**Budgetary Review and Recommendation Report of the Portfolio Committee on Labour, dated 22 October 2013**

The Portfolio Committee on Labour, having considered the performance and submission to the National Treasury for the medium term period of the Department of Labour, reports as follows:

**1. INTRODUCTION**

**1.1.       Mandate of the Committee**

In terms of the Constitution of the Republic of South Africa, Act 108 of 1996 (the Constitution), portfolio committees have a mandate to legislate, conduct oversight over the Executive and facilitate public participation.

The mandate of the Portfolio Committee on Labour (the Committee) is governed by Parliament’s mission and vision, the rules of Parliament and Constitutional obligation. The mission of the Committee is to contribute to the realisation of a developmental state and ensure effective service delivery through discharging its responsibility as a Committee of Parliament. Its vision includes enhancing and developing the capacity of Committee Members in the exercise of effective oversight over the Executive Authority. One of the Committee’s core objectives is to oversee, scrutinise and influence the action of the Executive and its agencies. This implies holding the Executive and related entities accountable through oversight of objectives of its programmes; scrutinising its budget and expenditure (annually); and recommending through Parliament what actions the Department should take in order to attain its strategic goals and contribute to service delivery.

Furthermore, section 5 of the Money Bills Amendment Procedure and Related Matters Act, No 9 of 2009 (the Act) provides that the National Assembly, through its committees, must annually assess the performance of each national department and these Committees must annually submit Budgetary Review and Recommendation Reports (BRRR) for tabling in the National Assembly. These should be submitted to the Minister of Finance and the relevant Ministers.

**1.2.       Description of core functions of the Department**

The mandate of the Department is to regulate the labour market through policies and programmes developed in consultation with social partners, which are aimed at:

·         Improved economic efficiency and productivity;

·         Creation of decent employment;

·         Promoting labour standards and fundamental rights at work;

·         Providing adequate social safety nets to protect vulnerable workers;

·         Sound labour relations;

·         Eliminating inequality and discrimination in the workplace;

·         Enhancing occupational health and safety awareness and compliance in the workplace; and

·         Giving value to social dialogue in the formulation of sound and responsive legislation and policies to attain labour market flexibility for competitiveness of enterprises which is balanced with the promotion of decent employment.

**1.3.       Purpose of the BRRR**

The Act set out the process that allows Parliament to make recommendations to the Minister of Finance to amend the budget of a national department. In October of each year, portfolio committees must compile BRRR that assess service delivery performance given available resources; evaluate the effective and efficient use and forward allocation of resources; and may make recommendations of forward use of resources. The BRRR are also source documents for the Standing/ Select Committees on Appropriations/ Finance when they make recommendations to the Houses of Parliament on the Medium-Term Budget Policy Statement (MTBPS). The comprehensive review and analysis of the previous financial year’s performance, as well as performance to date, form part of this process.

**1.4. Method followed by the Committee in writing the BRRR**

The Committee in reviewing the work of the Department for the 2012/2013 financial year placed emphasis on the following aspects:

·         An overview and analysis of the Department’s strategic priorities and measurable objectives;

·         An overview of the overall performance of voted funds: Vote 18;

·         Consideration of the Auditor-General’s activities in relation to the Department;

·         Committee key findings; and

·         Recommendations.

The Committee, in undertaking this process used a number of source documents, including the 2013-2018 Strategic Plan of the Department, Annual Report, Financial Statements, 2013 Estimates of National Expenditure (ENE), briefings by the Department and its entities during the course of the year, as well as the State of the Nation Address. The Committee also used the Constitution as its basis.

The limitation of this report is that it could not assess the impact of the Department’s initiatives to the government priority of job creation since the Department is involved in creating a conducive environment for job creation rather than directly creating jobs.

**1.5. Outline of the contents of the Report**

This report is comprised of the broader government policy, which is enshrined in the National Development Plan. It reviews the initiatives taken by the Department to ensure that the priorities of the plan are realised. Furthermore, the report reviews the recommendations made in the previous year’s BRRR to ascertain whether they have been acted upon. It also looks at the recommendations made by the Committee regarding the 2013/14 budget. The report assesses the financial as well as service delivery performance to ascertain whether the budget allocated to the Department was spent as envisaged in the Annual Performance Plan. Finally, it summarises the observations made by the Committee after considering all necessary documents, presentations and oversight visits before making recommendations aimed at improving service delivery.

