

Guyana Energy Agency

Forensic Audit Report for the period November 1, 2011 to
May 31, 2015.

 **NIGEL HINDS FINANCIAL SERVICES**
CERTIFIED PUBLIC ACCOUNTANTS
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1. Abbreviations

Descriptions and explanations of terms and abbreviations relevant to this report are listed below.

GEA	Guyana Energy Agency
GOG	Government of Guyana
GRA	Guyana Revenue Authority
MOF	Ministry of Finance
GMS	Guyana Marking Services
FMP	Fuel Marking Programme
CEO	Chief Executive Officer
PM	Prime Minister
DCEO	Deputy Chief Executive Officer
HRD	Human Resources Department
NPTAB	National Procurement Tender Administration Board
Agency	Guyana Energy Agency
PDVSA	Petróleos De Venezuela, South America
PETROTRIN	Petroleum Company of Trinidad and Tobago Limited
IFRS	International Financial Reporting Standards

2. Executive Summary

The following areas seek to summarize our interpretation and presentation of data obtained through our investigation of GEA for the period under review:

- 1.** GEA was established in 1997 as a body corporate. Based on section 3 (2) of the GEA Act 1997, the Agency shall consist of a Deputy Chief Executive Officer) DCEO, who shall be a full time officer as appointed by the PM. However, our team found that there has never been such an appointment.

- 2.** Section 18(2)(c) of the GEA Act 1997, mandates that the Agency's board members shall consist of any number of persons not exceeding seven. However, our investigation revealed that during the period January 25, 2011 – June 30, 2012 there were eight Board Members.

- 3.** Chief Executive Officer, Dr. Mahendra Sharma, was a candidate on the PPP/C national list for the May 11, 2015, General Elections. Adherence to the decisions of a political party concurrent with managing a state owned corporation, creates conflict of interest issues that have very negative implications for employee morale, use of GEA resources and the image of GEA.

- 4.** Guyana does not have an act of parliament for polygraph testing. In countries where there are laws for Polygraph testing, government employees are generally protected from lie detector tests by civil service rules. In the absence of laws for guiding polygraph testing in Guyana, such tests can be deemed as illegal when carried out by a government agency without an act of parliament.

5. In developed countries where polygraph testing is guided by the law, there must be a provable, reasonable suspicion that an employee was involved in the theft or other conduct triggering the polygraph testing. This was not the case for employees tested by GEA.

6. The CEO, Dr. Mahender Sharma, of GEA was not authorized by Cabinet or the subject Minister for GEA, Prime Minister, Mr. Samuel Hinds to institute the polygraph testing programme when it was implemented in 2009, with the first test of a GEA employee being conducted on February 24, 2009. Based on our findings, GEA utilized the Polygraph Testing Programme over the period 2009 to 2014.

7. There is no documentary evidence to show the CEO had any governmental authorization to implement the tests was only seen on a copied document dated January 31, 2014 and signed by then Prime Minister, Mr. Samuel Hinds; this being several years after the first test was carried out on a GEA employee.

8. We were unable to obtain any evidence of the cost of the Polygraph Testing Programme. Dr. Sharma stated that the Government of Guyana dealt with the procuring of this programme and its related costs and as such the cost for it is unavailable from the GEA.

9. Our forensic team required documented evidence from GEA to determine whether those employees who were tested had signed a form of consent to be polygraphed by the GEA. The documents were never provided by GEA.

10. GEA did not provide us with original or copies of transcripts for polygraph test results for the period 2010 to 2014, even though our team made several requests to the CEO for the transcripts. Nevertheless, they

provided us with the test results and the names of those who were terminated and resigned as a result of failing the test. Therefore, our audit team was unable to substantiate the authenticity of the test results given to us by GEA for 2010, 2012, and 2013.

11. Except for two employees who refused to be polygraphed, we were unable to find any evidence that Prime Minister Samuel Hinds authorized the termination of employees who failed the polygraph test.

12. Our team found that the CEO exercised partiality in dealing with those employees who failed the polygraph test. Among the employees who failed the polygraph test, at least five employees were allowed to keep their jobs, some were given the opportunity to resign, while others were terminated.

13. GEA hired Mohair A. Nandlall & Associates on July 19, 2013 as its legal counsel in response to litigations filed against the Agency by eight employees who were terminated as a result of failing the polygraph test. This case filed against GEA has not been resolved as at November 30, 2015. The cost of the legal counsel amounted to \$2 Million of which \$1 Million was paid on signing of the agreement.

14. The Fuel Marking Division of GEA has a weak internal control system. For instance, the responsibility for ordering, storing, dispensing and reconciling fuel marking concentrates are limited to three individuals. Revenue generated from fuel marking services have averaged GY\$335,853,784 per year for the periods 2011 to 2014.

15. There is a lack of proper validation of fuel marking reports, prepared and issued by terminal staff of oil companies to Marking Services Division

(MSD)of GEA for bulk fuel marked. These reports are used by the Marking ServicesDivision to determine the quantity of fuel marked, so that the marking fees could be calculated. However, our investigations found that these reports were not independently validated by MSDstaff or by any officer of the vessel that delivered the fuel to the terminal.

16. Prior to 2015 there is no documentation that Fuel Marking Services Divisionrequested the Association of Trawlers and Seafood Operators,to provide approved Guyana Revenue Authority Custom forms, before duty-free markers are dispensed from GEA stores to mark the fuel.

Guyana Association of Trawler Owners and Seafood Operators or the trawlers' operators, prior to 2015only made a verbal request instead of a notification to the GRA and GEA at least twenty hours in advance of the estimated time of arrival of the authorized importing vessel. To allow for the timely dispatch of fueling marking inspectors to mark fuel imported. This therefore, compromised the ability of the GEA management to provide proper monitoring and accounting procedures to comply with the agreement between GoG monitoring body GEA and the Trawlers Association.

17. GEA was unable to provide evidence of a software licence for the Peachtree accounting software it is currently using to maintain its financial records. The unlicensed usage of this accounting application should be discontinued.

18. GEA manually prepares and issues invoices for the following licenses, which include: wholesale, retail, import, export, bulk transportation carriers, and storage licenses. The annual revenuesgenerated from licensing fees averaged \$25 Million for the years

2011 to 2014; amounting to over half of GEA income, when fuel marking fees are not considered.

The generating and issuing of invoices for licensing fees are not integrated in the agency's accounting system. This undermines the accounting department's ability to effectively and efficiently monitor the financial transactions pertaining to revenue generated from licensing fees.

19. Our examination of the invoicing practices and procedures revealed that the issuance of invoices for licensing fees by GEA is not standardized or computerized. For example, an invoice is only issued when requested by customers or when management elects to issue.

20. GEA has issued licences to China Zhonghao Inc. Re: Import licence with issue date January 20, 2015 and expiry date January 19, 2035; Export licence with issue date January 20, 2015 and expiry date January 19, 2025.

The basis for the issue of export fuel could not be determined by our team. In addition, the renewal of the Fuel Import licence occurred in January of 2015, nine months before the expiry of China Zhonghao Inc. previous import licence.

21. GEA has issued invoices for licence fees to three of the seven service stations belonging to Two Brothers Corp.; based on our examination of GEA records there was no evidence that any of the three service stations were issued retail licenses for the period under review.

Thus, none of Two Brothers Corp. service stations were operating with retail licences for the review period.

22. The GEA failed to provide evidence that the Agency was authorized to prepare financial statements separately for its Fuel Marking division. However, financial statements for the FuelMarking Division from its set up in 2003 were always prepared by GEA and audited by the Audit Office separately from the audited Financial Statements of GEA. Based on discussions with Dr. Sharma, CEO of GEA and our investigations; Fuel Marking is simply a division of GEA. **There is no legal basis to have separate audited financial statements for GEA divisions within GEA.**

23. GEA is in breach of Act 1997, section 4(2), which requires that the heads of division of the agency designated as members thereof shall hold office for such period, not exceeding three years, as may be specified by the subject Minister. Based on our investigations, contracts of division heads were renewed, without any input from the Minister.

24. Abuse of and non-compliance with the Fuel Marking programme are closely linked to high levels of **Fuel Smuggling**. From points 12, 14, 15 & 16 above; it is clearly demonstrated that the controversial polygraph testing, which was failed by the Head of Fuel Marking in September 2010 and is still employed by GEA, a virtually non-existent validation of the fuel marking process for imported bulk fuel, a very weak internal control system for fuel marking concentrates and the absence of adequate monitoring of the Trawlers Association Vessels, all create wide-ranging opportunities for fuel smuggling. Resulting in GRA and GEA ineffectiveness in monitoring fuel imports.

