

Part II
A. Comments and Observations

This Part consists of three sections:

A.1 Current Year's Audit Observations and Recommendations

- A.1.1 MWSS Corporate Office (CO)
- A.1.2 MWSS Regulatory Office (RO)
- A.1.3 Common to MWSS CO and MWSS RO

A.2 Reiteration of Prior Year's Audit Observations and Recommendations.

- A.2.1 MWSS CO
- A.2.2 MWSS RO
- A.2.2 Common to MWSS CO and MWSS RO

A.3 Status of Unsettled Disallowances/Charges/Suspensions

A.1 Current Year's Audit Observations and Recommendations

A.1.1 MWSS Corporate Office (CO)

1. **No physical inventory was conducted for certain items under the Property, Plant and Equipment (PPE) amounting to P8.80 billion or 14% of the year-end balance of the PPE of P63.23 billion (*with a net book value of P24.27 billion and net of Land*), thus their existence and accuracy were not ascertained. For Land account, unreconciled discrepancy was noted between the inventory report and the books of accounts, with the books higher by P4.84 billion.**

1.1. *On Incomplete Physical Inventory Taking and Non-reconciliation between property and accounting records*

1.1.1. MWSS conducts an annual physical inventory of its PPE, only for particular groups of assets and no Inventory Report has ever been finalized which would allow reconciliation with accounting records. Moreover, the Corporate Office had no complete inventory report on General and Administrative Expenses - Equipment since CY 2000 as reported in the Annual Audit Report for CY 2000. This has been brought to the attention of Management again in CY 2008 Annual Audit Report and thereafter.

1.1.2. For CY 2012, except for Land account with book value of P12.82 billion, physical inventory taking has not been fully completed during the year contrary to the provisions of Section 102 of PD 1445 and COA Circular No. 80-124 dated January 18, 1980 which requires that the physical inventory of fixed assets shall be conducted at least once year and that the inventory reports shall be prepared and certified correct by the committee in charge of the physical inventory-taking thereof, noted by the

Auditor and approved by the Head of the Agency. Likewise, COA Circular No. 80-124 provides that the reports be properly reconciled with the accounting and inventory records.

- 1.1.3. Table A.1.1.2.1 below shows the status of inventory taking as of July 25, 2013.

Table A.1.1.2.1 Status of Physical Inventory-Taking As of July 25, 2013		
	Amount	Status of Physical Inventory Taking (%)
Land	<u>P12,820,012,718</u>	100.00
Buildings and Structures		
Office Buildings	1,103,871,181	92.75
Other Structures	<u>60,376,333,971</u>	88.45
Sub Total (a)	<u>61,480,205,152</u>	
General and Administrative Equipment (GAE)		
Office Equipment	151,248,835	1.20
Furniture & Fixtures	6,890,321	82.50
IT Equipment & Software	122,345,965	0.10
Communications Equipment	186,258,271	0.00
Medical & Dental Laboratory Equipment	59,913,394	1.60
Military & Police Equipment	8,243	0.00
Sports Equipment	1,603	0.00
Technical & Science Equipment	106,206,666	0.70
Other Machinery & Equipment	475,365,151	0.70
Motor Vehicle	324,816,920	0.00
Other Transportation Equipment	<u>312,953,695</u>	9.50
Sub-Total GAE (b)	<u>1,746,009,064</u>	
Total (a) + (b)	<u>63,226,214,216</u>	
TOTAL PPE	<u>76,046,226,934</u>	

- 1.1.4. Since the annual physical inventory taking for Other Building & Structures and GAE have not been fully completed, no complete inventory reports and reconciliation reports were submitted on the said assets amounting to P8,799,020,072 or 14% of P63,226,214,216 with a net book value of P24,265,308,316.45.

- 1.1.5. We reiterate that physical inventory taking is an indispensable procedure for checking the integrity of property custodianship. The discrepancies between physical and book inventories are established only after a proper inventory and reconciliation have been made.

- 1.1.6. As a consequence of incomplete inventory of properties and failure to conduct a complete reconciliation between the property and accounting records, the balance of P63,226,214,216 at the end of the year cannot be relied upon. There were no alternative audit procedures done by

Management to establish their validity, accuracy and proper valuation at the time of audit.