**2. OVERVIEW OF THE KEY RELEVANT POLICY FOCUS AREAS**

In his 2013 state of the nation address, the President referred to the National Development Plan (NDP) as a roadmap to a South Africa where all will have access to services and jobs.

The economy and employment related priorities of the NDP, include increasing employment through economic growth; reduce inequality; improve skills development and education. The Department is of the view that its strategic goals are in alignment with these aims and with the actions proposed by the plan to achieve its targets, and its work will continue to focus on facilitating increased employment and ensuring decent working conditions to enhance productivity and eliminate inequality.

The Department’s programmes include interventions to: broaden access to employment; transform protected employment factories into viable, sustainable businesses; provide access by citizens to work seeker services and employment counseling; enforce equality and compliance to labour regulations in the workplace; and provide support to Productivity South Africa to promote productivity and competitiveness. In addition the Department committed itself to striving to build capability in the sector, strengthen institutional capacity and improve service delivery.

Specific areas of the Department’s work that are aligned with the employment objectives and actions of the NDP include:

·         The Inspection and Enforcement Services programme, which reinforces compliance in relation to equality in the workplace and the payment of minimum wages through regular workplace inspections

·         The Public Employment Services programme whose aim is to contribute to facilitating an increase in employment to the plan’s 11 million jobs target by 2030 through its employer and work seeker services

·         Sectoral determinations that are set by the Minister of Labour in industries not covered by collective agreements to address poverty and its impact

·         The work of the Commission for Conciliation, Mediation and Arbitration, which strengthens labour dispute resolution in the labour market

In her budget vote address; the Minister of Labour referred to the 2009 manifesto of the governing party; which promised to regulate contract work; subcontracting and outsourcing; and addressing the problem of labour broking and prohibit certain abusive practices. In lieu of this promise, the bills amending labour legislation were tabled in Parliament. The Minister announced crucial changes to the Unemployment Insurance Fund, which are:

·         Increased benefits to beneficiaries;

·         Increased benefits period from eight months to 12 months;

·         The inclusion of domestic workers on maternity benefits;

·         Women on maternity leave to be paid at an income replacement rate from 38 per cent to 66 per cent; and

·         Increase in the time for claiming UIF from six months to 18 months for death benefits and 12 months for other benefits.

The Minister also highlighted the role of the UIF in job creating initiatives.

**3. Summary of previous key Financial and Performance Recommendation of the Committee**

**3.1. 2012/13 BRRR recommendations**

Having assessed the performance of the Department in 2012/13, the Committee recommended that the Minister should:

·         Ensure that the Accounting Officer plays an active role in overseeing performance of the entities of the Department, especially the Compensation Fund and the Sheltered Employment Factories. In doing so, the Department should report quarterly to the Committee on the Compensation Fund’s activities, starting in January 2013.

·         Take reasonable measures to improve on performance targets and performance indicators by ensuring that reported information is measurable and reliable. In doing so, the Department and entities should report quarterly to the Committee, starting in January 2013, to ensure that planned targets are achieved, and that corrective measures are in place on issues identified by the Auditor-General to ensure increased service delivery.

·         Closely monitor the Public Private Partnership contract of Siemens as it draws to an end and ensure that there is smooth handover from Siemens to the Department. In doing so, the Department should submit a progress report, which includes the financial status, to the Committee by 28 February 2013.

·         Ensure that all performance agreements are signed by all senior managers within the stipulated deadlines.

·         Monitor the use of consultants and ensure that there are comprehensive programmes aimed at transferring skills to permanent staff. In doing so, the Department should report to the Committee bi-annually, starting in June 2013.

·         Set an example and place vacancy adverts on its Public Employment Services system in order for other government departments to register vacancies as well, starting with the next list of vacancies and continuing into the future.

·         Ensure that all critical posts are filled within six months in the Department and its entities, starting in January 2013.

·         Ensure that the UIF assesses the impact of its investment into employment programmes to alleviate poverty, inequality and unemployment. In doing so, the Department should report quarterly to the Committee, starting in January 2013.

·         Ensure that the Compensation Fund commissions a study on the reasons for the reduction in claims payments to determine whether this is due to an increase in compliance levels, or poor reporting from employers, or any other reason. In doing so, the Department should ensure that the Committee is briefed by 31 January 2013 on the action plan to be followed so that it can set a deadline for the completion of the study.

·         Ensure that the Inspection and Enforcement Services branch reports quarterly on the progress made in addressing the challenges associated with the new structure of the inspectorate.

