

BUDGETARY REVIEW AND RECOMMENDATIONS REPORT OF THE PORFOLIO COMMITTEE ON COOPERATIVE GOVERNANCE AND TRADITONAL AFFAIRS DATED 17 OCTOBER 2017

The Portfolio Committee on Cooperative Governance and Traditional Affairs (the Committee), having assessed the financial and non-financial performance of Department of Cooperative Governance and Traditional Affairs (COGTA), for the 2016/17 financial year, reports as follows:

1. INTRODUCTION

1.1. Committee mandate

Chapter 4 of the *Constitution of the Republic of South Africa (1996)* sets out in detail the powers, functions and procedures of Parliament. It tasks Parliament through its Committees, such as the Portfolio Committee on Cooperative Governance and Traditional Affairs, with the following functions:

- Making laws;
- Maintaining oversight over the National Executive Authority and any organ of state;
- Facilitating public involvement in the legislative and other processes of the National Assembly and its Committees;
- Participating in, promoting and overseeing co-operative governance; and
- Engaging and participating in international participation (participate in regional, continental and international bodies)

In line with the parliamentary oversight functions, Section 5 of *the Money Bills Amendment Procedure and Related Matters (Act No.9 of 2009)* empowers Portfolio Committees, to assess annually the performance of each national department through an annual Budgetary Review and Recommendations Report (BRRR). The overarching purpose of the BRR Report is for a Committee to make recommendations on the forward use of resources to address the implementation of policy priorities and services as the relevant department may require additional, reduced or re-configured resources to achieve these priorities and services. The Act also gives effect to Parliament's constitutional powers to amend the budget in line with the fiscal framework. The BRRR process enables a Committee to exercise its legislative responsibility to ensure that the Department fulfil their respective mandates.

1.2. Core functions of the Department

The main aim of the Department of Cooperative Governance and Traditional Affairs is to improve cooperative governance across the three spheres of government. The Department must support and

strengthen the capacity of municipalities to manage their own affairs, exercise their powers and perform their functions, as envisaged in s154 of the Constitution.

The Department also oversees the following entities:

- The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, which promotes and protects cultural, religious and linguistic rights.
- The Municipal Demarcation Board, an independent authority responsible for determining municipal boundaries and also mandated to declare district management areas, delimit wards for local elections and assess the capacity of municipalities to perform their functions.
- The South African Local Government Association, which has a constitutional mandate to assist in the transformation of local government.
- The Municipal Infrastructure Support Agency, whose mandate is to render technical advice, and support to municipalities, as well as strengthen their capacity to provide access to basic services.

1.3. Purpose of the Report

Section 77 (3) of the Constitution stipulates that an Act of Parliament must provide for a procedure to amend money Bills before Parliament. This Constitutional provision resulted in Parliament passing the *Money Bills Amendment Procedure and Related Matters (Act No. 9 of 2009)* (the Money Bills Act). The Money Bills Act sets out the process that allows Parliament to make recommendations to the Minister of finance to amend the budget of a national department. In October each year, Portfolio Committees must compile the Budgetary Review and Recommendation Reports (BRRR) that assess service delivery performance given the available resources; evaluate the effective and efficient use and forward allocation of resources; and may make recommendations on forward use of resources.

1.4. Method of reporting

This BRR Report assesses the financial performance as well as service delivery performance of the Department of Cooperative Governance and Traditional Affairs and its entities for the 2016/17 financial year. Informing the assessment are briefings to the Committee by the Department and its entities, and other sources of information such as the reports of the Auditor-General and Annual Reports. The Committee had meetings on 3 -5 October 2017 dealing with Office of the Auditor-General of South Africa (AGSA), Departments of Cooperative Governance and Traditional Affairs and

South African Local Government Association (SALGA), Municipal Demarcation Board (MDB), and CRL Rights Commission) respectively.