1.2. On the Difference in Land Area Amounting to P4.84 Billion Based on the MWSS Preliminary Reconciliation Report on Land and Land Rights owned by MWSS

1.2.1. The Summary of Reconciled Land and Land Rights Retained to MWSS between Physical Inventory Committee Report and the books of accounts submitted on May 12, 2012 showed a difference in land area of 30,498,413.48 sq.m.with aggregated cost of P4,843,444,427.03, as shown in Table A.1.1.2.2. below.

Table A.1.1. 2.2				
Summary of Reconciled Land and Land Rights Retained to MWSS General Ledger versus Physical Inventory Committee Report (PICR)				
LOCATION	LOT AREA PER PICR	LOT AREA PER BOOKS	Difference	Cost
LANDS CLASSIFIED AS WATERSHEDS RESERVATION				
LA MESA	16,343,703.00	16,053,435.16	290,267.84	P3,207,858,864.17
WAWA DAM	1,776,029.06	1,748,970.00	27,059.06	18,908,251.69
ANTIPOLO RIZAL	15,071,451.00	15,071,451.00	-	
TANAY RIZAL – KALIWA LAND	6,368,379.00	6,368,368.00	11.00	42,333,910.13
COMPRISING BALARA COMPLEX	620,876.00	620,676.70	199.30	196,632,056.07
LANDS COMPRISING IPO – NOVALICHES ROAD				
NORZAGARAY	10,699.00	10,699.00	-	
CALOOCAN	74,913.00	78,462	(3,549.00)	22,612,496.98
QUEZON CITY – For cancellation due to double take-up	6,431.00		6,431.00	
NOT-IN-SERVICE				
ANTIPOLO	177,520.00	124,457.00	53,063.00	931,766.00
QUEZON CITY	179,012.00	179,012.00	-	
RODRIGUEZ	45,790.00	45,790.00	-	
RIZAL MATICTIC	1,109,834.00	1,043,834.00	66,000.00	8,635,468.61
NORZAGARAY BULACAN				
LANDS CLASSIFIED TO JOINT VENTURE				
NORZAGARAY BULACAN	40,497.00	40,457.00	40.00	40,347.15
CALOOCAN	182,528.00	174,139.00	8,389.00	162,752,600.00
QUEZON CITY	1,562.00	1,562.00	-	
TOTAL RETAINED LOTS	42,009,224.06	41,561,312.86	447,911.20	3,660,705,760.80

LOCATION	LOT AREA PER PICR	LOT AREA PER BOOKS	Difference	Cost
ADD: LOTS/PICR ONLY – FOR BOOKING UP UPON SUBMISSION OF DOCS.	3,699,920.65		3,699,920.65	
TOTAL AREA & COST OF RECONCILED LANDS RETAINED TO MWSS	45,709,144.71	41,561,312.85	4,147,831.85	3,660,705,760.80
ADD: LOTS RECORDED IN THE BOOKS BUT NOT WITH PHYSICAL INVENTORY REPORT		34,646,245.33	(34,646,245.33)	1,182,738,666.23
TOTAL	45,709,144.71	76,207,558.19	(30,498,413.48)	P4,843,444,427.03