The National Treasury was amenable to the recommendation on Inspection and Enforcement Services and mentioned that it had sought to engage with the Department on this matter. It highlighted that underspending on compensation of employees in the Department was mainly attributable to vacant labour inspector posts. In the 2012 AENE, the Department shifted R45.9 million from this programme to address funding pressures at the Sheltered Employment Factories (R11 million) and to fund the exit and transfer plan in respect of the Siemens IT-PPP (R17.0 million).

In response to the comments from National Treasury, the Ministry reported that the Compensation of Employees budget for the Inspection and Enforcement Services for the 2013/14 financial year is R465.3 million with a projected underspending of R45.0 million, of which R32 million is mainly attributable to the newly created labour inspector posts.

During this period, the following virements from IES were approved:

·         R5.1 million was used for National Inspectors Conference;

·         R11.7 million was used for training initiative for the Inspectorate; and

·         R25 million was vired to augment the departmental fleet.

Currently 57 posts of the created inspector posts have been advertised and the Department is in the process of interviewing prospective candidates.

**3.2. 2013/14 Committee Budget Report**

After considering the budget of the Department, the Committee recommended that the Minister of Labour gives consideration to:

·         A further briefing to the Portfolio Committee by the Compensation Fund on outstanding issues as tabulated in a list of questions forwarded to the entity.

·         Strengthening the re-training of workers affected by occupational injuries and diseases.

·         Addressing the growing number of cases adjudicated by the Compensation Fund.

·         Providing a progress report on the turn-around strategy by the task team appointed by the Minister.

·         Additional budget allocation for Nedlac in order for them to effectively implement their mandate.

·         Continuously improving the turn-around times on cases addressed by Nedlac.

·         Strengthen community constituency by ensuring that the interests of the unemployed and the most vulnerable groups are accommodated in decisions taken at Nedlac.

·         Ensuring that benefits payable by UIF are used to improve people’s lives e.g. through maternity benefits.

·         Ensuring funds are made available for Productivity SA:

o    To be able to extend its services to areas where they are currently not operating.

o    For marketing purposes and to ensure the entity is rendered more visible.

·         Expanding the capacity of Productivity SA to enable the entity to position itself as a consultant of first choice in improving productivity rather that the service provider of last resort for entities on the brink of bankruptcy.

·         To capacitate the Inspectorate taking into consideration the coming legislation.

·         To linking up with the tertiary institutions to build up its capacity e.g. to acquire specialised skills.

·         Addressing the continuing ICT challenges including down-time affecting services of the labour centres and the Compensation Fund.

·         Capacitating the call centre of the Department and its entities.

·         Improving the planning and reporting capacity of the Department, including the Strategic Plans and Annual Performance Plans.

**4. OVERVIEW AND ASSESSMENT OF FINANCIAL PERFORMANCE**

**4.1. Overview of Vote allocation and spending (2009/10 – 2014/15)**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Programme**  R million | **2009/10** | **2010/11** | **2011/12** | **2012/13** | | | **2013/14** | **2014/15** |
| Outcomes | Outcomes | Outcomes | Main | Adjusted | Outcomes | Estimates | Estimates |
| Administration | 669.2 | 682.5 | 704.3 | 732.6 | 764.6 | 687.7 | 785.4 | 833.4 |
| Inspection and Enforcement Services | 290.0 | 329.4 | 375.7 | 429.2 | 400.4 | 395.6 | 465.2 | 494.4 |
| Public Employment Services | 264.8 | 289.3 | 332.2 | 322.0 | 334.3 | 331.7 | 400.1 | 438.2 |
| Labour Policy and Industrial Relations | 474.7 | 525.2 | 594.9 | 635.9 | 640.3 | 619.7 | 764.5 | 867.5 |
| **Total** | **1 698.7** | **1 826.3** | **2 007.1** | **2 119.7** | **2 139.6** | **2 034.6** | **2 415.2** | **2 633.5** |

*National Treasury: Estimates of National Expenditure (2013) and Quarterly Expenditure Report (2012/13)*

The Department was allocated R2.1 billion in the 2012/13 financial year. A virement of R66.1 million was recorded in the Administration programme. This amount was taken from current payments and distributed among transfers and subsidies; payment for capital assets; and payment for financial assets respectively. Inspection Services recorded a virement of R634 000 and R1 000 from current payments and payment for capital assets to transfers and subsidies. Public Employment Services recorded a virement of R229 000 from current payments to transfers and subsidies. Labour Policy and Industrial Relations recorded a virement of R1.0 million from current payments to transfers and subsidies. The final appropriation remained unchanged at R2.1 billion. The following section seeks to analyse the allocation and spending per programme.