1.5. Report outline

The structure of the Report is as follows: section 2 provides an overview of key policy focus areas of the Department of Cooperative Governance and Traditional Affairs during the 2016/17 financial year. Section 3 provides key financial and performance recommendations of the Portfolio Committee on COGTA. Section 4 of the Report provides an overview and assessment of reported financial and service delivery performance for the 2016/17 financial year. Section 5 of the Report focuses on the Portfolio Committee's observations on COGTA's governance, technical, service delivery and financial performance information. Section 6 table's additional reporting requests by the Portfolio Committee. The Report concludes with recommendations in section 7.

2. POLICY OVERVIEW

Government's policy priorities for the 2016 MTEF that were relevant to Cooperative Governance and Traditional Affairs included:

- The introduction of appropriate incentives to upgrade and maintain provincial and municipal infrastructure. In line with the recommendations made by the Cooperative Governance and Traditional Affairs Portfolio Committee in previous years, the Department of Cooperative Governance was to work on strengthening municipalities and their project management units receive funds through the *municipal infrastructure grant*.
- The completion of the eradication of bucket sanitation systems in formal residential areas. In this regard, a total of R350 million was added to the *bucket eradication programme grant* in 2016/17.
- Investment in infrastructure to increase potential growth also continued to be a key priority of government in 2016/17, with R102 billion earmarked for water resources and bulk infrastructure and R173 billion for transfers of the local government equitable share to support the expansion of access of poor households to free basic services.

3. SUMMARY OF PREVIOUS KEY FINANCIAL AND PERFORMANCE RECOMMENDATIONS TO THE COMMITTEE

2015/16 RECOMMENDATION	PROGRESS MADE IN 2016/17
<ul style="list-style-type: none"> The Committee recommended that the Department of Cooperative Governance improve its management of contracts signed with implementing agents of CWP. The Committee further requested the Department to maintain an assets register that adheres to the minimum requirements for assets registers as prescribed by National Treasury. 	<p>The Department reported that the implementation and management of the Community Work Programme remained a challenge, particularly around managing the relationship between the Department and Implementing Agents. The CWP continued to contribute negatively to the Department's audit outcomes and irregular expenditure</p>
<ul style="list-style-type: none"> The Department should ensure that all municipalities enforce competency standards for Managers and appoint persons with the requisite skills, expertise and qualifications. In instances where municipalities contravene the Systems Act and its regulations, and take corrective measures to ensure compliance. 	<p>During the discussion on the 2016/17 BRRR process, there was an observation that there were still instances of municipal senior officials who contravene the law in one municipality but find employment in another municipality</p>
<ul style="list-style-type: none"> The Department and its entities must reduce irregular expenditure and ensure that there is no unauthorised, fruitless and wasteful expenditure incurred. 	<ul style="list-style-type: none"> Having deviated from Supply Chain Management prescripts to the value of R329.8 million, the CWP continued to contribute significantly to the Department of Cooperative Governance's irregular expenditure. DCoG incurred fruitless and wasteful expenditure to the value of R349 000 due late of cancellation of services requested. The MDB also incurred irregular expenditure amounting 5% of its total budget, and identified fruitless and wasteful expenditure of R19 000 due to terminating a contract outside the agreed notice period.
<ul style="list-style-type: none"> The Department must arrange a meeting between ESKOM and SALGA in order to 	<p>Engagements between the Department, SALGA and Eskom led to the reduction of the prime plus 5% interest on overdue amounts to prime</p>

assist to resolve the challenge of Eskom billing and interest charged to municipalities.	plus 2.5%, as well as to the increase of the Eskom 15-day payment requirement to 30 days. However, the challenge of municipalities that are unable to honour debt owed to Eskom remains.
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4. OVERVIEW AND ASSESSMENT OF FINANCIAL AND SERVICE DELIVERY PERFORMANCE 2016/17

4.1. Department of Cooperative Governance

4.1.1. Service delivery performance

In terms of the 2016/17 Annual Report, the Department of Cooperative Governance achieved 91% (20/22) of the planned annual targets, with a staff complement of 86% or a vacancy rate of 14% (392/454). However, the Annual Performance Plan presented to the Committee at the beginning of 2016/17 specified 18 indicators. Under Programmes 3 and 5, the Annual Report includes additional indicators (namely, number of municipalities supported to establish functional ward committees and 1 215 Municipal Infrastructure Grant projects monitored on financial compliance with the Division of Revenue Act) that were not part of the Annual Performance Plan. In respect of some targets, the Auditor-General could not obtain sufficient appropriate audit evidence for the reported achievement.