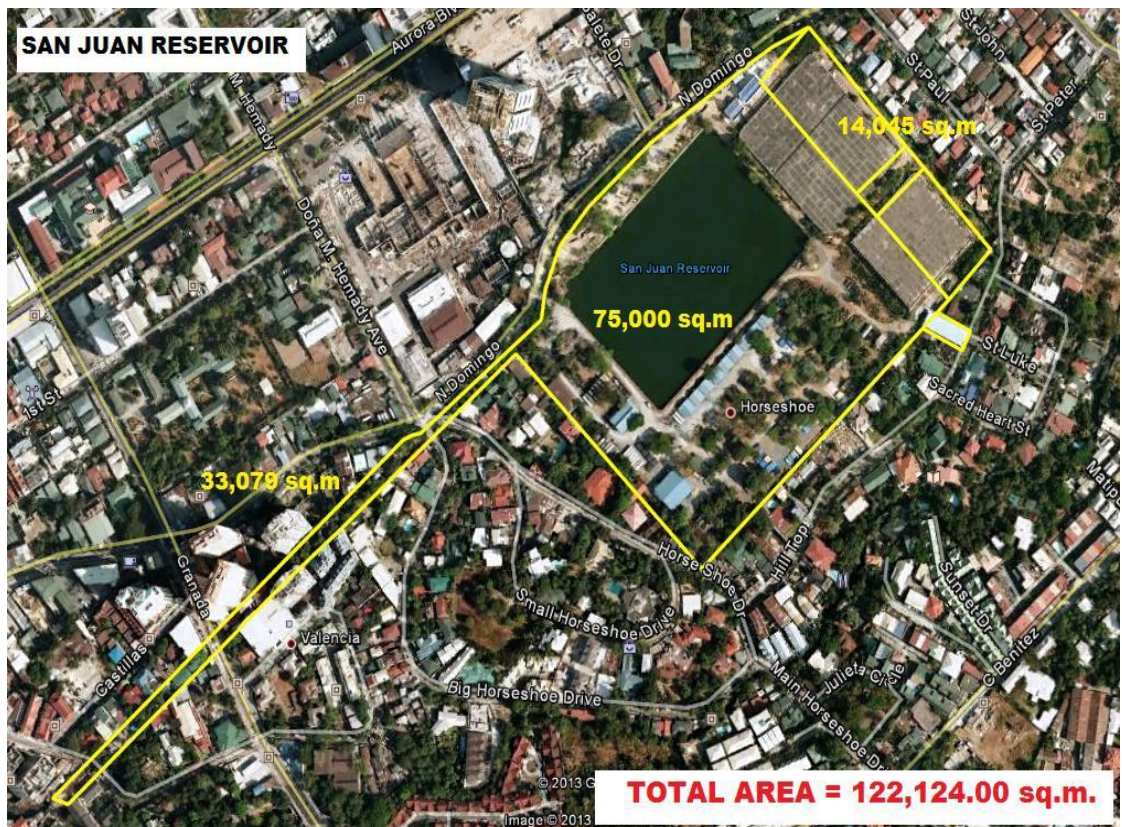
- 1.2.2. We observed that no action has been taken to reconcile the difference in lot area between the books of accounts as against the Physical Inventory Committee Report considering that the reconciliation report was submitted early this year, on May 12, 2012.
- 1.3. ***We strongly recommend that Management take immediate action on the conduct of complete physical inventory of all the PPE and on the reconciliation of the same with accounting records.***
- 1.4. Under Section 3 of COA Circular 80-124, the failure of the officials concerned to submit the inventory reports shall automatically cause the suspension of payment of their salaries until they have complied with the requirements pursuant to Section 122 of PD 1445.
- 1.5. Management informed they will continue with the inventory taking and will exert all efforts to effect the adjustments gathered during the inventory taking. .
2. **MWSS Corporate Office failed to collect from the Concessionaire the accumulated rental arrears estimated at P161.23 million arising from the use by the latter as stockyard of the 36,000 sq.m. Not-In-Service (NIS) Land in the San Juan Reservoir and Aqueduct Complex since March 2006 to date, pursuant to Section A.1.2 of MWSS Board Resolution No. 106-96. known as the “Guidelines/Procedures For The Allocation Of MWSS Fixed Assets, Equipment And Inventory Of Construction**

Materials In The Books Of The Accounting Department As Of December 31, 1996”, which provides that NIS Land is to remain with MWSS to be sold or leased.

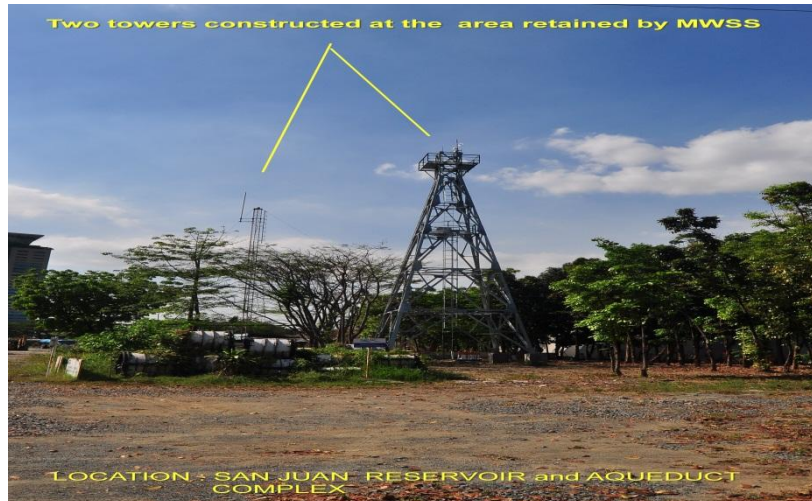
- 2.1. Article 8 of the Concession Agreement (CA) with Manila MWCI provides the retained functions of MWSS which include, among others, managing and/or disposing of the retained assets. Under Article 1 (Definitions) of the CA, retained assets means those assets that are retained by MWSS following the closing date which are set forth in the document captioned “Allocation Of Fixed Assets” dated December 6, 1996 under MWSS Board Resolution No. 196-96 known as the “Guidelines/Procedures For The Allocation Of MWSS Fixed Assets, Equipment And Inventory Of Construction Materials In The Books Of The Accounting Department As Of December 31, 1996”. Under Section A.1.2 of the said Guidelines, Not-in-Service land shall remain with MWSS to be sold or leased.

