



22 August 2019

NANCY J. UY

Supervising Auditor

Commission on Audit

Metropolitan Waterworks and Sewerage System



Subject: AGENCY ACTION PLAN AND STATUS OF IMPLEMENTATION

Dear Auditor Uy:

This is to submit the MWSS Regulatory Office's (MWSS RO) Agency Action Plan and Status of Implementation (AAPSI) as of August 15, 2019, of the audit recommendations contained in the Annual Audit Report for CY2018. The details of the AAPSI is presented in the attached **Annex "A"** hereof.

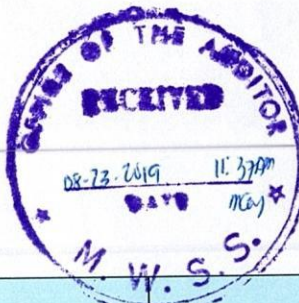
We hope that the updates and comments in the AAPSI may have fully satisfied the audit recommendations as implemented by the MWSS RO.

Thank you very much.

Very truly yours,

CLAUDINE B. OROCIO-ISORENA

DA for Administration and Legal Affairs



MWSS RO

Annex "A"

AGENCY ACTION PLAN AND STATUS OF IMPLEMENTATION

Audit Observations and Recommendations

For Calendar Year 2018

As of: August 15, 2019

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Ref	Audit Observation	Audit Recommendation	Agency Action Plan				Reasons for Partial/ Delay/ Non-implementation, if applicable	Action Taken/ Actions to be Taken	
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					From	To			
D. Compliance Audit									
MWSS - REGULATORY OFFICE									
4 th Rate Rebasing Exercises Contract - Reimbursable Expenses (Pg. 96-99 AAR2018)	20. Management failed to exercise due diligence in the verification of reimbursable expenses claimed by the Consultants, resulting in excessive and unnecessary expenditures totaling P52,932.39, as stated under Clause 49 of the General Conditions of the Contract;	a. Exercise due diligence in the audit of all receipts and supporting documents submitted by the Consultants to prevent payment of Irregular, Unnecessary, Excessive, Extravagant, and Unconscionable expenditures; and		Admin. Dept./RRMC	July-2019	Dec.-2019	Fully Implemented		1. Management commented that the MWSS RO undertakes to direct its Rate Rebasing Management Committee (RRMC) scrutinize the claims for reimbursements henceforth to avoid similar occurrences which Management promised to revisit.
	21. Reimbursement of Expenses amounting to P330,979.04 were billed by	b. Require the Consultants to refund the amount of P52,932.39 or deduct the amount from the Consultants'		Admin. Dept./RRMC	July-2019	Dec.-2019	Fully Implemented		<i>Update from RRMC contained in its Memo to the RO EXECOM dated June 10, 2019:</i> a. The RRMC recommends the reiteration of its comments contained in the reply to the

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	the Consultants beyond one month since it was incurred, contrary to Item 8.2 of the Terms of Reference of the Contract.	subsequent billings. Also, submit documents/Official receipt of the refund. c. We recommended that Management comply with the provisions of the Contract and disallow the reimbursement of expenses beyond the month of its actual incurrence.		Admin. Dept./RRMC	July-2019	Dec.-2019	Fully Implemented		Resident Auditor dated November 28, 2019, particularly pages 6-8 of the said letter (Annex "A"). It may also be worth submitting a copy of the Memorandum dated November 26, 2018, bearing the approval of the Chief Regulator as recommended by the RRMC to relax the Terms of Reference (TOR) provision on the period to reimburse (Annex "B"). b. The RRMC sought clarifications from TCI regarding the use of rent vehicle with plate number XND 988 twice on

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									December 20, 2017, the 1 st trip was from 8:00 AM – 6:30 PM and the 2 nd trip from 10:00 PM to 12:05 AM. TCI provided copy of their contract with Racing Legend Transport Services (Annex “C”). It stated that the RLTS “agreed to rent out service vehicles for a daily rental in the amount of P6,000.00 per vehicle inclusive of driver xxx.” TCI clarified that the trip in the evening was considered a different rental because a different driver was utilized. This is a valid claim because when the vehicle was returned to the lessor, the “daily contract” was terminated.