4.1.2. Financial performance

2016/17	
Expenditure	Under-expenditure has increased to R3.18 billion in 2016/17 owing to slower than expected expenditure on the <i>Municipal Systems Improvement Grant</i> , as well as the off-setting/withholding of Local Government Equitable Share funds from some municipalities that contravened legislative requirements.
Fruitless and wasteful expenditure	Incurred fruitless and wasteful expenditure to the value of R349 000 due late of cancellation of services requested.
Irregular expenditure	Incurred irregular expenditure to the amount of R329 863 million as the Department did not follow proper procurement processes with regard to CWP contracts.
Contingent liability	Contingent liabilities amounted to R326 000 in respect of claims against the Department and intergovernmental payables.

4.1.3. Audit findings

2016/17	
Financially qualified	
AUDIT FOCUS AREAS	FINDINGS
Quality of submitted financial statements	<ul style="list-style-type: none"> Auditor-General could not obtain sufficient appropriate audit evidence for payments made to the Community Work Programme implementing agents as the Department could not provide accurate and complete substantiating records, as per the contracts signed with implementing agents The Department did not prepare financial statement prepared for auditing in accordance with prescribed financial reporting framework
Quality of submitted performance reports	The Auditor-General could not obtain sufficient appropriate evidence for the reported achievement of some of the targets, due to the inadequacy of the technical indicator descriptions that predetermined how the Department would measure, monitor and report on the achievement of these targets
Compliance with legislation	<ul style="list-style-type: none"> Throughout the year the Audit Committee remained concerned with the status of compliance with all applicable legislation and regulations relating to financial matters, financial management and other related matters The Department did not meet or settle contractual obligations, or money owing, within 30 days in accordance with the Public Finance Management Act and Treasury Regulations The Department did not follow proper procurement processes

Comment: The Department's audit outcome for 2016/17 regressed from unqualified to qualified. This mainly relates to recurrent problems around the administration of the Community Work Programme.

4.1.4. Key reported achievements

- Engagements between the Department, SALGA and Eskom led to the reduction of the prime plus 5% interest Eskom charges municipalities on overdue amounts, to prime plus 2.5%, as well as to the increase of the Eskom 15-day payment requirement to 30 days.

- Supported 21 municipalities to implement red tape reduction initiatives and local economic development programmes
- Supported eThekweni and Ekurhuleni as pilot cities for the implementation of spatial contracts
- As at 31 March 2017, 229 municipalities (based on old boundaries) had CWP sites.

4.1.5. Key reported challenges

The Department reported the implementation, management and administration of the Community Work Programme as a remaining challenge that contributed significantly to the Department's poor financial management and audit outcomes.

4.2. Department of Traditional Affairs

4.2.1. Service delivery performance

In terms of the Annual Report, the Department of Traditional Affairs achieved 95% (18/19) of its planned annual targets. The Department performed with a human resource capacity of 90.5%, indicating a vacancy rate of 9.5% (86/95). There were no audit findings on the usefulness and reliability of the Department's performance information.

4.2.2. Financial performance

2016/17	
Fruitless and wasteful expenditure	No cases of fruitless and wasteful expenditure detected
Irregular expenditure	Did not incur any irregular expenditure
Contingent liability	Contingent liabilities amounted to R5.8 million in respect of claims against the Department for services rendered by the Department of Cooperative Governance

4.2.3. Audit findings

2016/17	
Financially unqualified (with no findings)	
AUDIT FOCUS AREAS	FINDINGS
Quality of submitted financial statements	No findings
Quality of submitted performance reports	No findings
Compliance with legislation	No findings
Financial health	No findings
Human resource management	No findings
Information technology	No findings

Comment: The Department achieved an unqualified audit, with no emphasis of matters, for the first time since becoming a stand-alone Department.