25. GEA period between invoice date and payment due date for purchases of fuel from Petroleum of Venezuela is between twenty and thirty days. However, just prior to May 2015 National Elections, invoices were issued to oil companies in April and May demanding immediate settlement for fuel loaded

on the vessels. The monies received were for deposit in the Petro Caribe Fund.

3.1 Introduction

Nigel Hinds conducting business as Nigel Hinds Financial Services was appointed by the Ministry of Finance to conduct a forensic audit of Guyana Energy Agency with emphasis on corporate governance, financial systems, commercial transactions and compliance with legal authority.

Limitations in the scope of the forensic audit existed, as we were unable to access the financial profile of key individuals from financial institutions. The access would have allowed for comparative analysis between earnings and growth of their net assets.

Nigel Hinds Financial Services were also required to recommend corrective action to be taken and make specific recommendations geared towards greater and better financial management, accountability and corporate governance.

This report is provided solely in accordance with the terms of our engagement and for no other purpose.

2.2 Background of Guyana Energy Agency

2.2.1 Introduction

The GEA was established in 1997 by the Guyana Energy Agency Act 1997 as a body corporate via an Act of Parliament.

On March 31, 2004 the GEA (Amendment) Act 2004 was assented to and published in an Extraordinary Issue of the Official Gazette, which made provisions for the implementation of the fuel marking system, creation of **offences**, and also for the grant and issue of the various classes of licences; namely: Import, Wholesale, Importing Wholesale, Retail, Bulk Transportation Carrier, Storage and Consumer Installation.

The activities of GEA are financed from Government subventions and from revenue generation. The primary sources of revenue that the agency generates are:

- Fees for facilitating the purchasing and importing of fuel from Petroleum de Venezuela (PDVSA) and from Petroleum Company of Trinidad and Tobago Limited (PETROTRIN);
- Fees for marking and handling of fuel;
- Fees from the issue of licenses to import, store, utilize, sell and transport fuel.

2.2.2 Applicable Legislation

The GEA is governed by the following legislations:

- Guyana Energy Agency Act 1997

- The Procurement Act 2003
- Energy Sector (Harmonisation of Laws) Act 2002
- Guyana Energy Agency (Amendment) Act 2004
- Guyana Energy Agency (Amendment) Act 2005
- Guyana Energy Agency (Amendment) Act 2011
- Petroleum and Petroleum Products Regulations 2004
- Hydroelectric Power Act and Regulations 1956
- Hydroelectric Power (Amendment) Act 1988
- Electricity Sector Reform Act 1999
- Public Utilities Commission Act 1999
- Electricity Sector Reform (Amendment) Act 2010
- Public Utilities Commission (Amendment) Act 2010

2.2.3 Functions

The core functions listed in section 5 of the principal Act are as follows:

- To advise and make recommendations to the Minister regarding any measures necessary to secure the efficient management of energy and the source of energy in the public interest and to develop and encourage the development and utilisation of sources of energy other than sources presently in use;
- To develop a national energy policy and secure its implementation;
- To carry out research into all sources of energy, including those sources presently used in Guyana for the generation of energy, and securing more efficient utilization of energy and sources of energy;
- To monitor the performance of the energy sector in Guyana, including the production, importation, distribution and utilization of petroleum and petroleum products;

- To disseminate information relating to energy management, including energy conservation and the development and utilization of alternative sources of energy;
- To grant and issue licences relating to petroleum and petroleum products, including import licences, wholesale licences, importing wholesale licences, retail licences, bulk transportation carrier licences, storage licences and consumer installation licences;
- To utilise a marking system to add fuel markers to petroleum and petroleum products imported by every person under an import licence or import wholesale licence for the purpose of identifying which petroleum and petroleum products having been legitimately imported;
- To take samples of petroleum and petroleum products from any person at random throughout Guyana and carry out tests and examinations to determine the presence or level of the fuel markers in the samples of the petroleum and petroleum products;
- To perform the necessary tests to determine whether marker are in the required proportion and any further tests necessary to determine whether the petroleum and petroleum products have been lawfully obtained, stored, possessed, offered for sale, or blended or mixed with any substance that is not approved;
- To prosecute in the Magistrates' Courts persons who are in possession of petroleum and petroleum products bearing no markers or does not contain the fuel marker in the required concentration;
- To prosecute in the Magistrates' Courts persons who import petroleum and petroleum products without an import licence or wholesale import licence;

- To prosecute in the Magistrates' Courts persons who deal with illegal petroleum re: purchase, obtain, store, possess, offer for sale, sell, distribute or transport;

Further, GEA advisory functions listed in section 6 of the Act are as follows:

- To study and keep under review matters relating to the exploration for, production, recovery, processing, transmission, transportation, distribution, sale, purchase, exchange and disposal of energy and sources of energy;
- To report thereon to the Minister and recommend to the Minister such measures as the agency considers necessary or in the public interest for the control, supervision, conservation, use, marketing, and development of energy and sources of energy;
- To prepare studies and reports at the request of the Minister on any matter relating to energy or any source of energy, including research into alternative sources of energy and the application of such research, and to recommend to the Minister the making of such arrangements as the Agency considers desirable for cooperation with governmental or other agencies in or outside Guyana in respect of matters relating to energy and sources of energy;
- To advise the Minister or assigned authority on matters relating to the administration and discharge of the functions of the Electricity Sector Reform Act 1999.

2.2.4 Management

3.1.4.1 Internal Management Structure of the Agency

The following is the Managerial Structure of the GEA as set

out in Section 3 (2) of the GEA Act 1997:

The Agency shall consist of (a)

- a. Chief Executive Officer;
- b. Deputy Chief Executive Officer;
- c. Such heads of divisions of the Agency, not exceeding five, as may be designated by the Minister.

It is important to note that the Act mandates that the CEO and DEO shall be full time officers of the Agency and shall be appointed by the Minister. Additionally, the heads of divisions of the Agency designated as members thereof (hereinafter referred to as “designated members”) shall hold office for such period, not exceeding three years, as may be specified by the Minister.

3.1.4.2 Structure of the Board of Directors

As mandated in section 18(2) of the GEA Act 1997, the agency’s board shall consist of the following:

- a. CEO of the Agency;
- b. DCEO of the Agency;
- c. Any additional number of persons, not exceeding five, as may be specified by the Minister.

3.3 Terms of Reference

3.3.1 Background

The GOG is reviewing the performances and of public owned entities, statutory bodies, projects and activities financed by or through public funds. In this regard, the GOG has commissioned this forensic audit of the operations of the GEA.

3.3.2 Objectives and Scope of the Audit

The audit should include such procedures as necessary to:

3.3.2.1 Determine the entity's adherence to and fulfillment of principles of corporate governance in all aspects, including its interpretation of its mission, adherence to legal or statutory and policy instruments and good practices;

3.3.2.2 Asses and test systems and detect any instance of corporate malfeasance and inefficiency for remedial and or judicial intervention and system realignment;

3.3.2.3 Determine the authenticity and validity of significant commercial and financial transaction entered into by the entity with related parties, suppliers and customers and measure the extent of potential prejudice the entity may have suffered through such dealings if any;

3.3.2.4 Carry out a comprehensive financial system audit which should look at all systems, decisions and practices

which have underpinned the entity's finances test and assess financial discipline at all levels. Without limitation, the auditor should:

a. Review and examine all financial books and records of the entity as required to undertake such review and to obtain such clarifications and explanation as may be required in relation to such books and records;

b. Review all contracts administrations and approval processes in relationship to the expenditure of funds during the period;

c. Review all material expenditures and contracts made by the entity during the period and obtain all necessary information and explanations as may be required in relation to such books and records;

d. Examine all areas, including budgeting, financing, expenditure, management of revenue inflow, trade terms, procurement or purchase decisions and supply chain management;

e. Examine the entity's assets management system, including its fixed assets, their disposal, management or deployment;

f. Examine the entity's marketing production and commissioning policies, systems and agreements to determine their integrity, efficiency and responsiveness;

g. Examine the entity's archiving policy both by way of records keeping and as a performing asset that yields revenue for the entity.

3.3.2.5 Recommend statutory, legal or organizational changes required to identify and prevent any recurrences of improprieties.

