4.6 The correct areas owned by each unit owner based on their Condominium Certificates of Title (CCT) versus the actual areas billed showed a net difference of 64.34 sq.m. equivalent to P67,042 assessment dues from CYs 2020 to 2022, which was not included in the assessment/billing/collection from the unit owners for the maintenance and operating expenses of PDGCC in CY 2022 and prior years. Hence, each unit owner has not been contributing to the maintenance and operating expenses based on proprietary interest. Notably, the said miscalculation has been going on prior to CY 2020.

4.7 Verification of the Agency Action Plan and Status of Implementation (AAPSI) as at February 21, 2023 disclosed that a technical team from the OP Engineering Office already conducted actual measurements of the areas under consideration, i.e., the ground floor of Palacio del Gobernador Building and subsequently came up with a report of its actual measurements on May 19, 2021. Said report which was communicated by the OP to PDGCC on June 16, 2021, reads in part:

> *With reference to the AOM (page 3), assessment of the PACC area is at 745.07 m^2, but the actual area occupied is 715.05 m^2; and the difference of 30.02 m^2 is being occupied by the BTr.*

4.8 The governing board of PDGCC approved Board Resolution No. 09 dated December 22, 2021, ratifying the new measurements of the ground floor area and including the new measurements in all occupancy contract renewals starting CY 2022. The said Resolution also expressly states that if no occupancy contract renewal is executed within CY 2022, the new measurement shall automatically be reflected in the updated PDGCC billings covering period beginning January 1, 2023.

4.9 Nonetheless, it should be emphasized that based on PDGCC's MDDR and Amended By-Laws, assessment dues shall be proportionate to the unit owner's proprietary interest rather than the actual area they occupy. Thus, the 30.02 sq.m. owned by the OP but occupied by BTr shall still be billed to OP being the owner thereof per CCT No. 3143. Any internal agreement between OP and BTr relative to the overlapped area of 30.02 sq.m. shall be dealt accordingly between them.

4.10 In a similar case, a representative of the OP forwarded to the Chairman of the Administrative Committee of PDGCC, for information and consideration in their board meeting, a letter dated March 15, 2022 from the Branch Head of LBP requesting consideration of the deferment of the amendments of their Contract of Lease to include the additional space totaling 69.24 sq.m. that would increase their monthly rental expense for CY 2022. Since their contract expired on December 31, 2022, LBP expressed their intent to renew the same based on the corrected measurement of the leased premises. With regard to the assessment dues, 47.66 sq.m. out of the total 69.24 sq.m for the additional space occupied by LBP has been charged to COMELEC.

4.11 Review of the PDGCC Minutes of the Meeting held from March to December 2022 showed that there is no discussion and approval of the request of LBP. Notwithstanding this, LBP was not billed with the correct assessment dues for CY 2022 and in fact, it was only billed properly beginning January 1, 2023. Such action could be arguably attributed to the resolution part of Board Resolution No. 09 dated December 22, 2021, specifying that the corrected measurement of the area being leased will be included prospectively in the billings of renewed contracts starting January 1, 2023.

4.12 While the Audit Team acknowledges the efforts by the Management, we reiterate that levying and collecting assessment against the unit owners, not against the tenants of the unit owners, is among the incidental powers of PDGCC as provided for in its Articles of Incorporation. Also, approving the request of LBP without taking into consideration the refund of excessive assessment dues charged to COMELEC in CY 2022 and prior years will be disadvantageous to PDGCC. The deprived tenant being a Constitutional Commission is also subject to audit by the Commission on Audit (COA) and non-restitution of funds found to be due them exposes them to misstatements that may affect the fair presentation of their financial statements.

