

OBSERVATIONS AND RECOMMENDATIONS

1. The PDGCC did not recognize revenues of P44.436 million, P46.500 million and P56.794 million earned on and the corresponding expenses of P50.998 million, P53.759 million and P45.763 million incurred for CYs 2015, 2014 and 2013, respectively, for the beneficial services rendered to condominium owners contrary to the relevant provisions of the Conceptual Framework for Financial Reporting and Philippine Accounting Standards (PAS) 1 and 18. The non-recognition of the said revenues and expenses resulted in the overstatement of Due from BTr/OP/IA/COMELEC/Pag-IBIG and the understatement of Deferred Tax Asset accounts by P2.789 million and P2.948 million, respectively, and the consequent understatement of Income tax payable and the total Equity by P3.713 million and P3.554 million, respectively.

1.1 The PDGCC, a non-stock, non-profit Corporation registered with the Securities and Exchange Commission (SEC), was created and constituted, as management body pursuant to Sections 9 and 10 of Republic Act (RA) No. 4726 dated June 18, 1966, to perform beneficial services to its members/unit owners. Said services include, among others, the following:

- a. Maintenance, utility, gardening and other services benefitting the common areas;
- b. Employment of personnel necessary for the operation of the building;
- c. Purchase of materials, supplies and the like needed by the common areas;
- d. Payment of taxes and special assessments which would be a lien upon the entire project or common areas, and for discharge of any lien or encumbrance levied against the entire project or the common areas;
- e. Reconstruction of any portion or portions of any damage to or destruction of the project; and
- f. Reasonable assessments of each condominium unit owners separately for its share in proportion (unless otherwise provided) to its fractional interest in any common areas to meet authorized expenditures; etc.

1.2 Paragraph 4.25 of the Conceptual Framework for Financial Reporting, as adopted under the Philippine settings and Paragraph 7 of PAS 18 – Revenue, defines income, expenses and revenue as follows:

“The elements of income and expenses are defined as follows:

- (a) Income is increases in economic benefits during the accounting period in the form of inflows or enhancements of assets or decreases of liabilities that result in increases in equity, other than those relating to contributions from equity participants.
- (b) Expenses are decreases in economic benefits during the accounting period in the form of outflows or depletions of assets or incurrence of liabilities that result in decreases in equity, other than those relating to distributions to equity participants.” (Paragraph 4.25)

"Revenue is the gross inflow of economic benefits during the period arising in the course of the ordinary activities of an entity when those inflows result in increases in equity, other than increases relating to contributions from equity participants." (Paragraph 7)

1.3 Paragraphs 4.47 and 4.50 of the said Conceptual Framework, relative to recognition of income and expenses, provides further that:

"Income is recognized in the income statement when an increase in future economic benefits related to an increase in an asset or a decrease of a liability has arisen that can be measured reliably. This means, in effect, that recognition of income occurs simultaneously with the recognition of increases in assets or decreases in liabilities (for example, the net increase in assets arising on a sale of goods or services or the decrease in liabilities arising from the waiver of a debt payable)." (Paragraph 4.47)

"Expenses are recognized in the income statement on the basis of a direct association between the costs incurred and the earning of specific items of income. This process, commonly referred to as the matching of costs with revenues, involves the simultaneous or combined recognition of revenues and expenses that result directly and jointly from the same transactions or other events; for example, the various components of expense making up the cost of goods sold or services are recognized at the same time as the income derived from the sale of the goods or services." (Paragraph 4.50)

1.4 On the other hand, Sections 32 and 33 of PAS 1 – Presentation of Financial Statements requires that:

"An entity shall not offset assets and liabilities or income and expenses, unless required or permitted by an IFRS." (Paragraph 32)

"An entity reports separately both assets and liabilities, and income and expenses. Offsetting in the statements of comprehensive income or financial position or in the separate income statement (if presented), except when offsetting reflects the substance of the transaction or other event, detracts from the ability of users both to understand the transactions, other events and conditions that have occurred and to assess the entity's future cash flows...xxx" (Paragraph 33)

1.5 Thus, the receipts of PDGCC representing association dues, membership fees and other assessments/charges collected from its members and tenants are revenues as defined under Paragraph 7 of PAS 18 and Paragraphs 4.25, 4.47 and 4.50 of the Conceptual Framework for Financial Reporting as adopted under the Philippine settings. Correspondingly, the expenses incurred by the Corporation should be matched with the revenues during the period they are earned.

