-type: none"> • health and safety education or training or research; • ensuring or promoting the health safety of persons at workplaces. <p>Fund consists of fees such as :-</p> <ul style="list-style-type: none"> ✓ Statutory Engineering ✓ Workplace/Plant/Chemical Registration ✓ OHS Training ✓ NDT Inspection ✓ Occupational Hygiene Consultancy ✓ Any Other OHS Consultancy <p>(Refer: Appendix 1 - Health & Safety at Work Act 1996, Part V)</p>
2.	National Employment Centre	217,672.25	<p>Fund applied by the Minister, on the advice of the Board, for the purposes of defraying expenses of NEC and the promotion and creation of employment and business opportunities in formal employment market, self-employment market, Fiji volunteer service or the foreign employment market.</p> <p>(Refer: Appendix 2 - NEC Decree 2009, Part 12)</p>
3.	Employment Relation Trust Account	488,164.25	<p>Fund applied by the Permanent Secretary, on the advice of the Ministry of Finance, for the purposes of promoting or ensuring good faith employment relations, productivity, education or training or research in employment / productivity relations, etc. Fund consists of fees, Fixed Penalty Notice payment, LMCC / ERP training fees, etc.</p> <p>(Refer: Appendix 3 - Employment Relations (Administration) Regulations 2008, Part 7)</p>
4.	Child Labour Unit	2,327.70	<p>The child Labour trust fund was set in 2010 under the child Labour ILO TACKLE project to establish the child labour unit and provide training and development for the Labour inspectors/social welfare , Education and Police officers together with our social partners , the unions , employers and the Non-Government organization in the area of child labour and its</p>

			enforcement as the enforcement of the legislations is embedded within the provision of part 10 of ERP 2007 . (Refer: Appendix 4 – Employment Relation Promulgation Part 10)
5.	OHS Consultancy Services Workmen's Compensation Wages Dispute	1,795,995.31	<ul style="list-style-type: none"> ✓ OHS Consultancy was set up to cater for the payment of user pay service that was provided by OHS Officers such as:- <ul style="list-style-type: none"> • Accommodation • Meal • Travel • Overtime ✓ Workmen Compensation was set up to facilitate the payment of :- <ul style="list-style-type: none"> • Work related injury from private sectors • Work related death to dependent of the deceased from private sectors • Work related death to dependent of the deceased from public sectors ✓ Wages Dispute was set up facilitate the payment for workers in respect of;- <ul style="list-style-type: none"> • unpaid annual leave • underpayment of wages rate • unpaid public holiday • unpaid maternity leave • unpaid sick leave • unpaid meal allowance • unpaid overtime
TOTAL		8,490,572.05	

Part B : Audit Findings

7.5 Understated Established Staff Expenditure

The Ministry has abided by the recommendation and is strictly following the instruction.

On the way forward, the Ministry of Employment, Productivity & Industrial Relations has completely make sure it does not happen again in the future.

On the Trust Account issues, we will be vigilant in the future to make sure the figures are correct before funds are transferred.

7.6 Unauthorised Use of main Trust Fund Monies

Brief Background

Section 31 of the Health and Safety at Work Act of 1996 stated the money standing to the credit of the Fund may be applied by the Minister, on the advice of the Board, for the purpose of:

- a) ***Health and safety education or training or research: and***
- b) ***ensuring or promoting the health and safety of person at workplaces.***

Section (b) of the OHS Act 1996 stipulates that the purpose of the fund is to ensure the health and safety of a person at workplaces. When workplace health and safety are breached resulting in injuries or death to workers, the Workman Compensation staff normally comes in to ensure social justice is provided to workers and their dependents.

The approval to use OHS Trust Account for the payment of Workman Compensation staff was approved back in 2010 by Public Service Commission. ***(refer to Appendix 5)***

The National Occupational Health and Safety Advisory Board (NOHSAB) the governing body for all OHS Policy, Administrative & Finance issued had approved that the salaries of the Workman Compensation staff with the endorsement of the Minister.

The Ministry's National Occupational Health and Safety Service (NOHSS) is responsible for the enforcement of the *Health and Safety at Work Act 1996* and its subsidiary legislation and the Workman Compensation Act (Cap 98). The activities of the NOHSS are based on the 'duty of care' principles and facilitate the promotion of a proactive OHS risk management culture which emphasised the creed that those who create the risk in the work place and those who work with them have the primary responsibility to solve them.

NOHSS has comprised the following five (5) specialised units:

- I. Training, Accreditation, Chemical and Hygiene (TACH)
- II. Capital project and Information Technology (CPIT)
- III. Risk Engineering (RE)
- IV. Field Operation (FO)
- V. Workers Compensation (WC)

Way Forward.

Due to the concerns raised regularly by NOHSAB members on the utilization of the OHS Trust Fund to pay for salaries, another submission was made to the Ministry of Finance on the proposal to regularize all Project positions including Dr. Tiko's position into line-posts in the 2016-2017 budget submission.

This was approved. *(refer to Appendix 6)*

Please note that Workers compensation does not have a Trust Account to meet the operation cost of recruiting Project officers.

7.7 Pending Workers Compensation Cases

The Worker's Compensation Unit has documented all its systems and process and has been ISO 9001:2008 certified in July, 2015, where the time frame for processing of cases are clearly reflected for Officers to follow.

A full time medical assessor is now based with the Ministry to carry out final medical assessments for injured workers and medical opinion for death cases. The Ministry till to date has trained 218 medical assessors on Impairment Assessment.

The Unit with Training Accreditation Chemical & Hygiene Unit is conducting workers compensation awareness sessions to both the private and public sector.

7.8 Unauthorised Transfer of Funds from Vat Allocation

A payment was made from National Employment Centre budgetary allocation amounting to \$164,323.30 on 22nd Jan 2015 to refund the amount that was utilised from OHS Consultancy. OHS Consultancy was used to facilitate payment for NEC allowances when the budgetary allocation was inadequate towards the end of 2014.

This is a normal payment from the Operating funds (SEG 7) and it is our understanding that VAT should be charged accordingly *(Appendix 7)*.

However on our way forward, the Ministry of Employment, Productivity & Industrial Relations will seek advice from Ministry of Economy if this situation arises in the future.

7.9 **Payment of VAT from Workers Compensation Claims**

Vat was charged to Workers Compensation payment since the budget was provided by Ministry of Economy in the 2015 Budget Estimate.

The Ministry has sought clarification with Fiji Islands Revenue and Customs (FRCA) officials and have been advice accordingly (**Appendix 8**).

The recommendation has been strictly followed.