4.13 Further, Section 12, Part I of the MDDR reads:

> *Section 12. Lease: Unit owner shall be free to lease his/her Unit to any party, provided notice thereof, with such particulars as the Condominium Corporation may reasonably require, is given to the Condominium Corporation within five (5) days from effectivity of this lease.*
>
> ***Any such lease shall not free the Unit owner from compliance with his obligations as such under the Condominium Act, the Master Deed with Declaration of Restrictions, the Articles of Incorporation and By-Laws of the Condominium Corporation*** *xxx* (Emphasis supplied)

4.14 Guided by the foregoing, the indirect and unofficial approval of the request of LBP to defer the settlement of the additional billings for CY 2020 and the prior years does not free the unit owner from compliance with the correct assessment dues based on its proprietary interest. Arguably, the responsibility to settle the underbilled assessment dues eventually lie with OP being the lessor of LBP.

4.15 This is a reiteration of the audit observation embodied in the CY 2020 Annual Audit Report on the PDGCC. Although the Management has taken actions relative to the observation, the Audit Team noted that most of the recommendations by the Audit Team were not implemented or acted upon as of Report date.

4.16 **We reiterated with modifications our prior year's audit recommendations that Management:**

   a. **Determine the covering period of the over/underbilling and recompute the amount to be billed to each unit owner based on the correct areas they own over the years;**

   b. **Issue a Statement of Account to BTr, COMELEC and LBP for the over/underbilled assessment dues for the current and prior years;**

   c. **Recognize in the books the over and underbilled assessment dues in prior years; and**

   d. **Collect the assessment dues from LBP on the underbilled portion for the current and prior years.**

4.17 **We also recommended that Management:**

   a. **Refund to BTr and COMELEC the overbilled portion of the assessment dues for the current and prior years; and**

   b. **Review the legality of the resolution which indirectly exempts LBP from the settlement of additional billings for CY 2022 and prior years due to the correction in measurement of the area being leased.**

4.18 Management commented that PDGCC will comply with the recommendations. Moreover, they already issued Statements of Account to OP/LBP on the underbilled assessment dues while the overbilled assessment dues of COMELEC and BTr will be adjusted to their respective current billings. Other recommendations will also be complied.

4.19 As an audit rejoinder, the Audit Team will monitor and evaluate the courses of actions to be taken by the management to comply with the recommendations.

5. Deficiencies noted on telephone expenses including communication allowances:

A. Absence of established internal policy on the grant of communication allowances to PDGCC officers and employees is indicative of an inadequate internal control on the grant of the same, contrary to Sections 123 and 124, Chapter 4 of PD No. 1445, thus, the validity, propriety, and legality of the said expenditure pursuant to the requirements prescribed under Compensation and Position Classification System (CPCS) Circular No. 2021-010 could not be determined.

5.1 Sections 123 and 124, Chapter 4 of PD No. 1445, also known as the "Government Auditing Code of the Philippines", state that:

Chapter 4 Internal Control Systems

Section 123. Definition of Internal Control. *The plan of organization and all the coordinate methods and measures adopted within an organization or agency to safeguard its assets, check the accuracy and reliability of its accounting data, and encourage adherence to prescribed managerial policies.*

Section 124. Installation. *It shall be the direct responsibility of the agency head to install, implement, and monitor a sound system of internal control.*

5.2 The GCG in its letter dated January 26, 2022, authorized the PDGCC to implement the CPCS for GOCCs under EO No. 150, s. 2021.

5.3 Chapter VII of the CPCS entitles officers and employees of GOCCs of certain indirect compensation, including communication allowance, based on the prescribed rates, guidelines, and regulations to be promulgated by the GCG.

5.4 Consequently, on January 12, 2022, CPCS Circular No. 2021-010 was issued by GCG pursuant to Chapter VII of the CPCS. It prescribes the rates to be observed in granting the communication allowance, to wit:

Entitlement (₱)	***Position Level***
Actual Expense	*CEO of GOCC*
3,500.00	*Executive Band Positions in GOCC*
2,000.00	*Management Band Positions in GOCC*
1,000.00	*Executive Assistants or those with comparable duties and responsibilities*
500.00	*Administrative Assistants, Drivers, Messengers, or those with comparable duties and responsibilities*

5.5 In addition, Item 4.3 of CPCS Circular No. 2021-010 provides that:

> 4.3 *The* ***grant of communication allowance shall be on reimbursement basis****. Reimbursements shall be* ***supported with billing statement*** *or official receipts and* ***shall be subject to auditing rules and regulations****.* (Emphasis supplied)