- 2.2. In the MWSS Inventory of Land and Land Rights as of December 31, 2011, the land with an area of 122,124 sq.m. where the San Juan Reservoir and Aqueduct Complex are located is classified into the following:

Area	Classification
75,000 sq.m.	Not In Service (NIS) Land and retained by MWSS
33,079 sq.m	Allocated to the Concessionaire (MWCI) as service operational area for the San Juan Reservoir
14,045 sq.m.	Area of Reservoir transferred to MWCI



- 2.3. Ocular inspection of the San Juan Reservoir and Aqueduct Complex which is under the operational control of one Concessionaire, *Manila Water Co. Inc.* (MWC), showed that the Concessionaire used a portion of the NIS Land with an area of 36,000 sq.m. or 3.6 hectares as a stockyard for its pipes and other materials and equipment. We also found that a generator-set house, new pumping station and two towers were constructed in the area as shown in the picture:



- 2.4. Based on the documents gathered, we noted that:
- a. On March 20, 2006 the then MWSS Administrator wrote a letter to the President, MWCI, informing that the use of the 36,000 sq.m. or 3.6 hectares of land as a stockyard must be covered with a Contract of Lease. The land was classified as a NIS Land per Concession Agreement and is therefore retained to MWSS.
 - b. The President of MWCI, in a letter dated August 1, 2006 to the Administrator, informed that MWCI was setting up a warehouse structure to house the various supplies and materials to protect them from weather conditions and that the said Land formed part of the operating assets turned over to MWCI per the Concession Agreement.
 - c. On September 21, 2006, the former MWSS Administrator informed MWCI that they were then giving due course to the request to build a warehouse pending resolution of the issues affecting the said asset.
 - d. In a letter dated January 31, 2008, the former Administrator again demanded for the payment of accumulated rental arrears equivalent to P6,652,800 starting March 20, 2006 to February 28, 2008 for the use of the 36,000 sq.m. or 3.6 hectares of land.
- 2.5. To date, MWCI has not paid MWSS rent for the use of the abovementioned NIS Land due to their contention that the said land formed part of the operating assets turned over to MWCI per the Concession Agreement.
- 2.6. MWSS could have earned an estimated rent income of P161,230,500 for the use of the land by MWCI. The computation of the rental rate per month was based on Section D of Memorandum Circular 02-11 dated July 22, 2002 which provides the *Guidelines and Procedures on Leasing of MWSS Right of Ways and its Idle Properties* approved under Board Resolution No. 17-2003 dated January 22, 2003, as follows:

$\text{Rental rate} = \frac{\text{TBR} \times \text{FMV}}{12} \times \text{TAL}$
<p>Where: TBR - Treasury Bill Rate with a term of 359 days FMV - Fair Market Value of Property TAL - Total Area Leased</p>

Using the abovementioned formula, the estimated rent income of P161,230,500 was arrived at, using the following data:

TBR	Rates using the TBR from the Bangko Sentral ng Pilipinas from March 2006- December 2012 (data taken from the National Statistical and Coordination Board (NSCB) website)
FMV	Valuation of real properties in Quezon City per Department of Finance Order 39-03 dated February 7, 2003
TAL	36,000 sq.m. was based on the letter of MWSS to MWCI dated March 20, 2006