3.3.3 Specialized Areas

The review may be extended to any or all of the following:

3.3.3.1 Conduct a human resource audit which should include key issues like manpower policy and needs determination, selection and recruitment regarding philosophy, grading and departmentalization, payroll system and management, performance, culture and whole policy on advancement and promotions, labor issues, skills development and deployment. Examine current incentives, their access and distribution and what impact they have on skills attraction and retention on staff motivation, performance and commitment;

3.3.3.2 Determine the planning culture of the entity;

3.3.3.3 Determine the entity's manpower and skills development policies to equip its key functional areas with strategic competences needed for migration to a digital era and beyond;

3.3.3.4 Recommend a business model, development and innovativeness which would help a restructuring exercise by gauging the entity's capacity to align itself with and keep adjusting to the larger macro-environment through periodic strategic interventions;

3.3.3.5 Gauge the entity's readiness to do business in an environment characterized by open competition locally, regionally and globally and the removal of statutory sources of revenue including subsidies.

3.3.4 Co-operation

The Consultant/Firm shall be afforded every opportunity to access such records, meet such personnel and visit such places as he/she considers necessary for the achievement of the audit's objectives.

The Consultant/Firm shall immediately report any instances of non-cooperation of staff, customers, suppliers or other persons or entities to the Financial Secretary, Ministry of Finance.

Where the Consultant/Firm has reasonable reason to believe that the records of the entity are under threat, the Consultant/Firm shall, on behalf of the Government of Guyana, immediately take steps to secure such records and report the matter forthwith to the Financial Secretary, Ministry of Finance.

3.3.5 Eligibility

Consultants or Firms that provided audit or accounting services to the entity are not eligible for appointment as Consultant/Firm. The consultant/firm must disclose all transactions with the entity during the period covered by the audit.

3.3.6 Reporting

No later than seven days after the completion of the file work, the auditor shall submit to the entity, copied to the Financial Secretary and the Minister of Finance, a draft report of comments, and shall conduct an exit interview with the management of the entity or key persons responsible for providing information for purposes of engagement.

The entity's comments and feedback are to be provided to the Auditor within fourteen days of the receipt of the draft report.

No later than fourteen days thereafter, the Auditor shall submit a comprehensive report to the Minister of Finance, highlighting his /her findings, recommendations on corrective actions to be taken and specific recommendations geared towards greater and better financial management, accountability and corporate governance.

In the event the Forensic Audit uncovers acts of malfeasance, the Auditor is required to bring the matter of the illegal or dishonest activities to the immediate attention of Minister of Finance. In addition, to recommend to the Government any action to be taken to institute appropriate disciplinary action this may include prosecution.

Without prejudice to the requirement set out in the proceeding paragraphs, the Auditor is required to submit a monthly update, where the engagement extends beyond one month.

3.4 Methodology

The general approach to the forensic audit was guided by the terms of reference.

Traditional audit and investigative methodologies were utilized in performance of the audit. Interviews were conducted with relevant personnel and documents examined as required in the following stages:

- a. Planning the Audit- Determine audit strategy and plan audit approach; conduct examinations and assess risks of critical accounting matters;
- b. Control Evaluation- Understand accounting and reporting activities, assess control risk and risk of material misstatement and perform selected evaluation and testing of designed and implemented controls;
- c. Substantive Testing- Plan and perform substantive analytical procedures on samples including reconciliations, re: performance and analytical reviews, determine sufficiency and appropriateness of audit evidence and provide conclusions on critical accounting matters;
- d. Completion –Perform an overall evaluation and provide recommendations.

3.5 Limitations

The findings expressed in this report were based on documents, explanations and information supplied to us. These were verified to the extent specified in this report and in accordance with the audit's objectives and scope, despite the following inherent limitations: -

- a. Inevitable misjudgment in the identification of audit risks, selection of appropriate auditing procedures and the interpretation of audit evidence;
- b. Sampled instead of detailed testing of transactions and balances in order to perform the audit efficiently and cost effectively may not be representative of the entire population;
- c. Misrepresentations by management relied upon which were not deemed for corroboration;
- d. Undetected fraud despite the application of our methodology and procedures.

This report may be modified if additional information and explanations become available.

3. Findings

4.1 Corporate Governance

GEA management and board generally in compliance with the regulations of the Act, except in the following areas:

- GEA is in breach of Act 1997, section 4(2), which requires that the heads of division of the agency designated as members thereof shall hold office for such period, not exceeding three years, as may be specified by the subject Minister. However, based on our investigations, contracts of division heads were renewed, without any input from the Minister.
- There has never been a Deputy Chief Executive Officer since the establishment of the GEA to present as required by GEA Act 1997; Section 3(2).
- Chief Executive Officer, Dr. Mahendra Sharma, was a candidate on the PPP/C national list for the May 11, 2015 General Elections. Adherence to the decisions of a political party concurrent with managing a state owned corporation, creates conflict of interest issues that have very negative implications for employee morale, use of GEA resources, the image of GEA and also the proper governance of GEA.

- Section 18(2)(c) of the GEA Act 1997, mandates that the Agency's board members shall consist of any number of persons not exceeding seven. However, our investigation revealed that during the period January 25, 2011 – June 30, 2012 there were eight Board Members.
- Examination of the notes to the audited financial statements for the years ended December 31, 2011 and December 31, 2012 indicates that seven board members that served on GEA Board.

4.2 Systems & Procedures

The GEA executes its functions through its five divisions re: Finance, Energy & Energy Statistics, Fuel Marking, Legal & Licencing and Administration and Human Resources, as provided for in the GEA Act. Our forensic audit noted the following:

4.2.1 Polygraph Testing Programme

4.2.1.1 Procuring the Service of the Polygraph Testing Programme

According to Dr. Sharma, CEO of GEA, the procurement of the polygraph testing service was organized and executed by the GOG through the Office of the President. Dr. Sharma maintained that GEA has no records or documentation pertaining to the procuring of this programme. As such, the details of the costs related to the polygraph testing programme as it related to the testing of GEA employees is not available at the agency. Considering GEA is a body

corporate by statute, the explanation provided by the CEO is not in compliance with the GEA Act of 1997.

4.2.1.2 Implementation of Polygraph Testing Programme

The GEA implemented the polygraph testing programme in 2009 for a select group of its employees. According to the document outlining the GEA polygraph policy signed by Prime Minister Hinds on January 31, 2014 (**See Annex 12 A and Annex 12 B**), “The focus of integrity testing at the Agency has been placed on personnel who are required to be in the fields where frequent and direct monitoring of their activities and conduct present logistical challenges.” Such personnel primarily include inspectors and marking officers. The evidence we obtained and examined showed that this programme was administered over the period 2009 to 2014.

4.2.1.3 Authorization of the Implementation of the Polygraph Testing Programme

Although the polygraph testing programme was implemented by GEA in 2009, the evidence obtained showed that January 31, 2014 was the earliest time that GEA has a document authorizing the polygraph testing. The document is signed by Prime Minister, Samuel Hinds.

Dr. Sharma said the only authorization he had to commence this program at its inception in 2009 were verbal directives from Prime Minister Hinds and Dr. Roger Luncheon, Head of the Presidential Secretariat. However, we found no evidence

to suggest that Dr. Sharma requested authorization to implement polygraph testing from the Prime Minister, prior to implementation of the programme or during the time period 2009 through 2013.

Also, our forensic auditing team was unable to gather any evidence that suggests that the employees who were polygraphed as part of the polygraph testing programme consented to be polygraphed. Notwithstanding that the polygraph examiner's document that outlined the polygraph test results stated that all examinees signed a Polygraph Background Information (PBI) form – **See Annex 1**, which has a section for the employees tested, to sign as consenting to be tested. We did not obtain any evidence that corroborates that those employees polygraphed had indeed consented to the polygraph testing.

4.2.1.3 Authorization for the Termination of Employees

Except for two employees, Mr. Vernon James and Mr. Shorwin Johnson, both of whom were terminated as a result of refusing to be polygraph tested. Our team found no evidence to suggest that GEA was either authorized by Prime Minister, Mr. Samuel Hinds or by the Office of the President to terminate employees who failed the test.

Moreover, our forensic team found that Dr. Sharma's reasons for recommending the termination of Mr. Vernon James employment, as stated in the letter from Dr. Sharma to Prime Minister Hinds is inconsistent with the basis for termination

stated in the letter entitled “termination of service” which was addressed to Mr. James and signed by Dr. Sharma. Case in point: Dr. Sharma alluded to section (17), paragraph (1) of the employment contract as the reason warranting the termination of Mr. Vernon James in the letter to the Prime Minister. This section states as follows:

“If the Officer shall at any time during the course of this contract refuse or neglect or from any cause become unable to perform any of the officer’s duties or to comply with any order, or shall disclose any information respecting the affairs of the Agency to any unauthorized person, or shall in any manner engage in misconduct, the Agency may terminate the Officer’s engagement forthwith and thereupon rights and advantages reserved to the Officer under the Contract shall cease.”