5.6 Moreover, Chapter VI of the same Circular outlines the responsibility of the GOCCs, to wit:

> a. *The GOCCs, acting through their Governing Boards, shall be responsible for the proper implementation of this Circular, without prejudice to the refund by the employees concerned of any excess or unauthorized payments.*

b. *For this purpose, they are* ***required to issue their internal implementing rules, guidelines, and/or procedures following the general guidelines and limitations prescribed in this Circular.***

c. *GOCCs shall ensure the judicious and prudent use of government funds, and that the payment of communication allowance should not duplicate with any other similar or related expenses for the purpose.* (Emphasis supplied)

5.7 On the other hand, Annex D of COA Circular No. 2012-003 explicitly states the cases considered to be excessive expenditures of government funds, to wit:

xxx

5. *Provision of mobile phone, whether postpaid line subscription or prepaid, in excess of one unit for each official which should not be lower than Division Chief Rank.*

5.8 Audit of the disbursement vouchers (DVs) and liquidation reports for CY 2022 showed that PDGCC officers and employees had received communication allowances totaling P323,523, the breakdown of which follows:

Mode	Particulars	Amount
Cash	8 officers; 1 member, Admin Committee	203,600
Postpaid	3 members, Admin Committee; 3 regular employees	119,923
		323,523

5.9 It was also observed upon review that:

a. The monthly allowance granted through postpaid plans from a telecommunication service provider amounts to P1,800 per employee regardless of position and comes with respective mobile devices aside from the basic unlimited call and text services, which may be considered excessive if the inclusion of mobile devices to the plans is not duly justified as to its necessity;

b. Two employees were granted two mobile number accounts with a combined monthly allowance of P1,800 per employee which, although fairly the same amount as those granted with only one mobile number, may also be considered excessive, contrary to Item 5, Annex D of COA Circular No. 2012-003; and

c. Any excess from the monthly allowance is supposed to be charged as receivables from the employees, however, a discrepancy was noted in the charging of the excess amount incurred for the billing periods January and February 2022 totaling P600 included as telephone expenses of the Corporation instead of personal expenses of a particular employee.

5.10 Further inquiries from Management revealed that no existing policy and/or valid guidelines were formulated to directly support the grant of communication allowances to its officers and employees. The only basis provided covering the entitlement and charging thereof are the Minutes of the Meetings of the Board dated February 4, 2014 and January 12, 2015, which approved the inclusion of the communication expenses in the proposed PDGCC operating budgets for CYs 2014 and 2015. It was, however, noted that both Minutes only bear the signature of the Corporate Secretary and lack the signatures of other members of the Board; hence, they could not be deemed officially approved. More importantly, a mere inclusion of communication expenses in the annual budget does not make the grant legal and valid. Excerpts of the minutes of the meetings on said dates follows:

<u>*February 4, 2014*</u>

V. APPROVAL OF PROPOSED PDGCC BUDGET FOR 2014

1. Atty. Tan presented the Proposed Budget for 2014 based on the P11M revenues from monthly dues to defray the expenses of PDGCC. Some relevant items discussed were:

xxx

c. Approval to increase the communication expense for mobile phone load of Mrs. Papa only from P1,000 to P1,300. The members of the board declined the proposed increase of their load.

<u>*January 12, 2015*</u>

V. OTHER MATTERS

1. Atty. Tan presented to the Board some salient details in the proposed PDGCC CY 2015 Budget, as follows:

a. Procurement of mobile communication equipment (tablet) for the members of the Board, Admin. Committee members and two (2) staff. The Board, however, proposed to consider or explore the possibility of getting a postpaid plan with free mobile phone unit. It is understood that with postpaid plan, officers will no longer receive the prepaid allocation. Ms. Carol Jorge also suggested to devise a policy to all plan holders patterned after BTR's. ***(Action Item #2)***

xxx

5.11 As quoted above, the adoption of a policy for mobile plan holders was already suggested as early as CY 2015. Despite of that, Management acknowledged that no such policy was enacted in response to the proposal.