**4.2. Financial performance 2012/13**

**4.2.1.    Analysis of Expenditure Reports**

The overall departmental allocation and expenditures for 2012/13 financial year and the first quarter 2013/14

The main appropriation for the Department in the 2012/13 financial year was R2.119 billion but went up to R2.139 billion after it was adjusted upwards by R19.8 million. The Department spent R2.034 billion (95.09 per cent) of its budget. The variance between available budget and actual expenditure amounted to R104.9 million or 4.9 per cent (underexpenditure). This underspending was attributed mainly to slow filling of vacant posts, performance bonuses and pay progression for Senior Management Services (SMS) officials not yet processed and delays in obtaining invoices from the Department of Public Works.

In 2013/14, the Department was allocated R2.415.2 billion and it had spent R630.9 million or 26.1 per cent of its total budget by the end of the first quarter. The overall spending for the first quarter is in line with the 25 per cent spending per quarter benchmark. The first quarter expenditure for 2013/14 reflects the trend as it was similar in the 2012/13 at 27.9 per cent. During the second quarter of 2012/13, 46.3 per cent of the budget was spent. This was close to the quarterly expenditure benchmark. The expenditure per programme in the fourth quarter of the 2012/13 financial year and the first quarter of the 2013/14 financial year was as follows:

**Administration**

The 2012/13 main appropriation for the Administration programme was R732.6 million and it went up to R764.6 million after it was adjusted upwards by R32 million. At the end of the fourth quarter, R687.7 million or 89.9 per cent was spent. The variance between the final appropriation and actual expenditure was R76.9 million. A total of R66.1 million or 8.6 per cent was recorded as virement from current payments to transfers and subsidies, payment for capital assets and payment for financial assets. This is slightly above the virement benchmark of 8 per cent.

The sub-programme that received the bulk of the allocation was the Management at R435.7 million of 57 per cent of the programme budget. In terms of economic classification, current payments received the bulk of the allocation at R730.6 million or 95.6 per cent. Compensation of employees accounts for 40.8 per cent of the current payments. The total number of personnel in this programme is expected to increase due to the absorption of IT staff following the termination of the Siemens IT public private partnership. The growth in compensation of employees over the medium term is mainly for improvements in conditions of service.

This programme had spent 19.8 per cent of its budget at the end of the first quarter (2012/13), which was far less than the quarterly expenditure benchmark. The programme spent 43.0 per cent of its budget by the end of the second quarter (2012/13). It could therefore be seen from this trend that there was a possibility of underspending by the programme at the end of the financial year (2012/13).

The Administration programme was allocated R785.3 million in the 2013/14 financial year. This translates to 49.2 per cent of the total departmental budget. The programme spent R115.7 million or 14.7 per cent of its budget by the end of the first quarter of 2013/14. This is far below the quarterly spending benchmark of 25 per cent per quarter.

In the 2011/12 financial year, this programme’s final appropriation was R707.0 million. The actual expenditure for that year was R704.3 million, leading to a variance of R2.7 million. In 2010/11 this programme spent R682.5 million of its budget. In 2009/10, the Administration programme spent R669.2 million.

It is therefore evident that this programme has been under spending over the past few financial years.

**Inspection and Enforcement Services**

The Inspection and Enforcement Services programme’s main appropriation for 2012/13 financial year was R429.2 million and was adjusted downwards by R28.8 million leaving it with a final appropriation of R400.4 million. The larger portion of the allocation (R273.2 million or 68.24 per cent) went to Compliance, Monitoring and Enforcement sub-programme. The bulk of spending in this sub-programme over the medium term goes towards compensation of employees, which is also the fastest growing item of expenditure. This is to strengthen the Department’s capacity to conduct inspections and enforce compliance with labour regulations by employing an additional 120 appropriately qualified labour inspectors in 2013/14; improving the remuneration of labour inspectors to ensure that the Department is able to retain them; and creating new specialist labour inspector posts.

The actual expenditure at the end of the fourth quarter of 2012/13 was R395.6 million or 98.8 per cent. This amounted to a variance of R4.8 million. At the end of the first quarter (2012/13) this programme had spent 20.6 per cent of its budget. By the end of the second quarter (2012/13), this programme’s expenditure was standing at 47.9 per cent.