1.6 However, the Corporation did not recognize revenues of P44.436 million, P46.500 million and P56.794 million and the corresponding expenses of P50.998 million, P53.759 million and P45.763 million for CYs 2015, 2014 and 2013, respectively, earned and incurred on the beneficial services rendered to condominium owners contrary to the

relevant provisions of the above cited accounting standards resulting in the overstatement of income for CYs 2015 and 2014 by P5.489 million and P5.383 million, respectively and understatement of P7.318 for CY 2013, computed as follows:

	Statement of Cash Flows			Per SCI	Difference
	VAT-exempt	VATable	Total		
2015					
Gross Revenue	61,917,869	1,729,653	63,647,522	19,211,441	44,436,082
Expenses					
Personal	1,956,884	-	1,956,884	1,956,884	-
MOOE	1,437,017	-	1,437,018	1,437,018	-
Others	-	63,919,782	63,919,782	12,921,991	50,997,791
Operating Income			(3,666,162)	2,895,548	(6,561,709)
Interest Income			91,535	91,535	-
Income (loss) before tax			(3,574,627)	2,987,083	(6,561,709)
Deferred tax on net loss - 30%			1,072,388	-	1,072,388
Income (loss) after tax			(2,502,239)	2,987,083	(5,489,321)
2014					
Gross Revenue	58,291,087	2,464,279	60,755,366	14,255,468	46,499,898
Expenses					
Personal	1,654,837	-	1,654,837	1,654,837	-
MOOE	1,051,243	-	1,051,243	1,051,243	-
Others	-	64,388,013	64,388,013	10,629,329	53,758,684
Operating Income			(6,338,727)	920,059	(7,258,786)
Interest Income			85,165	85,165	-
Income (loss) before tax			(6,253,562)	1,005,224	(7,258,786)
Deferred tax on net loss - 30%			1,876,069	-	1,876,069
Income (loss) after tax			(4,377,493)	1,005,224	(5,382,717)
2013					
Gross Revenue	68,546,693	1,745,057	70,291,750	13,497,470	56,794,280
Expenses					
Personal	1,893,097	-	1,893,097	1,893,097	-
MOOE	1,126,431	-	1,126,431	1,126,431	-
Others	-	54,974,902	54,974,902	9,211,632	45,763,270
Operating Income			12,297,320	1,266,310	11,031,010
Interest Income			78,750	78,750	-
Income (loss) before tax			12,376,070	1,345,060	11,031,010
Income tax - 30%			3,712,821	-	3,712,821
Income (loss) after tax			8,663,249	1,345,060	7,318,189
Net Effect on Net Income/Equity					3,553,849

1.7 The Corporation recognized the receipts from its beneficial members/unit owners as receivable under the account "Due from BTR/OP/IA/COMELEC", and the corresponding expenses are credited/recorded and offset against a payable "Due to" account of a specific supplier/service provider upon billing. Said accounts are credited or debited, as the case may be, upon receipt of the payment from the member/unit owners or upon payment to the suppliers and service providers.

1.8 This practice is tantamount to offsetting of assets and liabilities, income and expenses which are no longer permitted under Paragraphs 32 and 33 of PAS 1. The

said accounts are recognized only in the Statement of Cash Flows instead of also recognizing them in the Income Statement/Statement of Comprehensive Income, thereby violating Paragraphs 4.47 and 4.50 of the Conceptual Framework.

1.9 On the bottom line, as of December 31, 2015, the Due from BTr/OP/IA/ COMELEC account was overstated and the Deferred Tax Assets account was understated by P2.789 million and P2.948 million, respectively, while the Income tax payable was understated by P3.713 million, thereby understating the total equity by P3.554 million.