While the letter dated March 22, 2013; (**See Annex 2**) and entitled “Termination of Service” sent by Dr. Sharma to Mr. James stated that the reason for termination based on Clause 18 (1) of the employment contract is as follows:

“The Agency may at any time terminate the Officer’s engagement on giving the Officer one (1) month’s notice in writing or on paying the Officer one (1) month’s salary in lieu of notice.”

We did not find any provisions in the employment contracts for employees to be polygraphed, prior to June 26, 2014 that refer to the polygraph testing.

However, a letter entitled “2014 Polygraph Results” dated June 26, 2014, from Dr. Sharma to Dr. Roger Luncheon, included, among other things, a revision in the employment

contracts for persons employed in the fuel marking division. The following clauses were subsequently added to the employment contract:

(1) "The Officer shall be required to present himself to undergo polygraph tests at the time and venue stipulated by the Agency. The Officer shall be given sufficient notice prior to the scheduled polygraph tests such that all necessary arrangements may be made.

(2) "Where the Officer is unable to present himself for the purpose outlined in (1), the Officer shall report his reason for absence to the CEO at least one day before the scheduled polygraph test".

(3) Absence due to medical reasons must be supported by submitted medical certificates/doctor's note. Subject to the gravity of the medical reason, the Officer will be required to undergo the polygraph test at a later date.

Continuous absence or wilful refusal to comply with (1) shall result in immediate termination of contract of service in accordance with section. 17(1)."

4.2.1.4 Polygraph Testing: Resignation vs Termination

Among those employees who were polygraphed and failed: most were terminated, some resigned and five retained employment. Our auditing team asked the CEO why some employees resigned while others were terminated. Dr. Sharma's response was that those who resigned must have learnt about their results before management of GEA was able to serve them a letter of termination. However, based on the records we examined of employees who failed the

polygraph test, we noticed that resignations of some of the employees occurred after those who failed the test on the same date were terminated. For example, former employee Mr. Sayaid Ahamad resigned on May 29, 2013 and his colleague Mr. Collis Phoenix employment was terminated on May 14, 2013. Both of these employees were polygraphed at the same time and both failed the test. It is apparent that those who resigned were given the opportunity, while others who failed the polygraph tests were immediately terminated. We did not obtain any explanation from Dr. Sharma as to why employees who failed the polygraph tests were retained as employees of GEA.

4.2.1.5 Polygraph Test Questions and Results

GEA employees were asked the following polygraph test questions:

1. Have you ever committed any serious crime?
2. Have you done anything to bypass or alter the controls of contraband fuel in Guyana?
3. Are you intentionally omitting or falsifying any information on your application?
4. Have you benefited or profited in any way by helping the contraband of fuel since you have been in GEA?

The employees who failed the polygraph tests in 2009 were:

Employee	Q1	Q2	Q3	Q4
Dayanand Mohandat	X	✓	✓	X
Carlton Fraser	✓	✓	X	X

Rohan Sookwah	✓	✓	X	✓
Coel Marks	✓	X	✓	X

The employees who failed in 2014 were:

Employee	Q1	Q2	Q3	Q4
Merisha Welch	X	X	✓	X
Nyamebekyere Bacchus	✓	✓	✓	X
Koreen Barron	X	✓	✓	X
Kissina Fitzallen	✓	✓	✓	X
Mohamed Faizoul	✓	✓	✓	X
Mark Thomas	✓	✓	✓	X
Negesti Watkins	✓	✓	✓	X
Nicholae Leacock	✓	✓	✓	X
Ryan Dowden	✓	✓	✓	X
Steffon George	✓	X	✓	X
Bernard Rodriguez	X	✓	✓	✓

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A-Dof polygraph testing results for 2009, 2012, 2013 and 2014 are attached.

Our team was unable to obtain copies of the original transcripts of the polygraph test results for 2010, 2012, and 2013 and thus the results for these years as indicated in the table with the polygraph testing results were based on internal documents prepared by GEA. Thus, our team was unable to substantiate the results for 2010, 2012, and 2013 provided by GEA.

Furthermore, we found that certain employees who are usually included among the list of those polygraphed were not always tested. For example, both Ms. Narissa Samuels, Senior Marking Officer and Mr. George Jaundoo, Fuel Marking Manager, were included among those polygraphed to 2014, but excluded in the polygraph test for 2014.

The tables below outline the details of the polygraphed employees. The names shaded in grey are those who failed the polygraph test. With the exception of four employees who failed the polygraph test in 2014 and continued as employees of GEA; all the individuals who failed subsequently resigned or were terminated.

Polygraphed in 2009				
	Name	Designation	Date of Employment	Date of Termination or Resignation
1	Dayanad Mohandatt	Marking Officer	November 3, 2003	Terminated June 4, 2009
2	Carlton Fraser	Marking Officer	October 18, 2004	Terminated June 4, 2009
3	Rohan Sookwah	Marking Officer	October 18, 2004	Resigned April 15, 2009
4	Coel Marks	Marking Officer	October 29, 2007	Terminated June 4, 2009
5	Sayaid Ahmad	Senior Inspector	November 3, 2003	
6	Mahadeo	Marking Officer	April 7, 2008	Terminated July 31,

	Ramotar			2009
7	George Jaundoo	Head, Marking Unit	December 1, 2003	
8	Dexter D' Anjou	Inspector	December 1, 2003	
9	Pameshwar Dhruvanand	Marking Officer	July 21, 2005	Resigned August 31, 2009
10	Narissa Samuels	Senior Marking Officer	November 3, 2003	

Polygraphed in 2010

	Name	Designation	Date of Employment	No Employees Terminated
1	Fitzroy Thomas	Inspector	November 1, 2005	
2	Irshaad Mohamed	Inspector	June 24, 2009	
3	Amanda Singh	Marking Officer	May 14, 2009	
4	Collis Phoenix	Inspector	September 7, 2009	
5	Nikita Drakes	Marking Officer	October 5, 2009	
6	Sayaid Ahamad	Senior Inspector	November 03, 2003	
7	George Jaundoo	Head, Marking Section	December 1, 2003	

Polygraphed in 2012/2013

	Name	Designation	Date of Employment	Date of Termination or Resignation
1	Ameer Ali	Inspector	December 10, 2010	Terminated May 14, 2013
2	Deoranie Babulall	Inspector	June 24, 2009	Resigned March 29, 2013
3	Rawle Caroll	Inspector	September 22, 2009	Terminated May 15, 2013
4	Deavon Chesney	Inspector	June 10, 2009	Resigned May 30, 2013
5	Hillon Chester	Inspector	September 26, 2011	Terminated April 20, 2013
6	Nksi Dalgetty	Inspector	June 6, 2011	Terminated April 26, 2013
7	Hollyann France	Inspector	April 9, 2010	Terminated April 26, 2013
8	Nikeisha Gordon	Inspector	December 20, 2010	Terminated April 26, 2013
9	Jeanelle Noble	Inspector	April 11, 2011	Terminated April 26, 2013
10	Sudesh Persaud	Inspector	March 15, 2005	Terminated May 14, 2013
11	Irshaad Mohamed	Inspector	June 24, 2009	Resigned April 2, 2013

12	Falita Budwha	Marking Officer	May 22, 2007	Terminated June 7, 2013
13	Shawn Bishop	Marking Officer	February 20, 2008	Terminated May 21, 2013
14	Seon Maynard	Marking Officer	October 12, 2009	Terminated May 14, 2013
15	Toni McKenzie	Marking Officer	April 26, 2011	Terminated April 25, 2013
16	Keetann Lewis	Marking Officer	July 9, 2009	Terminated May 14, 2013
17	Rupa Persaud	Marking Officer	March 6, 2007	Terminated April 26, 2013
18	Shinese Tyson	Marking Officer	September 22, 2009	Terminated May 14, 2013
19	Sayaid Ahamad	Senior Inspector	November 3, 2003	Resigned May 29, 2013
20	Fitzroy Thomas	Inspector	November 1, 2005	Terminated June 3, 2013
21	Collis Phoenix	Inspector	September 7, 2009	Terminated May 14, 2013
22	Narissa Samuels	Senior Marking Officer	November 3, 2003	
23	George Jaundoo	Head, Marking Section	December 1, 2003	
24	Simeon Butcher	Inspector	February 7, 2011	

25	Rafeek Khan	Inspector	September 26, 2011	Resigned November 18, 2013
26	Varuna Badley	Marking Officer	March 12, 2012	Resigned November 19, 2013
27	Ron Bynoe	Marking Officer	December 23, 2003	
28	Amanda Singh	Marking Officer	May 14, 2009	
29	Nikita Drakes	Marking Officer	October 5, 2009	
30	Marlon Croal	Marking Officer	December 23, 2003	
31	Tashana Perreira	Marking Officer	February 8, 2008	
32	Rowena Wilson-Wray	Marking Officer	October 29, 2007	
33	Alec Yhan	Driver/Boat Captain	June 1, 2010	

Two employees, Shorwin Johnson and Vernon James, were terminated with the approval of the then Prime Minister because they refused to be polygraphed. On February 12, 2013 Dr. Sharma sought the approval for “no-objection” from the then Prime Minister to terminate Mr. Vernon James’ employment. Dr. Sharma also sought the same “no-objection” approval process from Prime Minister Hinds for Mr. Shorwin Johnson, for which the CEO also obtained approval.