In 2013/14, the main appropriation for Inspection and Enforcement Services programme was R465.2 million and it spent R97.1 million or 20.9 per cent of its budget by the end of the first quarter. This is below the stipulated expenditure benchmark of 25 per cent per quarter. The majority of the expenditure went to compensation of employees. Expenditure under this programme has increased by R8.8 million or 10 per cent, when compared with the same period last year primarily due to additional spending on this item. This is due to additional allocations of R28 million in 2012/13 and R32 million in 2013/14 appropriated for professionalisation of the inspectorate, mainly for the employment of specialist inspectors. For this purpose, the Department is currently filling vacant posts under this programme.

In 2011/12 financial year, this programme spent 100 per of its final appropriation, which was R375.7 million. In 2010/11 and 2009/10, this programme spent R329.4 million and R290.0 million respectively.

**Public Employment Services**

The 2012/13 main appropriation for the Public Employment Services programme was R322.0 million and it was adjusted upwards by R12.3 million to R334.3 million. The Work Seeker Services sub-programme was allocated R90.1 million or 26.95 of the programme budget, which is the largest share of the programme allocation. The second biggest allocation went to Employer Services at R86.54 million or 25.88 per cent. Productivity South Africa was allocated R37.05 million or 11.08 per cent of the programme budget. The Compensation Fund received R14.09 million or 4.21 of the programme budget. Sheltered Employment Factories and Subsidies to Designated Workshops sub-programme received the third biggest allocation at R78.55 million or 23.50 per cent. This programme’s budget is expected to increase at an average rate of 22.2 per cent in the medium term. The reason for this significant increase is the implementation of the turnaround strategy for the Sheltered Employment Factories and the Employment Services Bill once it is promulgated. In terms of Economic Classification; Current Payments; Transfers and Subsidies; and Payments for Capital Assets were allocated R209.4 million; R124.1 million and R900 000 respectively.

This programme managed to spend R331.7 or 99.2 per cent of its budget by the end of the fourth quarter of 2012/13 resulting in a variance between final appropriation and actual expenditure of R2.7 million. In the first quarter of the year, the programme had spent 26.8 per cent of the budget. By the end of the second quarter, the programme had spent a cumulative percentage of 50.6 per cent.

The operational expenditure for this programme was R56.2 million at the end of first quarter of 2013/14, the majority of which was spent on compensation of employees. Expenditure under this programme has increased by R11 million or 24.4 per cent, when compared with the same period last year due to additional spending on compensation arising from the filling of vacant posts and general salary adjustments. The number of vacant posts under this programme has been reduced from 91 to 73 when compared with the same period last year.

In the previous financial year (2011/12), the final appropriation was R332.7 million and the actual expenditure was R332.1 million, resulting to a variance of R525 000. In 2010/11 and 2009/10 the audited outcomes were R289.3 million and R264.8 million respectively.

**Labour Policy and Industrial Relations**

The 2012/13 main appropriation for the Labour Policy and Industrial Relations programme was R635.9 million and was adjusted upwards by R4.4 million to R640.3 million. The bulk of the programme budget was allocated to Commission for Conciliation, Mediation and Arbitration (R478.8 million or 74.8 per cent). The National Economic Development and Labour Council (NEDLAC) received R24.9 million or 3.89 per cent of the budget. The Collective Bargaining sub-programme was allocated R12.4 million or 1.9 per cent of the programme budget. Employment Equity sub-programme received R13.7 million or 2.1 per cent of the programme allocation. In terms of economic classification, the bulk of the programme budget (R531.4 million or 83 per cent) went to Transfers and Subsidies. At the end of the financial year, the programme had spent R619.7 million or 96.8 per cent of its budget resulting in the variance of R20.6 million.

The programme had spent 42.8 per cent of its budget by the end of the first quarter (2012/13). This was far above the quarterly expenditure benchmark of 25 per cent. However, the expenditure stabilised to 46.8 per cent by the end of the second quarter (2012/13).

This programme spent R21 million by the end of the first quarter of 2013/14, the majority of which was spent on compensation of employees. Expenditure under this programme has increased by R2.6 million or 14.5 per cent, when compared with the same period last year primarily due to additional spending on goods and services mainly on travel and subsistence. High spending has been mainly driven by public hearings for Labour Amendment Bills and sectoral determinations.

In the 2011/12 financial year, the final appropriation was R601.9 million and the actual expenditure was R594.9 million, leading to a variance of R7.0 million. The audited outcomes for the 2010/11 and 2009/10 financial years were R525.2 million and R474.7 million respectively.