2.7. Shown in Table A.1.1.2.7 is the computation of estimated rent income that should have been collected from MWCI

Table A.1.1.2.7				
Computation of Estimated Rent Income				
Month	TBR	FMV	TAL	Estimated Monthly Rental
2006				
March	0.0692	15,000.00	36,000.00	3,114,000.00
April	0.0613	15,000.00	36,000.00	2,758,500.00
May	0.0583	15,000.00	36,000.00	2,623,500.00
June	0.0797	15,000.00	36,000.00	3,586,500.00
July	0.0782	15,000.00	36,000.00	3,519,000.00
August	0.0737	15,000.00	36,000.00	3,316,500.00
September	0.0685	15,000.00	36,000.00	3,082,500.00
October	0.0664	15,000.00	36,000.00	2,988,000.00
November	0.0550	15,000.00	36,000.00	2,475,000.00
December	0.0550	15,000.00	36,000.00	2,475,000.00
Sub-total 2006				29,938,500.00
2007				
January	0.0438	15,000.00	36,000.00	1,971,000.00
February	0.0391	15,000.00	36,000.00	1,759,500.00
March	0.0391	15,000.00	36,000.00	1,759,500.00
April	0.0391	15,000.00	36,000.00	1,759,500.00
May	0.0517	15,000.00	36,000.00	2,326,500.00
June	0.0517	15,000.00	36,000.00	2,326,500.00
July	0.0544	15,000.00	36,000.00	2,448,000.00
August	0.0561	15,000.00	36,000.00	2,524,500.00
September	0.0564	15,000.00	36,000.00	2,538,000.00
October	0.0563	15,000.00	36,000.00	2,533,500.00
November	0.0557	15,000.00	36,000.00	2,506,500.00
December	0.0556	15,000.00	36,000.00	2,502,000.00
Sub-total 2007				26,955,000.00
2008				
January	0.0543	15,000.00	36,000.00	2,443,500.00
February	0.0527	15,000.00	36,000.00	2,371,500.00
March	0.0527	15,000.00	36,000.00	2,371,500.00
April	0.0585	15,000.00	36,000.00	2,632,500.00
May	0.0688	15,000.00	36,000.00	3,096,000.00
June	0.0674	15,000.00	36,000.00	3,033,000.00
July	0.0679	15,000.00	36,000.00	3,055,500.00
August	0.0694	15,000.00	36,000.00	3,123,000.00
September	0.0675	15,000.00	36,000.00	3,037,500.00
October	0.0650	15,000.00	36,000.00	2,925,000.00
November	0.0700	15,000.00	36,000.00	3,150,000.00
December	0.0641	15,000.00	36,000.00	2,884,500.00
Sub-total 2008				34,123,500.00

Month	TBR	FMV	TAL	Estimated Monthly Rental
2009				
January	0.0507	15,000.00	36,000.00	2,281,500.00
February	0.0507	15,000.00	36,000.00	2,281,500.00
March	0.0474	15,000.00	36,000.00	2,133,000.00
April	0.0467	15,000.00	36,000.00	2,101,500.00
May	0.0467	15,000.00	36,000.00	2,101,500.00
June	0.0473	15,000.00	36,000.00	2,128,500.00
July	0.0448	15,000.00	36,000.00	2,016,000.00
August	0.0434	15,000.00	36,000.00	1,953,000.00
September	0.0440	15,000.00	36,000.00	1,980,000.00
October	0.0440	15,000.00	36,000.00	1,980,000.00
November	0.0450	15,000.00	36,000.00	2,025,000.00
December	0.0456	15,000.00	36,000.00	2,052,000.00
Sub-total 2009				25,033,500.00
2010				
January	0.0459	15,000.00	36,000.00	2,065,500.00
February	0.0456	15,000.00	36,000.00	2,052,000.00
March	0.0441	15,000.00	36,000.00	1,984,500.00
April	0.0440	15,000.00	36,000.00	1,980,000.00
May	0.0449	15,000.00	36,000.00	2,020,500.00
June	0.0460	15,000.00	36,000.00	2,070,000.00
July	0.0455	15,000.00	36,000.00	2,047,500.00
August	0.0457	15,000.00	36,000.00	2,056,500.00
September	0.0448	15,000.00	36,000.00	2,016,000.00
October	0.0428	15,000.00	36,000.00	1,926,000.00
November	0.0309	15,000.00	36,000.00	1,390,500.00
December	0.0239	15,000.00	36,000.00	1,075,500.00
Sub-total 2010				22,684,500.00
2011				
January	0.0246	15,000.00	36,000.00	1,107,000.00
February	0.0315	15,000.00	36,000.00	1,417,500.00
March	0.0288	15,000.00	36,000.00	1,296,000.00
April	0.0208	15,000.00	36,000.00	936,000.00
May	0.0203	15,000.00	36,000.00	913,500.00
June	0.0302	15,000.00	36,000.00	1,359,000.00
July	0.0324	15,000.00	36,000.00	1,458,000.00
August	0.0213	15,000.00	36,000.00	958,500.00
September	0.0100	15,000.00	36,000.00	450,000.00
October	0.0175	15,000.00	36,000.00	787,500.00
November	0.0108	15,000.00	36,000.00	486,000.00
December	0.0108	15,000.00	36,000.00	486,000.00
Sub-total 2011				11,655,000.00