1.10 We recommended that Management:

- a. **Recognize all the revenues earned and all expenses incurred for the beneficial services rendered to the condominium owners;**
- b. **Revise/restate the financial statements to comply with the relevant provisions of the Conceptual Framework for Financial Reporting and PAS 1 and 18; and**
- c. **Recognize the Deferred tax benefits on NOLCO for CYs 2015 and 2014 and the 30% Income tax payable for CY 2013.**

1.11 Management commented that they are still awaiting the ruling of the BIR pertaining to tax exemption of PDGCC from paying income tax, VAT and percentage tax per their letter dated September 3, 2015, hence, they cannot comply yet with the recommendations of the Auditors.

1.12 We maintain our position that PDGCC should pay the required taxes as indicated in our audit observation for CY 2014.

2. PDGCC Management did not submit/file the reports/returns required by concerned regulatory/oversight agencies of the government thereby subjecting the Corporation to the payment of penalties and interests.

2.1 In CY 2015, the audit team observed that required reports/returns were not submitted/filed to the regulatory/oversight agencies of the government which were the subject of the previous years' audit observations:

2.2 Corporate Operating Budget (COB)

2.2.1 Corporate Budget Circular No. 20 dated April 27, 2005 which provides the following:

- This Circular shall apply to all GOCCs and GFIs with or without budgetary support from the National Government (Section 2)
- GOCCs/GFIs shall prepare and submit their COBs to the Department of Budget and Management (DBM), prior to the beginning of the ensuing year. The COB shall consist of estimates of financing sources and expenditures for current operating and capital outlays. (Section 3.1)

- The COB should reflect estimates of receipts from all sources to support the level of proposed expenditures clearly supported by assumptions, programs or projects. (Section 3.2)
- In both cases, the COB of each GOCCs/GFIs for the ensuing year shall be approved before the end of the current year (Section 6.4)

2.3 Income Tax Return (ITR)

2.3.1 The Team was informed that PDGCC has a pending query with the Bureau of Internal Revenue (BIR) per Letter dated September 3, 2015 of the President, PDGCC, for clarification of its status as a tax exempt entity and has yet to receive a reply from said agency.

2.3.2 Notwithstanding the opinion of the BIR, the Management should have a stand on whether they are tax exempt or not, in whatever case a return should be filed. The BIR form 1702 EX for corporations, partnerships and other non-individual taxpayers exempt under the Tax Code, as amended, Section 30 and those exempted in Section 27(C) and other special laws, with no other taxable income or BIR form 1702 RT for Corporation, Partnership and Other Non-Individual Taxpayer subject only to regular income tax rate or 1702 RT for corporation, partnership and other non-individual taxpayer subject only to regular income tax rate.

2.3.3 Further, the audit team observed that PDGCC failed to register their books of accounts neither physical nor computerized for CY2015. BIR regulations for computerized books of accounts & other accounting records may be submitted in CD-R, DVD-R or other optical media properly labeled with the information required under existing revenue issuances together with the affidavit attesting to the completeness, accuracy and appropriateness of the computerized accounting books/records. Other information such as the form, documentary requirements, procedures and deadlines can be downloaded in the BIR website.

2.4 Financial Statements (FS) and other related reports

2.4.1 SEC Memorandum Circular No. 4, Series of 2013, in Part 1, Paragraph 4(A), states that:

"4. OTHER DOCUMENTS TO BE FILED WITH THE FINANCIAL STATEMENTS

The following documents shall be filed with the annual audited financial statements and in the interim financial statements, if required herein:

A. Non-stock and non-profit organizations

A sworn statement of the organization's President and Treasurer on the accuracy and completeness of the following schedules:

- i. Schedule of Receipts or Income Other Than Contributions and Donations. This schedule shall provide the nature and amount of each item;

- ii. Schedule of Contributions and Donations that is prepared in accordance with the prescribed form per Annex "A"; and
- iii. Schedule of Disbursements according to sources and activities. This schedule shall provide the nature and amount of each item. If material in amount (10% or more of the total), the details of such disbursement shall likewise be indicated."

2.4.2 The Audit Team was informed that PDGCC tried to file its FS with the SEC but the latter required that the FS be stamped by the BIR, reiterating the need for filing a return with the BIR.