**4.3.       Auditor-General Report**

The Department of Labour received an unqualified audit opinion for the 2012/13 financial year.

However, the Auditor-General drew attention to the following matters:

·         The Department underspent the budget to the amount of R104 994 000. The underspending on current payments is mainly attributable to less than anticipated payments to the Department of Public Works (DPW), as incorrect invoices received from DPW were returned to be corrected and not received in time for payment, amounting to R61 907 000, and compensation of employees, amounting to R19 399 000.

·         Overall 57 per cent of the indicators were not well defined in accordance with the National Treasury Framework for Managing Programme Performance Information (FMPPI).

·         The Department could not provide sufficient appropriate evidence in support of the information presented with respect to the Inspection and Enforcement Services in accordance with the FMPPI.

·         The reported performance information of Public Employment Services was materially misstated in contravention of the FMPPI due to the cumulative effect of numerous individually immaterial uncorrected misstatements in the targets relevant to Public Employment Services. This was reportedly due to the lack of approved standard operating procedures for the accurate recording of actual achievements.

·         Of the total number of 53 targets planned for the year, 25 were not achieved during the year under review. This represents 47 per cent of total planned targets, as reported by the Department’s annual performance report.

·         The financial statements submitted for auditing were not prepared in all material respects in accordance with the requirements of section 40(1) of the PFMA. Material misstatements identified by the auditors were subsequently corrected, resulting in the financial statements receiving an unqualified audit opinion.

·         Goods and services of a transaction value above R500 000 were procured without inviting competitive bids as required by Treasury Regulations 16A6.1 and 16A6.4.

·         Suppliers were awarded contracts without submitting the required standard bidding document (SBD) 4, 8 and 9 in contravention of the Treasury Regulations 16A and practice notes and the following amounts may result in irregular expenditure.

·         Funded vacant posts were not filled within 12 months as required by the Public Service Regulations 1NIIIC.1A.2. Vacant positions in the Department were not advertised within six months of becoming vacant.

·         Vacant posts at senior management level were not filled at the required time as per Public Service Regulation C.1A.

·         Lump sum payment of a terminated employee in contravention of section 16V, section 17 of the Public Service Act and Part X C and D of the Public Service Regulations.

·         There were creditors that were not settled within 30 days of receipt of the invoice or statement, in contravention of TR 8.2.3.

·         The Accounting Officer did not take effective steps to prevent fruitless and wasteful expenditure as required by section 38(1)(c) of the PFMA and TR 9.1.1.

·         The Accounting Officer did not take effective and appropriate steps to collect all money due as required by the PFMA and relevant Treasury Regulations.

·         The Accounting Officer did not effectively exercise oversight responsibility regarding information technology (IT) security management controls, over reliance on the IT service provider and inadequate development of a business continuity plan and a disaster recovery plan.

·         The Department does not implement a performance management for employees and there are no consequences for non-compliance and lack of performance.

**4.4. 2014/15 MTEF financial allocations**

The Department reported that in addressing its legislative mandate, it required additional funding to address a number of activities that would enable it to implement the strategic priorities. Nevertheless, the National Treasury had issued a communication that if any funding pressures should arise from a department, there will be no additional funding and departments should reprioritise within the allocated voted funds to address any pending funding pressure for the medium term.

The Department in the 2013/14 financial year (during the Adjustment of Estimates of National Expenditure) has requested the unforeseeable and unavoidable additional funding to defray expenditure relating to the following claims received from the Private Partner for IT related expenses:

·         R9.3 million in respect of SAP; and

·         R3.4 million in respect of a central hardware claim.

No other additional funding was requested for any other function within the Department inclusive of the Inspection and Enforcement Services programme. However, the additional fund request was unsuccessful.

**4.5. Concluding comments on financial performance**

The statement on financial performance indicated that of the total revenue of R2.155 billion, the Department spent R2.034 billion. This translates to underspending (surplus) of R120.6 million. This is an increase of R102.8 million in under spending when compared to the previous financial year underspending of R17.9 million. The statement of financial position indicated that the Department is in a good financial position since the value of its assets exceeded the value of liabilities by R13.5 million. The report of the Auditor General pointed to some weaknesses in the supply chain management system of the Department.