4.2.4. Key reported achievements

- Achieved an unqualified audit, with no emphasis of matters, for the first time since becoming a stand-alone Department.
- Assessed 401 traditional councils on their functionality.
- Implemented two projects on food security promotion and HIV and Aids awareness.
- Researched 160 traditional leadership claims and disputes.

4.2.5. Key reported challenges

Performed with a human resource capacity of 90.5%, indicating a vacancy rate of 9.5% (86/95), which had a negative impact on the Department delivering on all aspects of its mandate.

4.3. Municipal Infrastructure Support Agent

At the time of the BRRR process, MISA had not yet tabled its Annual Report for the 2016/17 financial year. Consequently, the Committee is yet to undertake a full and effective assessment of the entity's financial and service delivery performance during the financial year under review.

4.4. South African Local Government Association

4.4.1. Service delivery performance

The organisation reports an achievement of 100% of its 35 performance targets against pre-determined objectives, as illustrated in the graph below. This while operating at a human resource capacity level of 87.5% (the vacancy rate was 12.5% as at 31 March 2017).



4.4.2. Financial performance

2016/17	
Expenditure	Total expenses amounted to R594.6 million, with R331.1 million or 55.6% spent on employee related costs. There was a surplus of R15 million, which amounted 2.5 percent of the total expenses.
Fruitless and wasteful expenditure	Incurred fruitless and wasteful expenditure to the value of R91 965, of which R56 414 (61%) related to a Workmen's Compensation Commissioner claim, R25 374 (28%) to the South African Revenue Service and R10 177 (11%) to late payment of various creditors.
Irregular expenditure	Incurred 0% irregular expenditure.
Contingent liability	There were no contingent liabilities.

4.4.3. Audit findings

2016/17	
Financially unqualified (with no findings)	
AUDIT FOCUS AREAS	FINDINGS
Quality of submitted financial statements	No findings
Quality of submitted performance reports	No findings
Compliance with legislation	No findings
Financial health	No findings

Human resource management	No findings
Information technology	No findings

Comment: SALGA has received the fifth consecutive clean audit in 2016/17.

4.4.4. Key reported achievements

- Successfully lobbied for changes to some of Eskom’s credit control policies, including reducing the prime plus 5% interest on overdue amounts to prime plus 2.5%, as well as increasing the Eskom 15-day payment requirement to 30 days.
- Successfully advocated for key reforms in spatial planning and land use planning, including providing support to municipalities to ensure that they meet the key readiness indicators to implement the Spatial Planning and Land Use Management Act that became operational on first of July 2015.
- Induction and training of a new body of 9 306 local councillors assuming office after the local government elections of 3 August 2016. The outcome of this initiative, according to the Annual Report, is a group of new councillors who have a fully integrated understanding of the context in which they operate.

4.4.5. Key reported challenges

While presenting its Annual Performance Plan (APP) for the 2016/17 financial year, SALGA lamented the inadequacy of its funding from the national fiscus, arguing that the government grant of R29.5 million fell short of the R127.7 million SALGA believed would be commensurate with its intergovernmental participation activities.

4.5. CRL Rights Commission

4.5.1. Service delivery performance

During the period under review, the CRL Rights Commission had planned to achieve 50 targets. From the Annual Report, it appeared to have achieved the majority of these targets despite having reduced its staff component from 43 to 33 posts, due financial constraints. However, during the BRRR deliberations it emerged that the entity had revised some of its Annual Performance Plan targets without consulting Parliament.

4.5.2. Financial performance

2016/17	
Expenditure	Total expenses amounted to R38 million, resulting in a surplus of R765 000.
Fruitless and wasteful expenditure	Incurred no fruitless and wasteful expenditure
Irregular expenditure	Incurred irregular expenditure of R44 000
Contingent liabilities	Contingent liabilities amounted R4 000

4.5.3. Audit findings

2016/17	
Financially unqualified (with no findings)	
AUDIT FOCUS AREAS	FINDINGS
Quality of submitted financial statements	No findings
Quality of submitted performance reports	No findings
Compliance with legislation	No findings
Financial health	No findings
Human resource management	No findings
Information technology	No findings

Comment: The CRL Rights Commission achieved an unqualified audit, with no emphasis of matters, for the first time since the Commission's inception in 2004.