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4 th Rate Rebasing Exercise - Contract Liquidated Damages (Pg. 99-103 AAR2018)	22. The agreed-upon contract timeline was not strictly complied by the Consultants, resulting in the overall delay in the completion of the contract. Also, liquidated damages for delay totaling P1.037 million as provided for in Clause 54 of the General Conditions of the Contract RO-CS2017-01, were not deducted from the contract payments made.	a. Require the Consultants to refund the liquidated damages amounting to P1,036,535.08 or deduct the amount from future contract payments to be made to the Consultants; b. Compute and deduct from the contract price any further liquidated damages resulting from the Consultant's delays in the fulfillment of the remaining deliverables/milestones that should have been completed in October 31, 2018.		Admin. Dept./RRMC	July-2019	Dec. 2019	Fully Implemented		1. Management will have to revisit the documents before providing their formal comment. <i>Update from RRMC contained in its Memo to the RO EXECOM dated June 10, 2019:</i> The RRMC during its meeting on May 31, 2019 revisited the above-cited provision of the contract particularly Clause 54 of the GCC RO-CS2017-01 stating; <i>"If the Consultants fail to deliver any or all of the Services within the period(s) specified in this Contract and under the applicable law, deduct from the contract price, as liquidated damages, a sum equivalent to one-tenth of one percent of the price of the unperformed portion of the services for each day of delay based on the approved</i>

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								<p><i>contract scheduled up to a maximum deduction of ten percent (10%) of the contract price. Once the maximum is reached, the procuring Entity may consider termination of this Contract pursuant to GCC Clause 27."</i></p> <p>In the discussions of the RRMC, it was clear with the members that the "services" was for the determination of the Rate Rebasing Adjustment not the actual delivery of the reports needed to support and substantiate the process by which the services were rendered. The milestone delivery dates of the reports were only directorial in nature to guide the MWSS RO for the release of payments to TCI. The provision for liquidated damages should not be construed as a tool to impose or assess</p>	

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									penalties for delays in the submission of reports. Therefore, delayed submission of reports may not qualify as a basis to assess liquidated damages for failure to deliver any or all of the services contemplated in the Contract. The MWSS RO did not sustain actual damages that it can appropriately assume, but rather it had the benefit of substantial completion of the services upon the completion of the Rebasing Adjustment determination within the period by which the contract ends on July 30, 2018. However, on July 30, 2018, TCI sent a letter request for contract time extension until October 31, 2018 at no additional cost on the part of the MWSS RO which the latter approved in a

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									<p>meeting held on even date. For the RRMC, this is the appropriate reckoning date for the calculation of liquidated damages.</p> <p>The RRMC presents its estimation of the Liquidated Damages started from the October 31, 2018 contract termination vis-à-vis Reports submitted after the said date for deliverables:</p> <p>8.1 & 8.2 PhP108,645.32; 11. P48,449.94 for a total of P157,095.26.</p> <p>For the Final Report, Section 54.1 of the General Conditions of the Contract states that:</p> <p><i>"54.1 The final payment shall be made only after the final report and a final statement, identified as such, shall have been</i></p>

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									submitted by the Consultant and approved as satisfactory by the Procuring Entity. The Services shall be deemed completed and finally accepted by the procuring Entity and the final report and final statement shall be deemed approved by the Procuring Entity as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the Procuring Entity unless the procuring Entity, within such ninety (90)-day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections within a maximum period of ninety (90) calendar days, and upon completion of such corrections, the foregoing process shall be repeated."

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									Thus, the Second Draft submitted by TCI within 90 days from the comments of the RO means that no liquidated damages is due. The RRMC will inform TCI on the calculated liquidated damages for their comments.
Subsidiary Ledgers (Pg. 103-104 AAR2018)	23. The MWSS RO does not maintain subsidiary ledgers of various receivable accounts as required under Section 111 and 114 of P.D. 1445 (otherwise known as the Government Auditing Code of the Philippines) to keep track of financial transactions.	a. We recommended that Management maintain subsidiary records for all receivable and payable accounts as provided under Section 114(2) of P.D. 1445.		Admin. Dept.- Finance Section	Jul 2019	Dec. 2019	Partially implemented	The proposed Reorganization of the MWSS RO is expected to be approved in the first Quarter of 2020. Hence, additional personnel at the Finance Section will be on-board in the second half of CY2020.	1. Management commented that the finance unit lacked manpower to create a separate subsidiary ledger that will monitor all accounts receivable on a per transaction basis, which deficiency the Management are hoping to resolve through their ongoing reorganization.
Notes to Financial Statement (Pg. 104-105 AAR2018)	24. Management did not prepare Notes to Financial Statements contrary to Section 4.2 (b) Item 6 of COA Circular No.	a. We recommended that Management comply with Section 4.2 (b) of COA Circular		Admin. Dept.- Finance Section	Jul 2019	Dec. 2019	Fully implemented		1. Management commented that MWSS RO and MWSS CO religiously submits its consolidated notes to financial statements to the COA. The notes

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	2017-004 dated December 13, 2017.	No. 2017-004 in the preparation of Notes to FS comprising a summary of significant accounting policies and explanatory notes.							contain all salient features and events that transpired for both Regulatory Office and Corporate Office during each audit year. MWSS RO believes that their submissions are substantially compliant. Moving forward, the MWSS RO will undertake to submit separate Notes to Financial Statements in compliance with the recommendations.
Contract of Service Workers (Pg. 105-107 AAR2018)	25. Hiring of Contract of Service employees with functions similar to those of the agency's existing regular employees, is contrary to Section 7 of CSC-COA-DBM Joint Circular No. 1 series of 2017 dated June 15, 2017.	a. Stop the hiring of COS employees that will render functions which are already being performed by the Agency's existing regular employees, in compliance with Section 7 of CSC-COA-DBM Joint Circular No. 1 s		Admin. Dept.- HR	July 2019	Dec. 2019	Fully Implemented		1. Management commented that the reproduced portions from the individual contracts seemingly performed by the COS personnel were included in their contracts as gauge or comparable basis for the determination of their compensation. The responsible and accountable personnel remain to be the supervising regular employee.