**5. OVERVIEW AND ASSESSMENT OF SERVICE DELIVERY PERFORMANCE**

**5.1. Service delivery performance for 2012/13**

**5.1.1.    Programme Performance**

**Administration**

The purpose of the Administration programme is to provide management, strategic and administrative support services to the Ministry and the Department. The Ministry provides oversight to ensure that the Department’s mandate is achieved. The Office of the Director-General provides administrative oversight for effective implementation of the Department’s mandate and overall accounting oversight. The programme consists of the following sub-programmes: Office of the Chief Operations Officer; Corporate Services (including Human Resources Management, Internal Audit, Risk management, Security Services, Communication, Legal Service);and Office of the Chief Financial Officer.

The Department set 34 targets for the Administration programme and managed to achieve 20, translating to 58.82 per cent achievement. Among the notable achievements was the reduction in irregular expenditure rate by 64 per cent against a target of 30 per cent. There were 168 cases of irregular expenditure in 2011/12 and were reduced to 60 in 2012/13.

However, the Department did not manage to reduce the vacancy rate to below seven per cent as planned. It also did not manage to fully comply with Supply Chain management prescripts as planned. The Department did not pay all compliant invoices within 30 days of receipt as per Treasury Regulations.

**Inspection and Enforcement Services**

The purpose of Inspection and Enforcement Services is to realise decent work by regulating non-employment and employment conditions through inspection and enforcement in order to achieve compliance with all labour market policies. This programme consists of the following sub-programmes: Management and Support Services: Inspection and Enforcement Services; Occupational Health and Safety; Registration: Inspection and Enforcement Services; Compliance, Monitoring and Enforcement; Training of Staff: Inspection and Enforcement Services; and Statutory and Advocacy Services.

Of the 14 targets set for this programme, 6 (42.86 per cent) were achieved. The Department reported an over-achievement in the number of workplaces reviewed for compliance with employment equity legislation – 269 (87 Public Companies and 182 Private Companies) employers were reviewed against a target of 240. There was an over-achievement in the Private sector (182 reviews against a target of 124) and under-achievement in the Private Sector (87 reviews against a target of 116).

The programme also recorded an over-achievement in inspections to determine compliance with legislation to protect vulnerable workers. A total of 101 792 inspections were conducted against a target of 87 795. Of those employers that were inspected, 55 438 or 54.46 per cent complied. The high level of non-compliance to labour legislation is a cause for concern. A total of 46 354 follow-up inspections were planned to be conducted on non-compliant employers. However, 10 880 were actually conducted. It was reported that 10 588 complied on follow-up inspections. There is a discrepancy in the report regarding the number of those companies that did not comply as they are reported to be 3 036 and this does not tally when compared with the total of 10 880 follow up inspections conducted.

The Department did not manage to achieve the target of auditing 41 965 workplaces for compliance with Occupational Health and Safety legislation. It only managed to conduct 26 333 or 62 per cent. The reported number of companies that comply and those that did not comply also do not tally (13 640 complied and 12 593 did not comply). The Department planned to conduct 12 593 follow-up inspections on non-compliant workplaces but only managed 2 270 or less than 20 per cent of the planned follow-up audits. The reported number of companies that complied (1 807) and those that did not comply (1 121) also does not tally. The level of non-compliance to exposure limit to silica dust is concerning as only 44.39 per cent of the audited companies complied to occupational silica exposure limits.

**Public Employment Services**

The purpose of the Public Employment Services programme is to provide assistance to companies and workers to adjust to changing labour market conditions and to regulate private employment agencies. The programme consists of the following sub-programmes: Management and Support Services: Public Employment Services; Employer Services; Work-Seeker Services; and Designated Groups Special Service. This programme has oversight over the following entities: Sheltered Employment Factories and Subsidies to Designated Workshops; Productivity South Africa; Unemployment Insurance Fund; and Compensation Fund.

The Public Employment Services programme achieved six of the 14 targets that it set itself (42.86 per cent achievement). The programme managed to register 600 259 work seekers on the system against a target of 450 000. The majority of work seekers (152 065 or 25.33 per cent) were registered in Gauteng province. This was followed by KwaZulu-Natal at 116 560 or 19.42 per cent. The Northern Cape registered the least number of work seekers at 17992 or 2.10 per cent. Of the target of workers to be registered on the system (450 000), 264 068 or 59 per cent were provided with career counselling and employability enhancement against a target of 270 000 or 60 per cent. A total of 16 171 work seekers were placed in employment opportunities against a target of 18 000. This translates to 89.84 per cent achievement. A total of 396 172 work seekers against a target of 72 000 were referred to opportunities and other DoL services.