4.5.4. Key reported achievements

- Achievement of an unqualified audit, with no emphasis of matters, for the first time since the Commission's inception in 2004.
- Compilation of an investigative report on the commercialisation of religion and abuse of people's belief systems. The Report, which the Commission has tabled to Parliament and

brought before the Portfolio Committee on Cooperative Governance and Traditional Affairs, has generated much controversy and debate, and contributed to the entity's strong media presence during the year under review.

4.5.5. Key reported challenges

- Limited financial and human resources appropriated to the organisation
- Non-compliance with the CRL Rights Act of 2002, particularly s24(1)(a), which states that the Commission must convene two consultative conferences during every term of the Commission, the first of which must take place within the first 12 months of a new term of the Commission. One community council is planning to take the Commission to court because of this non-compliance. The suggested resolution to this non-compliance is to resource the Commission through Parliament, rather than through the Department of Traditional Affairs.

4.6. Municipal Demarcation Board

4.6.1. Service delivery performance

The MDB reported an achievement rate of 65% (17/26) on the planned annual targets because of operating at a human resource capacity rate of 84.4%, which translates to a vacancy rate of 15.6 percent. There was also a weak articulation of performance indicators, which contributed to the inability of the Board to achieve the planned clean audit.

4.6.2. Financial performance

2016/17	
Fruitless and wasteful expenditure	Identified fruitless and wasteful expenditure of R19 000 due to the MDB terminating a contract outside the agreed notice period.
Irregular expenditure	Poor controls resulted in irregular expenditure amounting to R3.1 million.

4.6.3. Audit findings

2016/17

Financially qualified	
AUDIT FOCUS AREAS	FINDINGS
Quality of submitted performance reports	<ul style="list-style-type: none"> • Weak articulation of performance indicators • Leadership did not exercise adequate oversight responsibility regarding performance reporting.
Compliance with legislation	<ul style="list-style-type: none"> • Inadequate compliance monitoring resulted in non-compliance with SCM legislation, especially due to poorly motivated deviations and contract management. • Procured goods and services of a transaction value above R500 000 without inviting competitive bids, in contravention of Treasury Regulations.

4.6.4. Key reported achievements

- Technical assessment of all municipal boundaries
- Successful consultative conference on demarcation and spatial transformation
- The development of a regionalisation model, which aims at cascading the work of the institution and operate at a regional level in order to enhance local participatory democracy by allowing the public to have access to the MDB
- A framework on public participation for boundary re-determination process

4.6.5. Key reported challenges

- Lack of a clear plan on configuration of the local government landscape, e.g. perpetual debates on the future of the two-tier system, secondary cities and long-term plans on the rationalisation of municipalities.
- Provincial boundaries that impede the MDB's work, e.g. Moutse, Dipalaseng, Ba ga Mothibi, Matatiele etc.
- Inadequate funding of the MDB: constraining effective public participation and establishment of regional presence.
- Spatial discrepancies concerning traditional community areas exacerbated by lack of proclamations thus resulting in misaligned of municipal boundaries.

- The Board operated at a human resource capacity rate of 84.4%, indicating a vacancy rate of 15.6 percent. In this regard, the Board was under-capacitated to deliver on its mandate, as this vacancy rate also affected the Board's key managerial positions.

5. COMMITTEE OBSERVATIONS

5.1. Technical issues

With regard to technical issues, the Committee:

- Noted the erratic tabling in respect of the Annual Report of the Municipal Infrastructure Agent, which has happened on more than one occasion. This constrained proper and effective exercise of the Committee's oversight responsibility over the entity.
- Noted that some of the performance targets that have previously been on the Department of Cooperative Governance's annual performance agenda simply disappeared during the period under review. These include the Local Government Laws Amendment Bill and the Interventions Monitoring and Support Bill.