Employees Terminated for Refusing to be Polygraphed

	Name	Designation	Date of Employment	Date of Termination
1	Shorwin Johnson	Inspector	May 16, 2007	March 22, 2013
2	Vernon James	Inspector	November 3, 2003	March 22, 2013

Polygraphed in 2014

	Name	Designation	Date of Employment	Date of Termination or Resignation
1	Merisha Welch	Inspector	May 23, 2014	Contract was not renewed
2	Nyamebekyere Bacchus	Inspector	December 10, 2013	Terminated June 3, 2014
3	Koreen Barron	Inspector	May 24, 2014	Contract was not renewed
4	Kissina Fitzallen	Inspector	March 4, 2014	Terminated March 3, 2015
5	Mohamed Faizoul	Marking Officer	July 16, 2014	Resigned July 11, 2015
6	Mark Thomas	Marking Officer	June 6, 2014	Still Employed
7	Negesti Watkins	Marking Officer	May 14, 2014	Contract was not renewed
8	Nicholae Leacock	Inspector	September 22, 14	Still Employed

9	Ryan Dowden	Inspector	June 24, 2014	Still Employed
10	Steffon George	Inspector	June 24, 2014	Still Employed
11	Bernard Rodriguez	Inspector	June 23, 2014	Still Employed
12	Dwayne Edwards	Inspector	December 11, 2013	
13	Jonquil Croker	Inspector	May 23, 2013	
14	Paul Fraser	Inspector	November 14, 2012	
15	Ronell Gonsalves	Inspector	December 10, 13	Resigned June 8, 2014
16	Floyd Kissoon	Inspector	May 16, 2013	Resigned August 21, 2014
17	Mowshani Lekhraj	Inspector	July 2, 2013	
18	Earicka Richards	Inspector	November 19, 2012	
19	Chelcia Stephen	Inspector	April 8, 2013	
20	Adrian Webster	Inspector	March 18, 2013	
21	Ramish Amyan	Inspector	June 13, 2013	
22	Rolin Wilson	Inspector	March 13, 2013	
23	Devon Brummell	Inspector	August 29, 2013	
24	Mark Cumberbatch	Inspector	August 29, 2013	Terminated June 3, 2014
25	Randy Deochan	Inspector	June 6, 2013	Resigned April 23 2015
26	Janella Charles	Marking Officer	May 15, 2013	

27	Talisha Joseph	Marking Officer	February 4, 2013	
28	Buwmesawari Ramnarine	Marking Officer	May 25, 2013	Resigned May 26, 2015
29	Arjune Deally	Field Operations Coordinator	September 2, 2013	

4.2.1.6 Legal Issues

Our audit team discovered that eight former employees of GEA filed a lawsuit against GEA – **See Annex 4**. Of the eight employees, one employee (Mr. Vernon James) was terminated for refusing to be polygraphed and the other seven were terminated for failing the polygraph test. The names of the employees are:

- 1) Ameer Ali
- 2) Collis Phoenix
- 3) Hillon Chester
- 4) Holyann France
- 5) Jeannel Natasha Noble
- 6) Nickeisha Gordon
- 7) Nksi Dalgetty
- 8) Vernon James

In response to this litigation, GEA hired Mr. Manoj Narayan of Mohabir A. Nandlall & Associates, Attorney-at-Law (**See Annexes 5 A-C**) on July 19, 2013 and incurred legal fees for the preparation of defence and conduct of the trial for the legal matter in question. Extracts from the agreement

between GEA and Mohabir A. Nandlall & Associates, Attorney-at-Law, follows:

“As full consideration for the services performed by Counsel under the terms of this Agreement, the GEA shall pay the sum of two million dollars (\$2,000,000) for services satisfactorily performed and as specified below:

a) One million dollars (G\$1,000,000) shall be paid to Counsel upon signing this agreement.

b) The remainder shall be paid upon conclusion of the matters mentioned in One (1) above.”

This legal matter has not been settled and thus the outcome is yet to be determined.

4.2.1.7 The continuation of the Polygraph Testing Programme

Based on a letter from Minister David Patterson, dated August 28, 2015, the use of the polygraph programme is currently being reviewed by Cabinet. **See Annex 6 A and Annex B.**

4.2.2 Systems of Internal Control

4.2.2.1 Standard Operating Procedures (SOP)

Standard operating procedures (SOP) are one aspect of internal control that GEA has used to ensure that various tasks are accomplished in accordance with the GEA Act, regulations and other laws. We were able to obtain evidence of written documentation of SOP for various activities spanning the five divisions of GEA.

The procedures are documented policies and practices developed by each division.

For an example of the SOP related to the import of fuel from Venezuela – **See Annex 7**.

Also, the fuel marking division has SOP outlining the activities that are needed to perform the tasks from the point of purchasing, receiving, preparing, dispensing, and reconciling of fuel markers.

4.2.2.1.2 Systems: Verification and Approval

Our investigations found that in the main, segregation of duties and the verification and approval process were in confirmation with established policies and procedures.

4.2.2.2 Internal Control Practices and Procedures

The Internal Control practices and procedures, has failed to demonstrate a reasonable degree of effort to prevent non-compliance within certain key areas identified below:

4.2.2.3 Guyana’s Association of Trawler Owners and Seafood Operators (GATO)

Based on the contract between the Trawler’s Association and the GOG represented by GEA, the Association is required to submit documents to GEA of the estimated time of vessel arrival, name of vessel owner, name of vessel and the

amount of fuel imported within twenty-four hours of arrival at the agreed designation point as per Agreement.

However, our investigations found that prior to August 17, 2015, there were several instances where documents were not provided in compliance with the agreement.

4.2.2.4

The agreement requires that all trawlers must be calibrated. For the review period there is no documented evidence that GEA had done any calibration of fuel as required by the agreement.

4.2.3 Human Resources

4.2.3.1 Contract Renewal and Amendments

Our examinations of the employment records of the agency revealed the following:

The duration of the employment contract for Mr. Valmiki Ramtahal, the internal auditor, was for one year (July 13, 2011 to July 12, 2012). Mr. Ramtahal is still employed as GEA internal auditor, even though there is no evidence of contract renewal.

The contract for Ms. Seema Greene, Admin and Human Resources Division Head is dated July 1, 2013 to June 30, 2016 and signed by the CEO, without any documented input from Prime Minister Hinds.

Section 4; subsection 2 of the GEA Act states the following:

“The heads of divisions of the Agency of designated as members thereof (hereinafter referred to as ‘designated members’) shall hold office for such period, not exceeding three years, as may be specified by the Minister.

The renewal of contract of employment for Ms. Yasoda Matabadal, Head of Finance Division, for the period July 1, 2013 to June 30, 2016 has only been signed by Dr. Sharma, again without input from Prime Minister Hinds.

The same applies for Ms. Kiran Mattai, Head of Legal and Licencing Division and Mr. Holder, Head of Fuel Marking Division.

In addition, we have not seen any documentation to support the promotion of Ms. Mattai from Legal Officer to Head of Legal and Licencing Division.

Rehana Alli, the accounting officer for the Fuel Marking Services Division has no current contract. The last employment contract for her was from August 16, 2011 to August 15, 2012.

There are no copies of academic certificates on file for any of the Division Heads to support qualifications claimed in their résumé.

The Energy and Energy Statistics Division has been operating without a division head since September of 2014.