Month	TBR	FMV	TAL	Estimated Monthly Rental
2012				
January	0.0208	15,000.00	36,000.00	936,000.00
February	0.0256	15,000.00	36,000.00	1,152,000.00
March	0.0277	15,000.00	36,000.00	1,246,500.00
April	0.0260	15,000.00	36,000.00	1,170,000.00
May	0.0254	15,000.00	36,000.00	1,143,000.00
June	0.0245	15,000.00	36,000.00	1,102,500.00
July	0.0237	15,000.00	36,000.00	1,066,500.00
August	0.0227	15,000.00	36,000.00	1,021,500.00
September	0.0206	15,000.00	36,000.00	927,000.00
October	0.0115	15,000.00	36,000.00	517,500.00
November	0.0062	15,000.00	36,000.00	279,000.00
December	0.0062	15,000.00	36,000.00	279,000.00
Sub-total 2012				10,840,500.00
Total Rental for the period March 2006 to December 2012				161,230,500.00

- 2.8. The estimated income of P161,230,500 did not include the 10% annual increase in rental rate and the interest of one % per month on unpaid rental provided for in Section D of Memorandum Circular 02-11.
- 2.9. *In view of the contention of the MWCI contained in its letter dated August 1, 2006 that that the said land formed part of the operating assets turned over to MWCI per the Concession Agreement, we recommend that Management take immediate and appropriate action to resolve the issue with the Concessionaire in accordance with the Concession Agreement.*
- 2.10. *Should MWCI maintain its position of not paying the rental fee, we recommend that MWSS Management take legal action to demand and collect from MWCI the lease for the use of the 36,000 sq.m. land in the San Juan Reservoir and Aqueduct Complex in N. Domingo, San Juan City, Metro Manila.*
3. **MWSS allowed the installation of Telecom Towers by the Concessionaire of the East Zone (MWCI) in its properties located in (a) San Juan-Mandaluyong Business Area (12 sq.m.), (b) Pasig Pumping Station area (225 sq.m.), and (c) Main Warehouse lot in Balara (300 sq.m.), to its detriment for the following reasons:**
- a. the donor of the Land where the MWCI San Juan- Mandaluyong Business Area is located may question the installation of the Telecom Towers in view of the provision in the land title that the lot shall be used for the main purpose relating to waterworks and sewerage system;
 - b. the Agreement was executed by and between MWCI and Globe, instead of between MWSS, being the owner of the property and Globe; and

- c. the agreed rental rates being collected were not reasonably determined and authorized pursuant to Section 6 of Executive Order No. 301, dated 26 July 1987.**

3.1. Review of the installation of Telecom Towers by the MWCI on San Juan-Mandaluyong Business Area occupying 12 sq.m. disclosed that:

- 3.1.1. There would be a risk that the donated prime property (land) where the MWCI San Juan-Mandaluyong Business Area is located may revert back to the donor. The terms/conditions in the Transfer Certificate of Title No. 35390 states that:

Transfer Certificate of Title (TCT) No. 35390 registered with the Register of Deeds on August 5, 1954 transferred to MWSS the title to 2,557 sq.m. lot with the condition that the new owner will use the property for the main purpose of constructing and maintaining thereon an elevated water tank and/or buildings, installation and other structures necessary for its operation even if the water pressure in the area should improve to an extent whereby the use of said water tank may be dispensed with. Should the new owner (now MWSS) violate the condition hereby imposed upon it, the title to the land acquired shall, upon such violation, ipso facto, revert to the donor (Ortigas, Madrigal Y Cia., S.en C.) and said land shall become, from the date of such violation, the property of the said donor."

- 3.1.2. Allowing the installation of Globe equipment in MWCI San Juan-Mandaluyong Business Area is to the disadvantage of MWSS considering the terms and conditions attendant to the memorandum of encumbrance in the TCT, where the title to the land shall ipso facto, revert to the donor (Ortigas, Madrigal Y Cia., S.en C.).