2.5 GAD Plans and Budgets (GPBs)

2.5.1 The following Sections of the Philippine Commission on Women-National Economic Development Authority-Department of Budget and Management (PCW-NEDA-DBM) Joint Circular No. 2012-01, states that:

- xxx, all government departments, including their attached agencies, offices, bureaus, state universities and colleges (SUCs), government-owned and controlled corporations (GOCCs), local government units (LGUs) and other government instrumentalities shall formulate their annual GPBs within the context of their mandates to mainstream gender perspectives in their policies, programs and projects. Xxx (Section 2.0 par. 2.3)
- Agencies shall submit their PCW-endorsed GPB to DBM along with their annual GAD AR for the previous year in accordance with the budget call. (Section 8.0 par. 8.7)
- The Department of Budget and Management shall ensure that agencies submit their annual GPBs and GAD ARs by returning to the submitting agency GPBs that do not have PCWs endorsement. (Section 12 par. 12.2)

2.6 PDGCC has to provide relevant information to users of the financial statements including but not limited to the said agencies. Submission/filing of required reports/returns to the oversight/regulatory agencies of the government has been neglected by the Management thereby exposing the Corporation to possible penalties and placing its transactions and disbursements in question.

2.7 We recommended and Management agreed to:

- a. Diligently submit/file all required reports/returns to the concerned oversight/regulatory agencies of the government; and
- b. Require the persons responsible for the failure to submit and file the required reports/returns to pay the penalties and interests to be charged by the concerned regulatory bodies.

3. The PDGCC administration did not conduct a Physical Inventory of the Corporation's Property, Plant and Equipment (PPE) as of December 31, 2015 and did not submit the results thereof to the Accounting Section for reconciliation with

the accounting records and to the Auditor for verification in violation of Section 490 of the Government Accounting and Auditing Manual (GAAM) and Section 38, Chapter 10 of the Government Accounting Manual (GAM).

3.1 Section 490 (a) of the GAAM Volume 1 specifies that:

"Section 490. Inventories of supplies, materials and equipment. – Physical stock-taking is an indispensable procedure for checking the integrity of property custodianship. In all cases, the physical inventory-taking which is required semi-annually or annually should be regarded with importance.

3.2 In connection therewith and for effective control of government property, the COA prescribes the following regulations:

"Chiefs of agencies are required to take a physical inventory of all the equipment and supplies belonging to their respective offices at least once a year, unless otherwise determined by the COA Chairman in specific cases. Such inventory shall be made as of December 31, on General Form 41 (A) (Appendix 12), and submitted to the Auditor not later than January 31 of each year, unless extended by the Chairman, Commission on Audit, upon prior request of the chief of agency concerned. When the exigencies of the service permit, the taking of inventory should be in the charge of a committee of two or more employees designated by the chief of agency, including the property officer or custodian, depending on the extent of property accountability in a particular agency, to be witnessed by a representative of the Agency Auditor."

3.3 Corollarily, Section 38, Chapter 10 of the GAM Volume 1 states that:

"**Sec. 38. Physical Count of PPE.** The entity shall have a periodic physical count of PPE, which shall be done annually and presented on the Report on the Physical Count of Property, Plant and Equipment (RPCPPE) (Appendix 71) as at December 31 of each year. This shall be submitted to the Auditor concerned not later than January 31 of the following year. Equipment found at station and losses discovered during the physical count shall be reported to the Accounting Division/Unit for proper accounting/recording."

3.4 As of December 31, 2015, the recorded PPE of PDGCC amounted to P4,586,257. The amount, however, is not supported by an RPCPPE. Verification revealed that no such report can be provided because the Management did not conduct the mandated annual physical count of PPE contrary to the above quoted provisions. Thus, the recorded PPE of PDGCC as of year-end is doubtful.

3.5 We recommended and Management agreed to:

a. Strictly comply with the requirements of Section 490 of the GAAM and Section 38, Chapter 10 of the GAM on the conduct of an annual physical inventory of PPE;

- b. Reconcile the results thereof with the balance per books; and
- c. Submit the reports thereof to the Auditor for verification.