Ms. Shevon Wood, Economist, currently manages the Division. The previous Division Head was Ms. Sandra Britton. **See Annex 8.**

4.2.3.2 Internal Controls for Fuel Marking Services

Ms. Narissa Samuels, Senior Marking Officer and George Jaundoo, Head of Marking Section are responsible for the receipt, custody, distributing and reconciling of the fuel marker concentrates thereby undermining the effectiveness of internal control system for the Fuel Marking Services Division.

Our team's concern of an apparent compromise in the internal control procedures for the management of the Fuel Marking Concentrate is echoed by Mr. Valmiki Ramtahal, Internal Auditor, in his reports for the periods January 14, 2012, April 15, 2012, July 10, 2012, September 10, 2012 and January 22, 2014. In the reports for the abovementioned periods, Mr. Ramtahal has repeatedly alluded to the fact that both Mr. Jaundoo and Mr. Narin duties are without the necessary checks and balances in overseeing the Fuel Markers.

With one millilitre of fuel marking concentrate two hundred litres (200L) of fuel and fuel marking services accounting for an average of GY\$335,853,784 per year for the periods 2011 to 2014 or at least 80% of GEA revenue, it is very important that the inventory management of fuel concentrate has proper security, checks and balances.

GEA Internal Auditor noted in his report that the cumulative loss in the quantity of marker concentrates as a result of spillage could be “significant in total.” Nevertheless, when our team enquired about whether there were any records to account for the spillage of fuel marker concentrates, Mr. Jaundoo said that the amount relating to spillage incidents is insignificant. No records of spillage are kept by the Fuel Marking Services Division.

In Exhibit A of the agreement between Authentix and Guyana Marking Services, section 2.1 Resources to be provided by Authentix, paragraph (iv) states that Authentix will be responsible for the employment of both a full time operations auditor and a part time liaison officer. However, Mr. Khushie Narine is the only employee of Authentix here in Guyana.

We have noted a lack of integration between the inventory records for the marker concentrate and the accounting system. Furthermore, the finance division has no involvement in the reconciliation of fuel marking concentrate inventory.

From interviewing Mr. Jaundoo and Mr. Narine, we are concerned that both of them had a positive attitude towards their extensive work hours when they do not receive overtime pay. Both individuals stated that working an average of sixty hours a week is normal. Another concern is the occurrence of having a GEA staff fill in for Mr. Narine (Authentix Representative) rather than another Authentix representative.

4.2.3.3 Inconsistency of Conducting Periodic Counts of Marker Concentrate Inventory

Inventory reconciliation of all the stock of GEA is not done on a regular basis. Our investigations revealed that the physical verification of inventory items of the GEA is done every six months. It is a concern, as to why physical counts of inventory are done so infrequently. The longer the time period between inventory reconciliation dates, the more difficult is the task of successfully investigating any discrepancies found between the inventory control records and the amount accounted for by a physical count.

4.2.3.4 Issuance of Invoices for the Fuel Marking Division

We found that the source documents for fuel marking also called out-turn reports (**See Annex 9**) are the primary source document for determining how much fuel has been marked and how much to charge oil companies for fuel marking. The documents are not independently validated by GEA. Random samples revealed that out-turn documents only has the name of the terminal managers who issues the documents without any signature. Also no verification signature from the marking officers or a representative of the vessel from which the fuel was obtained. This makes it difficult to corroborate claims of volumes marked at the terminals.

A terminal manager who wants to reduce the marking fees for a particular order of fuel imported can easily manipulate the numbers included on the out-turn report. GEA accounting department would be unaware of the

manipulation since there are no independent source documents to verify the terminal manager's claim

4.2.3.4 Issuance of Invoices for the Licensing Division

We noted that invoices are manually prepared and issued by the licensing division. This information is not recorded by the finance division until it is manually entered into the accounting system.

We further noted that invoice licences are only issued when customers request an invoice or when division management chooses to issue an invoice; instead of the invoice being system generated.

Also, we discovered that when lump sums are paid for licensing fees for retroactive periods, the current period, and ensuing periods; the information regarding the applicable periods is excluded from source documents that are sent to the finance division for inputting into the accounting system. Thus, there is no proper system to account for lump sum licence fees.

As of December 23, 2014, license-holders are permitted to receive licenses for multiple years to avoid to make annual renewals.

We noted that the accounting department has been incorrectly recording the amounts received for prior and future periods as revenue for the current period. This practice should be discontinued.

GEA uses the accrual basis of accounting, thus, if the agency receives payment in advance from a license-holder, then the entity should record this payment as a liability, not as revenue.

The main contributing factor to this type of accounting error is the fact that the issuance of invoices by the licensing division is not integrated with the accounting system. Moreover, the issuance of invoices manually can allow invoices to be issued unknown to the finance department, which can in turn allow officers who issue an invoice to divert payments made to the agency.

4.2.4 Internal Audit

The Internal Auditor, Mr. Valmiki Ramtahal, has been employed on a full time basis with the agency from July 13, 2011. Our evaluation of his work in this capacity has revealed that he has been performing his duties with a reasonable degree of effectiveness.

There is no Internal Audit Charter for the GEA. Thus, Mr. Ramtahal does not have a basis of reference to guide the Internal Audit. Also, Mr. Ramtahal is the only staff in the Internal Audit Unit. Furthermore, members of management and the board do not have a basis of reference to understand the internal auditor's responsibilities and how to evaluate the performance of the Internal Audit Unit.

The internal auditor reports directly to the Board, there is no Audit Committee of the Board of oversee the work of the Internal Audit Unit.

4.2.5 Financial and Accounting System

4.2.5.1 Accounting System

The GEA uses the accounting software “Peachtree” to automate and manage its accounting functions. The agency does not have a license to use Peachtree Accounting Software and thus its use of this software is illegal.

4.2.5.2 GEA Budget - Examination and Variance Analysis

Our auditing team examined GEA budget records to determine whether the agency is in compliance with the agency’s budgeting policies and guidelines. In instances where the actual expenditures were over the budgeted amount, the necessary approvals were obtained for additional expenditures and the necessary procurement procedures and policies were followed.

4.2.5.3 Accounts Receivables

Our investigation found that the officers who prepared and issued official invoices for the fuel marking charges are the same officers who receive and process payments.

The issuance of invoices is integrated with the accounting system for the Fuel Marking Services Division. Therefore, once an invoice has been issued, the receivables are automatically recorded in the accounting system.

4.3 Significant Commercial & Financial Transactions

4.3.1 Licencing Division

4.3.1.1 Licencing

Based on the documents we obtained and examined from Two Brothers Group of Companies and/or any of its directors, our investigation found no evidence that Two Brothers Corp. had ever been issued with any licence, with the exception of the following two licences:

- Bulk transportation licences issued to Javed R. Ali, a director of Two Brothers Corp. for vehicles GHH 5738 and GHH 6682.
- Retail license issued to Two Brothers Variety Shop located in Kumaka Water Front, North West District.

GEA has issued invoices for licence fees to three of the seven service stations belonging to Two Brothers Corp.; based on our examination of GEA records there was no evidence that any of the three service stations were issued retail licenses for the period under review.

Thus, none of Two Brothers Corp. service stations were operating with retail licences for the review period.

Dr. Sharma issued a letter(**See Annex 10**) dated August 17, 2015, captioned “Petroleum License Fees” to Mr. Javed Ali, Director of Two Brothers Corp., along with invoice # 1507/002 for retail licensing fees. The invoice is dated July 29, 2015. **See Annex 11.** The licence invoice issued is for both retroactive and prospective periods.

The details enclosed in the invoice are as follows:

Marine Service Station (2004 to 2025)

Vreed-en-Hoop (2004 to 2018)

La-Grange (2004 to 2014)

Charges for the Marine Service Station were for twenty-one years:
G\$27,500 per year by 21 years = G\$577,500.

Charges for the Vreed-en-Hoop were for fourteen years: G\$32,500 per year by 14 years = G\$455,000

Charges for the La-Grange were for ten years: G\$32,500 per year by 10 years = G\$325,000

The total amount of invoice# 1507/002 is G\$1,385,000. There is no record available at GEA indicating that Two Brothers Corp. paid the invoiced amount as of October 26, 2015.

4.3.1.2

GEA has issued licences to China Zhonghao Inc. Re: Import licence with issue date January 20, 2015 and expiry date January 19, 2035; Export licence with issue date January 20, 2015 and expiry date January 19, 2025.

The basis for the issue of export fuel could not be determined by our team. In addition, the renewal of the Fuel Import licence occurred in January of 2015, nine months before the expiry of China Zhonghao Inc. previous import licence.