5.12 Controls are essential within an organization for promoting the efficient use of resources while accomplishing goals and objectives. A sound internal control system includes an establishment of a policy or adoption of adequate measures to safeguard the assets that are susceptible to misuse, to facilitate internal and external reporting, and to help the organization in complying with relevant legislations.

5.13 Relative to the grant of communication allowance, a duly approved policy shall set sufficient rules, guidelines and/or procedures for granting the same to its officers and employees to provide understanding of the responsibilities and limitations that come therewith. It is imperative to determine, among others, which officers and employees are eligible, the rates applicable to them following the prescribed rates of CPCS, and the appropriate method of granting the communication allowance.

5.14 Additionally, as prescribed in Section 2.2 of COA Circular No. 2012-003, the level/rank of user and mission, size, systems, structure, strategy, skills, style, and nature of operation of the Corporation shall be considered when determining the rates for each officer and employee to properly observe the regularity of the expenditure.

5.15 Management did not consider the relevant and applicable provisions of GCG MC No. 2012-02 (Re-Issued) on the revised interim rules on per diems and other compensation entitlement of members of the governing boards of GOCCs in granting the communication allowances to the members of the Board.

5.16 Likewise, the tax implication of granting monetary communication allowance, which is not among the list of tax-exempt de minimis benefits under RA No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) Law, was not considered. Communication allowances that are not granted on reimbursement basis are considered taxable compensation and as such, subject to income tax.

5.17 The nonexistence of a policy has also allowed the employees to avail themselves of the mobile devices offered by a telecommunication service provider under postpaid plans. By doing so, the mobile devices, as tangible properties, were not recognized as either government assets with Property Acknowledgment Receipt or semi-expendable properties issued with Inventory Custodian Slip, whichever is applicable. If the properties are expensed upon issuance to the end users being below the applicable capitalization threshold, employees issued with the mobile devices are still responsible for the proper safeguarding of the units as prescribed under Section 105 of PD No. 1445, to wit:

Section 105. *Measure of liability of accountable officers.*

> 2. *Every officer accountable for government property shall be liable for its money value in case of improper or unauthorized used or misapplication thereof, by himself or any person for whose acts he may be responsible. He shall likewise be liable for all losses, damages, or deterioration occasioned by negligence in the keeping or use of the property whether or not it be at the time in his actual custody.*
>
> *xxx*

5.18 Overall, the absence of such policy indicates an inadequate internal control on the grant of the communication allowance, contrary to Sections 123 and 124, Chapter 4 of PD No. 1445 preventing the Audit Team from determining the validity, propriety, and legality of the said expenditures pursuant to the requirements prescribed under CPCS Circular No. 2021-010.

5.19 While the Audit Team recognizes the usefulness of cellular phones in conducting Management's business, especially where it can provide greater efficiency and effectiveness, the PDGCC should ensure that expenditures related thereto are regular, necessary, and reasonable pursuant to relevant laws, rules and regulations.

B. Telephone expenses totaling P348,993 were not fully supported with the documentary requirements required in Item 6.2 of COA Circular No. 2012-001 dated June 14, 2012, rendering the validity, propriety and legality of the transactions doubtful.

5.20 Item 6, Section 4 of PD No. 1445, as reiterated in COA Circular No. 2012-001 dated June 14, 2012, states that claims against government funds shall be supported with complete documentation.

5.21 On that score, Item 6.2 of COA Circular No. 2012-001 provides for the documentary requirements for Telephone/Communication Services, as follows:

> a. *Statement of Account/Bill;*
> b. *Invoice/Official Receipt or machine validated statement of account;*
> c. *Certification by the Agency Head or his authorized representatives that all National Direct Dial (NDD), National Operator Assisted Calls and International Operator Assisted Calls are official calls.*

5.22 In the review of the documents attached to the DVs and liquidation reports relative to telephone expenses aggregating P348,993, the Audit Team observed that DVs totaling P145,393 were not supported with Certification by the Agency Head that all calls made are official in nature, whereas the liquidation reports amounting to P203,600 were only supported with an