4. The year-end benefits granted by the Board of Directors to the PDGCC officials and employees exceeded the amount authorized by the President of the Philippines by P0.375 million in violation of Section 3 (b) (5) of Executive Order (EO) No. 24 dated February 11, 2011.

4.1 The PDGCC is covered by the provisions of EO No. 24 dated February 10, 2011 as stated in Section 4 thereof:

"SECTION 4. Coverage – The policies, principles, and rules set forth herein shall apply to:

- a) Members of the Board of Directors/Trustees of all GOCCs, with or without Charter, whether or not covered by the Salary Standardization Law, regardless of classification, and all subsidiaries, but shall exclude the *Bangko Sentral ng Pilipinas*; and
- b) Representatives of GOCCs in the Boards of private corporations wherein the GOCCs have investments."

4.2 Section 3 (b) (5) of said Order requires that:

"SECTION 3. General Provisions – The compensation of members of the Board of Directors/Trustees in GOCCs shall be in accordance with the following principles:

- a) The compensation system shall have the following characteristics:
 - 1. Simple and easy to understand, interpret, manage, and implement;
 - 2. Consistent with best practices for public and private corporations; and
 - 3. Takes into consideration the peculiar nature of corporations in terms of size, strategic positioning, nature of operations, and financial capability.
 - 4. Subject to periodic review to take into account prevailing best practices, the peculiar nature of corporations, organizational performance, the changes in skills and competence requirements, and the possible erosion in the purchasing power due to inflation and other factors.
- b) The compensation shall have the following characteristics:
 - 1. Just and equitable in accordance with the principle of equal pay for work of equal value;

2. Generally comparable with those in the private sector doing comparable work in order to attract, retain, and motivate a corps of competent members of the Board of Directors/Trustees;
3. Performance-based with due consideration to individual and organizational performance in terms of financial, operational, developmental, and regulatory performance where applicable;
4. Fair, reasonable, and in consideration of fiscal realities such as the availability of funds and the financial capability of the organization; and
5. Subject to the approval of the President."

4.3 During its meeting on December 7, 2015 the Board of Directors of PDGCC approved the proposed grant of "Year-end Gift Giving" in the amount patterned after last year's (2014) to the members of the Board, members of the Administrative Committee and staff.

4.4 Verification showed that the officials and employees of PDGCC were granted a total of P405,000 representing year-end gift giving and Christmas grocery allowance. Further verification showed that each employee/official are entitled to a P10,000 year-end benefit or a total of P30,000 for the three employees who are entitled to such year-end benefit, thus an excess of P375,000 payments.

4.5 In addition, a grocery allowance of P700.00 each was paid out to contracted personnel during the 2015 Christmas Party celebration in the total amount of P16,100.

4.6 The year-end cash gift and Christmas grocery allowance were granted and paid out without the prior approval of the President of the Philippines as required by Section 3 (b) (5) of EO No. 24 dated February 10, 2011.

4.7 We also noted that the Minutes of the Meetings of the Board of Directors were not signed as "Approved" by the Board Members who attended the meetings except by the Corporate Secretary.

4.8 The absence of the signatures of the Directors who were present during each meeting raises the legal question of whether the matters resolved and approved by the Board as contained in each of the minutes are valid and binding.

4.9 We recommended that Management:

a. Furnish the Audit Team with the prior approval of the President of the Philippines for the granting of the year-end cash gift of P20,000.00 as well as the Christmas Grocery Allowance granted to the members of the Board of Directors, members of the Administrative Committee, the PDGCC staff and contracted personnel to avoid disallowance; and

b. Ensure that Members of the Board who were present during a particular meeting sign the Minutes of the Meeting, if found in order, to avoid legal complexities that may arise as to the validity of the matters contained therein as being duly resolved and approved by a quorum of the Board of Directors.

- b. Reconcile the results thereof with the balance per books; and
- c. Submit the reports thereof to the Auditor for verification.

4. The year-end benefits granted by the Board of Directors to the PDGCC officials and employees exceeded the amount authorized by the President of the Philippines by P0.375 million in violation of Section 3 (b) (5) of Executive Order (EO) No. 24 dated February 11, 2011.