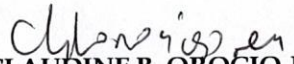
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		2017 dated June 15, 2017; and b. Consider the existing COS employees to MWSS RO's vacant regular positions. Subject to existing Civil Service laws/regulations and agency CSC-approved Merit Selection Plan.		Admin. Dept.- HR	July 2019	Dec. 2019	Fully Implemented		2. Anent the second recommendation, Management commented that despite the required publication of the vacancies, very few were appointed since those pre-qualified may not at the same time possess the required competencies or eligibility. Nonetheless, MWSS RO is currently undergoing a reorganization to address its manpower needs.
Gender and Development (Pg. 107-111 AAR2018)	26. The GAD expenses amounted to P2,465,309.73 in spite the Agency's failure to submit GAD Plan and Budget (GPB) for CY 2018 to the Philippines Commission on Women (PCW) as required by Section 8 of PCW-NEDA-	a. Submit timely the GAD Plan and Budget to the CW for review and approval in compliance with Section 8 of PCW-NEDA-DBM Joint Circular No. 2012-01; and		GAD Committee	July 2019	Dec. 2019	Fully Implemented		1. Management assured that, moving forward, they will adhere to COA's policies on the GAD plan, budget and activities. Moreover, the Management undertake to make a timely submission of the office's GPB.
		b. Stop the practice of implementing GAD Programs, Activities, and Projects as		GAD Committee	July 2019	Dec. 2019	Fully Implemented		2. MWSS RO was unfortunately unable to upload and secure the approval of the PCW of its GPB 2018 due to the

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	DBM Joint Circular No. 2012-01 and PCW Memorandum Circular No. 2016-05 dated September 30, 2016.	perceived only by Management, without the approval of the PCW to avoid any disallowances.							recurring issues with the PCW's Gender Mainstreaming Monitoring System or GMMS (an online system for automating the GPB and GAD AR submission of government agencies). 3. MWSS RO also informed that they were able to successfully obtain a PCW-endorsed GPB for CY 2019 which substantially include the same programs and activities in their 2018 GPB. Hence, MWSS RO's GAD Projects and Activities should likewise be considered gender responsive and are with legal basis.
Advances to UP - National Engineering Center (Pg. 111-112 AAR2018)	26. The advances to UP National Engineering Center (UP-NEC) in the amount of P.4925 million as at year end for the Public Assessment of Water Services	a. COA's recommendation for Management to follow-up on their demand from UP-NEC for the immediate refund/return		Admin. Dept.	July 2019	Dec. 2019	On-going		1. Management commented that they will follow-up the demand from UP-NEC through the UP Chancellor to compel remittance of the remaining 50% of the unexpended budget in the amount of P1.035

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	Project (PAWS) remained unliquidated despite the project completion in CY 2011.	of the outstanding advances from the project. If no responses is received, consider other legal remedies to enforce collection of the advances.						million. Furthermore, the Management shall coordinate with the UP-Accounting Office for the verification of the recorded expenses as charged to the PAWS Budget per their approval of the disbursements and to record said expenses in the books of the Regulatory Office. 2. COA recognize the Management's action towards the demand for the refund of the unexpended budget.	
Government Motor Vehicles (Pg. 112-113 AAR2018)	28. The shuttle service vehicles are still not parked within the office's premises after office hours and during weekends and holidays, contrary to Section 3 of Administrative Order No. 239, s. 2008.	a. COA's recommendation that Management should comply with Section 3 of AO No. 239, s. 2008 which provides safeguard to government motor vehicles.		Admin. Dept.	July 2019	Dec. 2019	Fully Implemented	1. Management commented that it is impractical to return the vehicle to the office in the evening and take it again in the morning to fetch employees. Likewise, odometers are regularly monitored to ensure that it is not being used by the drivers for personal use during the weekend. 2. Management would like to emphasize that	

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									the person to whom the vehicle is assigned shall be fully accountable for any loss or damages caused to the vehicles.

Agency Sign-off:


CLAUDINE B. OROCIO-ISORENA
 DA for Administration and Legal Affairs
 MWSS Regulatory Office

Note: Status of Implementation may either be a) Fully Implemented; b) on-gong; c) Not Implemented; d) Partially Implemented; or e) Delayed