3.2. Related documents showed that on June 27, 2001, MWCI and Globe Telecom, Inc. entered into an agreement granting permission to Globe Telecom Inc. (Globe) to set up and operate base transceiver stations in the above-listed MWSS operating assets, namely: MWCI San Juan-Mandaluyong Business Area (12 sq.m.); Pasig Pumping Station (225 sq.m.), and the Main Warehouse lot in Balara (300 sq.m.), the consequent purpose for which was to enhance the MWCI communication systems and consequently improve service to customers and other stakeholders. The use of the premises shall be for ten years subject to renewal for another ten years upon mutual agreement. Globe shall shoulder utility, security and maintenance costs of the base transceiver stations.

3.3. As of date, there was no renewal of the above-mentioned agreement between MWCI and Globe which ended in CY 2011.

3.4. Granting that the installation of the equipment in the above-mentioned properties have been legal, the use of the area by Globe Telecom was not currently covered by a lease contract required under Section 2 of the DPWH Standards/Guidelines issued pursuant to Section 6 of Executive Order No. 301 dated July 26, 1987. This regulation provides that the contract of lease shall be embodied as a public instrument and shall integrate all the covenants, understanding and agreements of the Lessor and Lessee.

- 3.5. It should be mentioned that no documents were made available to the Audit Team to validate the Agreements between Globe Telecom Inc. and MWCI as legal basis for the installation/construction of the Globe towers such as government building permits and licenses to operate such communication facilities and the authority of MWCI to grant permissions to Globe to set up and operate base transceivers within the premises of MWSS properties turned over to MWCI under the provisions of the Concession Agreement.
- 3.6. In the absence of any other documents, the Agreement dated June 27, 2001 between MWCI and Globe Telecom, Inc. was deemed renewed to be the prevailing contract governing the payment of Globe to MWSS as compensation for the use of the MWSS assets. .
- 3.7. The rent being paid by Globe to MWSS was not in accordance with Section 7 of Executive Order No. 301, dated 26 July 1987, quoted as follows:

“Sec. 7. Jurisdiction Over Lease Contracts. The heads of agency intending to rent privately-owned buildings or spaces for their use, or to lease out government-owned buildings or spaces for private use, shall have authority to determine the reasonableness of the terms of the lease and the rental rates thereof, and to enter into such lease contracts without need of prior approval by higher authorities, subject to compliance with the uniform standards or guidelines established pursuant to Section 6 hereof by the DPWH and to the audit jurisdiction of COA or its duly authorized representative in accordance with existing rules and regulations.”

- 3.8. Total payments received from Globe in CY 2012 amounted to P1,936,189.59 (P2,168,532.45 less tax of P232,342.86) or a monthly rental of P166,810.19. The Agreement entered into between MWCI and Globe on June 27, 2001 provides that to recompense for the use of the premises: MWCI San Juan-Mandaluyong Business Area; Pasig Pumping Station area (225 sq.m.), and the Main Warehouse lot in Balara (300 sq.m.), an assessment of P10,000, P40,000 and P30,000 per month respectively was taken into consideration. The rates shall be subject to 10% escalation for the first five years. Rates shall be reviewed at the end of year 5, upon mutual agreement of the parties.
- 3.9. It appears that the rental payments were based on the Agreement signed by and **between MWCI and Globe instead of between MWSS, as the owner of the property, and Globe** as required under Section 7 of EO 301 mentioned above. Thus, the agreed rental rates being collected to date was not reasonably determined and authorized in accordance with the DPWH issued uniform standards/guidelines pursuant to Section 6 of Executive Order No. 301.
- 3.10. ***We recommended that Management:***
- a. **For San Juan-Mandaluyong Business Area, require the MWCI to remove the Globe telecommunications equipment from the area; and**