4.1 The PDGCC is covered by the provisions of EO No. 24 dated February 10, 2011 as stated in Section 4 thereof:

"SECTION 4. Coverage – The policies, principles, and rules set forth herein shall apply to:

- a) Members of the Board of Directors/Trustees of all GOCCs, with or without Charter, whether or not covered by the Salary Standardization Law, regardless of classification, and all subsidiaries, but shall exclude the *Bangko Sentral ng Pilipinas*; and
- b) Representatives of GOCCs in the Boards of private corporations wherein the GOCCs have investments."

4.2 Section 3 (b) (5) of said Order requires that:

"SECTION 3. General Provisions – The compensation of members of the Board of Directors/Trustees in GOCCs shall be in accordance with the following principles:

- a) The compensation system shall have the following characteristics:
 - 1. Simple and easy to understand, interpret, manage, and implement;
 - 2. Consistent with best practices for public and private corporations; and
 - 3. Takes into consideration the peculiar nature of corporations in terms of size, strategic positioning, nature of operations, and financial capability.
 - 4. Subject to periodic review to take into account prevailing best practices, the peculiar nature of corporations, organizational performance, the changes in skills and competence requirements, and the possible erosion in the purchasing power due to inflation and other factors.
- b) The compensation shall have the following characteristics:
 - 1. Just and equitable in accordance with the principle of equal pay for work of equal value;

2. Generally comparable with those in the private sector doing comparable work in order to attract, retain, and motivate a corps of competent members of the Board of Directors/Trustees;
3. Performance-based with due consideration to individual and organizational performance in terms of financial, operational, developmental, and regulatory performance where applicable;
4. Fair, reasonable, and in consideration of fiscal realities such as the availability of funds and the financial capability of the organization; and
5. Subject to the approval of the President."

4.3 During its meeting on December 7, 2015 the Board of Directors of PDGCC approved the proposed grant of "Year-end Gift Giving" in the amount patterned after last year's (2014) to the members of the Board, members of the Administrative Committee and staff.

4.4 Verification showed that the officials and employees of PDGCC were granted a total of P405,000 representing year-end gift giving and Christmas grocery allowance. Further verification showed that each employee/official are entitled to a P10,000 year-end benefit or a total of P30,000 for the three employees who are entitled to such year-end benefit, thus an excess of P375,000 payments.

4.5 In addition, a grocery allowance of P700.00 each was paid out to contracted personnel during the 2015 Christmas Party celebration in the total amount of P16,100.

4.6 The year-end cash gift and Christmas grocery allowance were granted and paid out without the prior approval of the President of the Philippines as required by Section 3 (b) (5) of EO No. 24 dated February 10, 2011.

4.7 We also noted that the Minutes of the Meetings of the Board of Directors were not signed as "Approved" by the Board Members who attended the meetings except by the Corporate Secretary.

4.8 The absence of the signatures of the Directors who were present during each meeting raises the legal question of whether the matters resolved and approved by the Board as contained in each of the minutes are valid and binding.

4.9 We recommended that Management:

- a. Furnish the Audit Team with the prior approval of the President of the Philippines for the granting of the year-end cash gift of P20,000.00 as well as the Christmas Grocery Allowance granted to the members of the Board of Directors, members of the Administrative Committee, the PDGCC staff and contracted personnel to avoid disallowance; and
- b. Ensure that Members of the Board who were present during a particular meeting sign the Minutes of the Meeting, if found in order, to avoid legal complexities that may arise as to the validity of the matters contained therein as being duly resolved and approved by a quorum of the Board of Directors.

4.10 Management commented that they will seek the approval of the President of the Philippines thru the Governance Commission for Government Owned or Controlled Corporations (GCG).

4.11 We also noted that similar benefits were granted in CYs 2013 and 2014. We informed Management that payments of said benefits will be audited after an authority is secured from the Chairperson, COA, for the re-opening of the accounts.

5. The Strategic Planning Conference of PDGCC held at Coron, Palawan from April 23, 2015 to 26, 2015 was found to be an extravagant expenditure in general and the cash token granted to the attendees was found to be irregular as defined under COA Circular No. 2012-003 dated October 29, 2012.