4.3.1.2 Charges for Retail Licence

Regulation 36, paragraph (2) and (5) of the Legal Supplement of December 23, 2014 of the GEA Act, states the following:

- (1) "A license-holder shall pay an annual fee as stated in the First Schedule not later than the annual issue date stated in the license."*
- (2) "if a licence-holder fails to pay the license fee in the required time, the license holder shall be liable to pay a penalty of two thousand five*

hundred dollars for each week the annual fee is outstanding.”

Two Brothers Services Stations should not be allowed to operate without GEA retail licences.

4.3.1.2 Encroachment of State and Private Reserve Properties

A total of seven service stations belonging to Two Brothers were identified in our examination of documents in the personal file of the said company. Other than the three service stations that were referenced on invoice # 1507/002, our team identified the following four additional service stations belonging to Two Brothers:

Lot ‘Y,’ Eccles Public Road, East Bank Demerara
Tract ‘N,’ Land of Canaan, East Bank Demerara
Vergenoegen Public Road, East Bank Essequibo
Parika Public Road, East Bank Essequibo

The four service station locations were mentioned in memoranda found in the file of Two Brothers Corp with the caption “Work Services Group” from L. Goring (Engineering Coordinator). The subject of these memos was “encroachment of reserves by Mr. Sairaz Ali.” Mr. Sairaz Ali is one of the directors of Two Brothers Corp. An examination of the contents of these memos revealed that all four additional service stations have land encroachment issues.

The following are excerpts from the memoranda that addressed the issue of land encroachment by Two Brothers Corp.:

Memo dated January 28, 2009

Lot 'Y', Eccles Public Road, East Bank Demerara.

“From measurements taken, it is very clear that the northern boundary of Lot 'Y' has been extended by approximately 27 feet to the drainage canal. As a result, the entire drainage reserve on the south side of the canal has been occupied. There are permanent structures on the encroached area such as a concrete fence, a wash bay and a diesel pump.”

Tract 'N,' Land of Canaan, East Bank Demerara

“A measurement taken from the centerline of the road to the snackette within the compound is only 37 feet where it should be 40 feet according to plan. Therefore, there is a 3 feet difference in the road reserve.”

Memo dated February 3, 2009

Vergenoegen Public Road, East Bank Essequibo

“From preliminary measurements taken, this gas station has encroached on the public road reserve. Measurements extracted from the road reserve plan of Vergenoegen indicates the entire road reserve fence should be to be approximately 100 feet. This Gas Station is outside of the fence of the property occupied by Shiraz Ali. Measurement from the canopy of the gas station to the fence on the opposite side of the road is only 80 feet where it should be 100 feet. The road reserve in this area is not uniform, therefore a survey is needed to establish this boundary on the ground.”

Parika Public Road, East Bank Essequibo

“From the measurement taken, it is clear that the occupation of this gas station and other nearby buildings along the public road is not according to plan and has encroached on the public road reserve. The entire road reserve in this area is 80 feet as shown in the road

reserve plan. Measurements taken from the centerline of the road to the canopy of the gas station are 26.5 feet and 30 feet where it should be approximately 40 feet.”

Regulation 38, paragraph (1), (2), and (3) of the Guyana Energy Agency Act 1997, states the following:

(1) “A license-holder shall ensure that all buildings, road works, structures and plants erected or used in connection with petroleum or petroleum products comply with these Regulations and any other law.

(2) A license-holder shall ensure that buildings, road works, structures and plants used in connection with petroleum and petroleum products are maintained in such a manner as:

(a) To avoid endangering the safety or health of a person, or the safety of a person's property; and

(b) to prevent the risk of environmental harm.

(3) A person who contravenes, or fails to comply with a provision of paragraph(1) or (2) commits an offence punishable on summary conviction under regulation 64 (b).”

Regulation 64 (b) of the GEA Act states the following regarding the penalty for failing to comply with the terms stipulated in regulation 38, as stated above:

a. “A person found guilty of an offence under these Regulations shall, on conviction, be liable to;

b. A fine of three million dollars and imprisonment for a period of three years”.

However, we found no evidence to suggest that any of the four service stations mentioned in the memoranda documents were issued retail licenses by the GEA, even though the stations were operational; however, a letter from Dr. Sharma dated October 18, 2013 requesting guidance from Cabinet on how to deal with the irregularities herein.

4.3.1.3 Accounting Issues

There are no accrual entries for revenues earned, pertinent to retail licensing fees due from Two Brothers Corp. Furthermore, there are no accounting records that the transaction in question has been booked in the accounting system when the licence invoice was issued.

Paragraph (1) (c) of the GEA Act states the following:

(1) “A person shall not” (c) “operate a retail outlet or conduct the business of a wholesaler, unless authorized to do so under a retail license or a wholesale license or importing wholesale license, respectively.”

Furthermore, the GEA Act, paragraph (2)(a) states that the following:

“Any person who fails to comply with the provisions of paragraph (1)(a), (c), (d), or (f) commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars or six months imprisonment.”

4.3.1.4 Site Inspection Reports

Site Inspection Reports pertaining to Two Brothers Corp., for the Marine Service Station located at Parika Outfall were done in the

years 2009, 2010, 2011, 2014 and 2015.

It is a standard practice of GEA to conduct site inspections of licence holders and produce a report. Inspection reports are done at least once per year. Yet, there are no other Site Inspection Reports for Two Brothers.

4.3.2 Petroleum Company of Trinidad and Tobago Limited and Petroleum Company of Venezuela- Agreements

A primary role of the GEA is facilitating the importing of petroleum and petroleum products for the oil companies of Guyana. The petroleum and petroleum products are imported from Venezuela (PDVSA) under the PetroCaribe Agreement and from Trinidad and Tobago (PETROTRIN). The energy and energy statistics division of the GEA is primarily responsible for monitoring this activity, which also includes receiving payment from the oil companies.

Our examination of GEA role in managing the import of petroleum and petroleum products found that the agency is executing its responsibility with a reasonable degree of effectiveness. We noted that the staff members of the energy and energy statistics division are in compliance with the policies and procedures of the agency.

4.3.2.1 Sharing of Information between Divisions

Our team found that the information received by the energy and energy statistics division from the bill of lading are only submitted to the fuel marking division on a quarterly basis.

On average of seventeen shipments of imported petroleum-based products arrive in Guyana each month. Due to the lack of timely integration, information is not shared on a timely basis between the

energy and energy statistics division and the fuel marking division. The absence of timely sharing of this information likely reduces revenue that could be generated from the fuel marking division.

4.3.2.2 Accounting Funds Collected from Oil Companies

GEA has been incorrectly recording funds that it collects from oil companies on behalf of the Government of Guyana as revenue on its financial statements. The International Accounting Standard #18, paragraph 8 states the following:

“In an agency relationship, the gross inflows of economic benefits include amounts collected on behalf of the principal and which do not result in increases in equity for the entity. The amounts collected on behalf of the principal are not revenue. Instead revenue is the amount of commission.”

The monies paid to GEA for fuel imported by GEA on behalf of the Government of Guyana should be treated as Accounts Payable instead of Revenue.

When GEA remits the monies to the Government bank account, it is incorrectly recorded on the agency’s financial statements as “Office and Administration” expenses, instead of as an offset to accounts payable.

GEA accepts payments for fuel from Rubis Guyana Inc., Sol Guyana Inc., and Guyana Oil Company Limited. Except for premium charges to Guyana Oil Company Limited which were found to be without basis. The current premium charges are as follows:

- US\$1.995 per barrel of gasoline,
- US\$0.21 per barrel of diesel

- \$US0.525 per barrel of Kerosene and for fuel used by aircrafts

4.3.3 Fuel Marking Division

GEA and Biocode Limited entered into an agreement on September 5, 2003 for Biocode to provide fuel marking services in an effort to help prevent the loss of sales and tax revenues caused by the illegal sale of fuel.

Paragraph 4.3 states that “the agreement will remain in place at the end of the third contract year period unless either party gives six months’ written notice of termination.”

At the inception of the agreement between GEA and Biocode, GEA established Guyana Marking Service (GMS), which is really a division of GEA. A most unusual arrangement and has consented that the Division be designated as an approved subcontractor to provide the fuel marking services. The division is treated as a separate entity from GEA by the use of separate financial statements. This is quite a inexplicable practice and outside the GEA Act and should be discontinued forthwith.

4.3.3.1 Procuring Fuel Marking Services from Biocode

On September 17, 2003 Dr. Roger F. Luncheon signed the approval document entitled “Amended Cabinet Decision” that waived the Central Tender Board procedures to facilitate the award of the contract to procure the fuel marking services from Biocode.