- b. ***Comply with the provision of Section 14 of Philippine Accounting Standard 39 on the recognition of a financial asset which provides that an entity shall recognize a financial asset or a financial liability on its balance sheet when, and only when, the entity becomes a party to the contractual provisions of the instrument.***
5. **Collections from the concessionaires in the amount of P140.138 million as of December 31, 2012 for the debt servicing of JBIC/OECF loan for the Angat Water Supply Optimization Project (AWSOP) remained unremitted to either Bureau of the Treasury or to the foreign lending institution due to the non-resolution of the issue of whether the disbursements for the AWSOP before privatization are to be treated as equity from the National Government, or as loan as it is the concessionaries who continue implementing the AWSOP after privatization. On the other hand, there was a shortfall P6.715 million on collections remitted by the two concessionaires to MWSS for the debt servicing, contrary to Section 6.4 of the Concession Agreement.**
- 5.1. Collections from the two concessionaires for the payment of maturing obligations of MWSS are recorded as a reduction from Accounts Receivable – Concession Fee – Debt Service while the payment of indebtedness to foreign creditors are taken up as debits to Loans Payable - Foreign Loans.
- 5.2. The Japan Bank International Cooperation/Overseas Economic Cooperation Fund (JBIC/OECF) loan under JBIC Loan Agreement No. PH-P110 was contracted by Japan and the National Government on February 9, 1990 intended for the Angat Water Supply Optimization Project (AWSOP). The original amount of the loan was ¥10,650,000,000 (US\$91.90) of which ¥6,593,113,021 (US\$61.75 million) was disbursed based on cumulative total of disbursements for the project as of May 11, 2001 and an unutilized balance of ¥3,966,886,979 (US\$37.15 million), amortization due date is February 20 and August 20 of each year, interest at 2.70% per annum with loan revaluation of P1,647,217,418 as of December 31, 2012. The loan is to be paid by the Concessionaires to MWSS as provided under Section 6.4 of the Concession Agreement between MWSS and the Concessionaires and is quoted as follows:
- “a) Not later than 14 days prior to the date on which any scheduled payment of principal, interest, fees or other amount is due under a MWSS loan, MWSS shall notify the Concessionaire in writing of the total amount due on that payment date and of the “Peso equivalent” calculated at the then prevailing exchange rate. Not later than one business day prior to each such payment date, the Concessionaire shall remit to such account as MWSS shall instruct an amount, in pesos, exclusive of any penalties, or default, interest charges not attributable to a later payment of the Concession fee by the Concessionaire xxxxx”*
- 5.3. Management informed that in a thorough discussion with the Bureau of Treasury (BTR), it was learned that the JBIC loan was originally granted to the National Government by the Overseas Economic Cooperative Fund (OECF) which was later on called JBIC. Part of the grant was allocated for MWSS project. There was no

subsidiary loan agreement between the MWSS and the NG and therefore, no account receivable appearing on the records of the BTR, hence, BTR did not issue any billing for payment of loan amortization to MWSS.

- 5.4. Management also informed that during the implementation of the Angat Water Supply Optimization Project (AWSOP) project (*prior to the privatization when the operations of MWSS were transferred to the two Concessionaires*), all the disbursements were treated as grant/equity from the National Government and therefore classified as Equity in the books of account of the MWSS. However, in 1997, when the privatization took effect, it was learned from the Department of Finance (DOF) that the grant was “converted” into loan since the private concessionaires will be the ones to continuously implement the project.
- 5.5. According to Management, they have been seeking the approval of the DOF and the BTR to resolve if the disbursements for the AWSOP project funded from the JBIC loan before privatization are to be treated as equity from the National Government or loan since the concessionaires will continue to implement the project.
- 5.6. Further, audit of Loan Payable account revealed that collections from the two concessionaires in the total amount of P140,138,217 for the payment of JBIC loan were not remitted to the JBIC. The subsidiary ledger of Loans Payable - JBIC/OECF account showed that no payments were made. Instead, only the revaluation of the loan balance at year-end was recorded in the books.
- 5.7. Meanwhile, comparison of collections of Other Debt Service Fees, including the principal, interest and financial charges of the foreign creditors, from the two concessionaires (MWSI and MWCI) and the payment of foreign loans to the foreign lending institutions showed a shortfall of P6,715,941 computed as follows:

Table A.1.1.4.4					
Shortfall on Collections Remitted by Concessionaires to MWSS as Source of Loan Payments to Foreign Creditors					
Loan	Payments	Collections			Difference
		MWSI	MWCI	Total	
IBRD Loan No. 4019	P 189,629,379	P 89,159,074	P 95,802,796	P 184,961,870	P4,667,509
ADB Loan 11590	49,782,698	49,041,484	-	49,041,484	741,214
ADB Loan 1379	294,434,521	229,516,154	64,914,454	294,430,608	3,913
ADB Loan 947	184,377,671	160,749,543	18,209,544	178,959,087	5,418,584
ADB Loan 986	626,496,952	84,032,341	547,076,769	631,109,110	(4,612,158)
French Protocol	26,160,442	20,299,227	5,364,336	25,663,563	496,879
Total	P1,370,881,663	P632,797,823	P731,367,899	P1,364,165,722	P6,715,941

- 5.8. The non-collection from the concessionaire was contrary to Section 6.4 of the Concession Agreement between MWSS and the Concessionaire MWSI as stated above.