5.1 The main function of the PDGCC Board of Directors, Administrative Committee members and Staff is to manage the common areas of the Palacio del Gobernador Building and ensure the continuing upkeep of the structure for the benefit of its owners and occupants. The funding requirement of the PDGCC is being subsidized by its owners, who are government entities themselves, through the payment of regular and special assessment dues.

5.2 The necessity to hold Strategic Planning Conferences outside its premises and, in this case, in a location that would require airfare and expensive accommodations cannot be considered as valid and reasonable. The total cost shouldered by the PDGCC during the 4-day planning conference in Coron, Palawan from April 23 to 26, 2015 amounted to P231,914.00 for 12 people or at an average cost of P19,326.00 per person.

5.3 As per the Minutes of the Meeting of the PDGCC Board of Directors on August 14, 2014, the Board approved to maintain the budget for the planning conference for CY2014 at P100,000.00. According to the Management, the cost of travel and accommodations of the Directors representing the Office of the President (OP) at El Nido, Palawan last September, 2014 was paid for by the OP.

5.4 COA Circular No. 2012-003 dated October 29, 2012 defines "Extravagant" Expenditures under Section 6.1 as:

"6.1 Definition

The term "extravagant expenditure" signifies those incurred without restraint, judiciousness and economy. Extravagant expenditures are immoderate, prodigal, lavish, luxurious, grossly excessive, and injudicious."

5.5 Annex E (3) of the said COA Circular includes "Conduct of out-of-town meeting which can be made within the office premises" as one of the cases that is considered Extravagant Expenditures of Government Funds.

5.6 It was also observed from the documents that in the said conference the participants were likewise given a cash token of P4,000.00 each and that the rental of snorkling gears used for recreational activities by some of the participants was charged against the Corporation's funds when it should have been paid from their own pockets.

5.7 We find the cash token given to the participants and payment for the rental of snorkling gears for their rest and recreation activities as irregular expenditures since the planning conference could have been completed successfully without such grants and costs.

5.8 Irregular Expenditures is defined under Section 3.1 of COA Circular 2012-003 as:

"3.1 Definition

The term "irregular expenditure" signifies an expenditure incurred without adhering to established rules, regulations, procedural guidelines, policies, principles or practices that have gained recognition in laws. Irregular expenditures are incurred if funds are disbursed without conforming with prescribed usages and rules of discipline. There is no observance of an established pattern, course, mode of action, behavior, or conduct in the incurrence of an irregular expenditure. A transaction conducted in a manner that deviates or departs from, or which does not comply with standards set is deemed irregular. A transaction which fails to follow or violates appropriate rules of procedure is, likewise, irregular."

5.9 Further, the Management failed to provide us with their output for the subject Strategic Planning Conference held at Coron, Palawan on April 23 to 26, 2015.

5.10 We recommended and Management agreed to:

- a. Immediately recover from the participants of the Strategic Planning Conference held at Coron, Palawan the amount in excess of P2,000, as patterned after the amount set by DBM Circular No. 442 dated March 29, 1995 amended by Budget Circular No. 486 dated March 26, 2003;
- b. Hold any and all future Strategic Planning Conferences at a reasonable place and cost within the budget of the Corporation within the amount set by the DBM; and
- c. Properly document the activities in the Strategic Planning Conference for it is important in the implementation of the strategies and policies formulated in the said conference to achieve the goals and plans of the corporation and to monitor the outcomes of such strategies and policies whether they are successful or not.

6. The management did not set-up a reserve fund to cover the Retirement Program of the PDGCC personnel as approved by the Board of Directors per Resolution No. 96-003 dated January 31, 1996. Further, no liability relative to said Program was recognized contrary to the Conceptual Framework for Financial Reporting.

6.1 Paragraph 4.46 of the Conceptual Framework for Financial Reporting provides that:

"A liability is recognized in the balance sheet when it is probable that an outflow of resources embodying economic benefits will result from the settlement of a present obligation and the amount at which the settlement will take place can be measured reliably."