In November 2003, the Dallas-based companies Biocode and Isotag Technology merged to form Authentix.

Fuel Marking Division fees for marking services are as follows:

Guyana Power & Light (GPL)	\$0.48
SOL Guyana Inc.	\$0.60
Guyana Oil Company	\$0.60
Rubis West Indies Ltd.	\$0.60
B.C.G.I (Rusal)	\$1.00
Oldendorff Carriers	\$1.00
Trawler's Association Members	\$1.50

GEA pays Authentix a monthly fee of US\$62,500 for fuel marking services. The monthly fee covers all volumes up to 30,000 kiloliters of fuel marked in any calendar month. No reduction in the monthly fee is applicable if the volume actually marked is below this volume. Any fuel marked in any calendar quarter above 90,000 kiloliters will be subject to an additional volume charge of US\$2.50 per kiloliter, which will be invoiced at the end of each calendar quarter by Authentix.

Authentix pays GEA a monthly fee of US\$30,800 for managing the fuel marking services. This monthly fee covers all volumes marked up to 30,000 kiloliters in any calendar month. Any fuel marked in any calendar quarter above 90,000 kiloliters will be subject to an additional volume payment of US\$1.75 per kiloliter, with invoicing at the end of each quarter by GEA.

As noted earlier, the treatment of the Fuel Marking Services (FMS) Division as a separate entity from GEA is without legal basis and should be discontinued. Financial statements for GEA should include all divisions including FMS.

It is likely that all subventions will be unobtainable, since GEA will operate at a profit with all divisions reporting as components of GEA.

The practice of preparing separate financial statements for FMS that allows for the misrepresentation of the financial performance of GEA and the muddle of GEA having different finance units and FMS staff contemplating their employee status as separate from GEA is counterproductive.

4.3.3.2 GEA Payments to Authentix

The cover page of Cabinet document with reference number “CP(2003)8:2:k” has the caption, “Central Tender Board procedures being waived to carry out a fuel marking programme at a cost of US\$734,000.” Our auditing team was unable to obtain the enclosed pages for this Cabinet document as CEO, Dr. Sharma could not locate the document. These enclosed pages would outline the detailed explanation of how the US\$734,000 was expended. Not having access to these documents leaves the following questions unanswered.

4.3.3.3 Authentix Payments to GEA

There is a discrepancy between the amount stated in the cabinet’s document and the contract between Authentix and GMS. While the contract between Authentix and GMS states that Authentix will pay a monthly fee of US\$30,800 to GMS for facilitating the fuel marking services.

The amount mentioned in Cabinet’s document in reference to the said services is US\$32,500. According to the Head of Finance, Ms.

Yasoda Matabadal, the US\$1,700 is likely for payment to Authentix representative, Mr. Khushie Narine, for his monthly salary and allowances. **Exhibit A** of the agreement between GMS and Authentix, paragraph 1.3, states that part of Authentix responsibility is “to maintain a local operational auditor allocated full time to the Project.”

However, the GEA was unable to provide any documentation that Authentix has authorized GEA to pay Mr. Narine’s salary and allowances.

Based on our examination of the accounting records of GEA, Mr. Narine is being paid by GEA as a deduction from the total amount GEA pays to Authentix.

4.4 Financial Systems and Audit

4.4.1 Financial Statements

4.4.1.1 Timing Difference Issues

PDVSA, under the Petro Caribe agreement, gives a payment deadline of up to thirty days from the date on the bill of lading to oil companies. GEA then records the total cost of the fuel from PDVSA plus the premium the agency charges to the oil companies as a debit to “Office and Administration” expenses. Conversely, amount of funds collected on behalf of PDVSA are credited to “Receipts from Oil Companies” account.

4.4.1.2 Separate Financial Statements of GEA

There is no legal document authorizing GEA to have the financial statements of Guyana Marking Services prepared separately. Nevertheless, GEA has been preparing separate financial statements since its inception of 2003 to present. The contract between GMS and Authentix states the following:

“Whereas GMS is a separate entity within the Guyana Energy Agency which has been established to provide fuel marking services.”

Merely defining GMS in the agreement, as stated above, does not qualify GMS to prepare separate financial statements, when GMS is in fact is a division of a state controlled corporate body, namely

Guyana Energy Agency.

4.4.2. Approval for payment of Vehicle

Prior to Dr. Sharma seeking the approval from Mr. David Patterson, Minister of Public Infrastructure, GEA had written cheque#0019384 on May 20, 2015 for a total amount of \$13,432,748 to pay Massy Industries Limited for the purchase of the vehicle PTT 4379, at this time GEA was already in possession of the vehicle. This cheque was not signed by Dr. Sharma and was subsequently cancelled. However, another cheque #0019794 for purchase of this vehicle was written for a total amount of \$13,732,748.

By letter dated September 21, 2015, from Minister Patterson, the purchase was approved.

5 Recommendations

Based on our investigation of the GEA our audit team recommends:

1. There is need for Adherence to the laws and regulations govern GEA. The Agency has never had a Deputy Chief Executive Officer as required by the GEA 1997 Act and we recommend the hiring of a DCEO to enhance the management structure of GEA at the senior level.
2. A Board of Directors' Charter should be prepared for the Board. Once approved by the Board, implementation of the Charter should occur at the earliest possible date, with annual revision of the Charter.
3. The presence of Dr. Mahender Sharma as a candidate on the PPP/C national list for the May 11, 2015 General Elections, while being CEO of a state corporation is wholly inappropriate and creates conflict of interest issues that have negative implications for employee morale, use of GEA resources and the public image of GEA.
4. Strong disciplinary action should be taken against Dr. Mahender Sharma, CEO, for lax oversight of the fuel marking system and ensuing fuel smuggling, his role in unlegislated and unauthorized polygraph testing of GEA employees from the Fuel Marking Services Division that resulted in the services of over thirty employees being terminated.
5. The use of the polygraph testing on employees should be discontinued until Guyana has the applicable laws to govern polygraph testing.

6. Immediate action should be taken to compensate employees who were terminated as a result of the Polygraph Testing Program conducted by GEA over the period 2009 to 2014.
7. Polygraph transcripts for the years 2010, 2012, and 2013, which our team was not made available to our team, should be obtained and investigated to confirm the veracity of the submitted by GEA.
8. The invoicing process of the Licencing division needs to be computerized in such a way that it is integrated with the accounting system of GEA. The integration will allow for improved recognition of revenue, accounting of receivables and the monitoring of licence holders.
9. All GEA invoicing should be a component of the financial accounting system.
10. Customers should not have the option of determining whether they want an invoice or otherwise; instead invoices should be issued to all customers as a standard policy.
11. An aging report for accounts receivable should be integrated within the accounting system of the agency for better management of revenue, budgeting and enforcement.
12. There is need for an Internal Audit Charter to be aligned with the strategic objectives of GEA.
13. Monthly, bi-annually and yearly audit summary reports should be prepared by the Internal Auditor for presentation to the Board or the appropriate Sub-Committee.
14. All components of GEA risk management practices should be incorporated into a documented Enterprise Risk Management Policy and be reviewed on an annual basis by the Board of Directors.

15. Employment contracts for Division Heads should have the input of the subject Minister as required by GEA Act 1997, section 4(2).
16. Employment Contracts need to reflect the current designation of the employees and copies of certificates of qualifications should be maintained on file.
17. Risk assessments should be performed on areas prone to error and fraud, with a focus on segregation of duties to prevent and detect errors and fraud. This is clearly needed in the receipt, storage, distribution and reconciliation of fuel marking concentrates.
18. Checks and balances for documents reporting on fuel received at the terminal should be signed by representatives from GEA, the shipper and the terminal manager. The documents should be accompanied by the approved GRA form.
19. The agency should maintain all procurement documents, including those relevant to all participants in the bidding process.
20. The agency should at all times, adhere to the Procurement Act of 2003.
21. The agency should immediately purchase a licence to legalize the current use of its Peachtree accounting software.
22. The practice of having separate financial statements for the Marking Services Division should be discontinued immediately. There is no legal basis for having separate financial statements. GEA should have one set of Financial Statements that encompass all five divisions of the entity.
23. GEA Finance Division should ensure that its accounting practices are in accordance with the International Financial Reporting Standards.

24. Information relating to the delivery of imported petroleum-based products that the energy and energy statistics division obtains should be shared with the Fuel Marking Division on at least a weekly basis. The outcome of the timely sharing of information will result in increased revenue collection from Fuel Marking.