5.2. Governance and operational issues

In respect of governance and operational issues, the Committee:

- Noted the problems relating to the management and administration of the Community Work Programme and the Municipal Infrastructure Support Agent were a repeat of the same issues encountered in the previous financial years.
- This indicated a need for the Committee to do more (including following the recommendations of the Office of the Auditor-General) to exercise oversight over the Cooperative Governance and Traditional Affairs portfolio, particularly the Department of Cooperative Governance and MISA.
- In the future, the Committee would prefer to see the recommendations of the Office of the Auditor-General binding and legally enforceable, much like the recommendations of the Public Protector.

5.3. Service delivery challenges

Concerning service delivery challenges, the Committee:

- Noted the ineffectiveness of some provincial disaster management centres owing to cumbersome and bureaucratic disaster reaction procedures that often lead to slow disaster response.
- Was concerned about the negative impact of some amalgamations on the financial viability of the merged municipalities, including instances where previously healthy municipalities become financially unsustainable due to amalgamation with distressed or dysfunctional municipalities.
- Observed that the responsibility for the policy priority of completing the eradication of bucket sanitation systems in formal residential areas during the 2016 MTEF seems to rest with municipalities, and that should be transferred to the Department of Cooperative Governance and Traditional Affairs

5.4. Financial performance

With regard to financial performance, the Committee:

- Noted and welcomed the overall improvement in the audit outcomes of the COGTA portfolio, particularly the maiden clean audits of the CRL Rights Commission, the Department of Traditional Affairs and the fifth consecutive clean audit of the South African Local Government Association.
- Was concerned that the audit outcome of the Department of Cooperative Governance regressed from unqualified to qualified.
- Noted and condemned the irregular expenditure of R329.8 million resulting from the Department of Cooperative Governance's ineffective management and administration of the Community Work Programme.
- Noted and was concerned that under-expenditure has increased to R3.18billion in 2016/17 owing to slower than expected expenditure on the Municipal Systems Improvement Grant, as well as the off-setting/withholding of Local Government Equitable Share funds from some municipalities that contravened legislative requirements.

6. TABLE OF COMMITTEE'S REPORTING REQUESTS

Reporting matter	Action required	Timeframe
List of projects that MISA is dealing with currently, as well as the amounts allocated to these projects	MISA to supply the Committee with the required list of projects	November 2017
Quarterly reports on the financial performance of municipalities	National Treasury to supply the Committee with quarterly reports (Section 71 Reports) on the financial performance of municipalities	Quarterly

7. RECOMMENDATIONS

7.1 MISA must table its Annual Report on time, in accordance with legislation.

7.2 The Department and its entities must heed and act on the Committee's recommendations of the previous financial year, particularly in respect of:

- Reducing irregular expenditure and ensuring that there is no unauthorised, fruitless and wasteful expenditure incurred.
- Ensuring that all municipalities enforce competency standards for Managers and appoint persons with the requisite skills, expertise and qualifications, and that the Department takes corrective measures in instances where municipalities contravene the Systems Act and its regulations.
- Improving the management of contracts signed with implementing agents of CWP and maintaining an assets register that adheres to the minimum requirements for assets registers as prescribed by National Treasury.

7.3 The Committee must ensure greater oversight over the spending of conditional grants including examination of quarterly performances reports.

7.4 Where a municipality is in serious or persistent breach of its service delivery or financial performance obligations, the Committee must assist to ensure timely provincial executive intervention in terms of s139(5) of the Constitution.

7.5 The committee must engage the Minister of Cooperative Governance and Traditional Affairs to make funds available to enable the CRL Right Commission to convene National Consultative Conferences in compliance with the CRL Rights Act of 2002.

7.6 The Committee needs to explore the possibility of a mechanism to ensure that the Municipal Demarcation Board meaning fully considers the views of stakeholders on proposed amalgamations, especially National Treasury's recommendations.

8. APPRECIATION

The Committee wishes to thank the Department of Cooperative Governance and Traditional Affairs, CRL Rights Commission, Auditor-General South Africa, SALGA, Municipal Demarcation Board, MISA and the Disaster Management Centre for their fruitful, cordial and constructive engagements. The contributions of Committee Members, as well as Committee support staff is highly appreciated.

Report to be considered