6.2 Thus, an essential characteristic of a liability is that the entity has a present obligation. Obligations may be legally enforceable as a consequence of a binding contract or statutory requirement. Obligations also arise from normal business practice, custom and a desire to maintain good business relations or act in an equitable manner.

6.3 Records shows that the PDGCC employees are not GSIS members but SSS members with different type of social insurance and retirement benefits.

6.4 In view thereof, the Board of Directors of the PDGCC approved in its special meeting on January 31, 1996 a retirement program for the officials and employees of the Corporation, as follows:

I. COMPULSORY RETIREMENT:

The PDGCC shall provide a retirement benefit of one month salary for every year of service, a fraction of six (6) months being considered as one whole year, to an employee upon reaching the compulsory retirement age of sixty five (65) years, who has served at least five (5) years in the company.

II. OPTIONAL RETIREMENT:

The PDGCC shall provide retirement benefits of one half (1/2) month salary for every year of service, a fraction of six (6) months being considered as one whole year, to an employee upon reaching the compulsory retirement age of:

- | | |
|-----------------------|---|
| A. Employee's option: | 55 years of age plus
10 years of service, or
20 years of services if
below 55 years old. |
| B. Company's option: | 55 years of age plus
10 years of service, or
60 years of age. |

III. TERMINATION DUE TO DISABILITY:

The PDGCC may terminate the services of an employee who has been found to be suffering from the disease and whose continued employment is prohibited by law or is prejudicial to his health as well as to the health of his co-employees. Such employee shall be paid separation pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one (1) whole year."

6.5 For failure to set-up the Retirement Program, a case was filed by a former employee who retired on January 11, 2014 at the age of 66, with the National Labor Relations Commission (NLRC) against PDGCC for the non-payment of Service Incentive Leave and Retirement Benefits. Our verification disclosed that:

a. The PDGCC refused to pay his retirement benefits on the grounds that the Corporation is a Government Owned or Controlled Corporation as passed by Board Resolution No. 07-002 Series of 2003 on 03 July 2003 and for fear of the usual COA Audit Observation Memorandum (AOM), Notice of Suspension (NS) and Notice of Disallowance (ND) from COA Head Office which conducts annual audit of the PDGCC books;

b. In the decision rendered by the NLRC, the PDGCC remain as a private corporation as opined by the Securities and Exchange Commission (SEC) and that the SEC's opinion should prevail over that of the opinion of the Government Corporate Counsel (GCC) since the SEC is the government agency primarily tasked with the supervision of private corporations from their inception to their dissolution. While the GCC merely acts as the legal counsel of the GOCCs, therefore, opinions rendered by the GCC cannot override the opinions of the government agencies that are created or organized particularly to oversee and supervise certain entities and their activities/operations, as in this case;

c. The NLRC ordered the PDGCC to pay his retirement benefits based on the entitlements provided by Article 287 of the Labor Code, as amended by RA No. 7641, which is less than what is provided in the PDGCC Board Resolution No. 96-003 dated January 31, 1996;

d. The PDGCC made an appeal to the NLRC to reduce the retirement benefits and service incentive leave pays due to the said employee covering only his services from September 1982 up to June 2003 thereby, lowering the total benefits due to Mr. Ortega from P482,825.21 to P313,114.60; and

e. The said retired employee was amenable for the execution of his retirement benefits from September 1982 to June 2003 considering his debilitating health status. However, he did not waive or abandon his rights with respect to his retirement benefits for the period July 2003 until the date of his retirement sometime in December 2015.

6.6 The developments in the said NLRC case as well as the decision rendered by the NLRC Labor Arbiter and the position taken by the PDGCC raises several legal issues that should be resolved by the Board of Directors at the soonest possible time since employees had retired and retirement benefits due them should have been included in the CY 2016 budget program of the Corporation.

6.7 We recommended and Management agreed to:

a. Compute the estimated retirement benefits of another retiree and that of the present employees so they can set-up a reserve fund to cover the payment of the required retirement benefits when the time comes to avoid similar case that may be filed with the NLRC and recognize the corresponding liability to comply with the pertinent provisions of the Conceptual Framework for Financial Reporting; and

b. Implement the Retirement Program, as authorized by Board Resolution No. 96-003 dated January 31, 1996.