The Department planned to increase the number of employers registering vacancies on ESSA from 2 000 to 3 000 per annum. The total number of companies that actually registered vacancies on ESSA was 2 620. The target for this output was not clearly framed as it gives the impression that the base line was 2 000 and was to be increased to 3 000. However, the actual performance reflects the target as 1 000. A success in this output is also not reflective of the observations of the committee during its oversight visits on labour centre where the number of employers using the system was sited as a challenge.

The Department planned to save 22 500 jobs through social plan interventions but managed only 3 956. This failure was attributed to delays in securing Unemployment Insurance funding.

**Labour Policy and Industrial Relations**

The purpose of the Labour Policy and Industrial Relations programme is to facilitate the establishment of an equitable and sound labour relations environment and the promotion of South Africa’s interests in international labour matters through research, analysis and evaluating labour policy, and providing statistical data on the labour market, including providing support to institutions that promote social dialogue. This programme consists of the following sub-programmes: Management and Support Services: Labour Policy and Industrial Relations; Strengthen Civil Society; Collective Bargaining; Employment Equity; Employment Standards; Commission for Conciliation, Mediation and Arbitration; Research, Policy and Planning; Labour Market Information and Statistics; International Labour Matters; and National Economic Development and Labour Council.

Of the 28 targets under this programme, 24 were achieved. This translates to 85.71 per cent achievement. This is the programme with the highest level of achievement. However, under sound labour relations strategic objective, the Department set itself a target of extending 18 collective agreements within 60 days of receipt. The actual performance was reflected as 25 collective agreements approved. It is therefore not clear whether these collective agreements were extended to non-parties in accordance with section 32 of the Labour Relations Act.

**6.         Committee’s Key Findings**

Having looked at the above information, interacted with the Department and its entities, and conducted its oversight the Committee made the following key findings:

·         The Department spent R2.034 billion or 95.09 per cent of its 2012/13 budget but did not achieve 47 per cent of its targets as reflected in the Auditor General’s report.

·         The Department underspent by R104.9 million or 4.9 per cent and the underspending was attributed to slow filling of vacant posts, performance bonuses and pay progression for Senior Management Services officials not yet processed and delays in obtaining invoices from the Department of Public Works.

·         The Administration programme reported a virement of 8.6 per cent, which is above the virement benchmark of 8 per cent. This might be an indication of poor planning. A total of R66.1 million was shifted from current payments to Transfers and subsidies; Payment for capital assets; and Payment for financial assets. The majority of this amount (R59.0 million) went to Payment for capital assets.

·         While an over achievement was reported in the number of workplaces reviewed for compliance with employment equity legislation, the total figure masks an under achievement in the public companies. Only 87 companies were reviewed against a target of 116.

·         The high level of non-compliance to legislation designed to protect vulnerable workers is a cause for concern. A total of 46 354 follow-up inspections were planned to be conducted on non-compliant employers. However, 10 880 were actually conducted. It was reported that 10 588 complied on follow-up inspections. There is a discrepancy in the report regarding the number of those companies that did not comply as they are reported to be 3 036 and this does not tally when compared with the total of 10 880 follow up inspections conducted. A reason was also not provided for the variance between the planned follow-up inspections and the actual inspections conducted.

·         The level of non-compliance to exposure limit to silica dust is concerning as only 44.39 per cent of the audited companies complied to occupational silica exposure limits. The constant exposure to high levels of silica dust predisposes the workers to fatal lung diseases in the long run.

·         The Department reported an achievement with regard to the number of employers registering vacancies on Employment Services South Africa (ESSA). In its oversight visit to KwaZulu-Natal province, the Committee was informed of the reluctance by employers to use the ESSA since it does not do reference checks and the DoL itself advertising its vacancies in the media instead of using ESSA.

·         The Department procured goods and services without following Treasury Regulations as pointed out by the Auditor General.

·         Suppliers were awarded contracts without submitting the required standard bidding documents in contravention of the Treasury Regulations.

·         The Auditor-General reported that the Department does not implement performance management for employees and there are no consequences for non-compliance and lack of performance. This is despite the Department issuing 1 683 bonuses (21.9 per cent of employees), which cost it R25.2 million.

·         Vacant posts at senior management level were not filled at the required time as per Public Service Regulations.

·         Overall 57 per cent of the indicators were not well defined in accordance with the National Treasury Framework for Managing Programme Performance Information (FMPPI) as indicated in the Auditor-General’s report.

·         There has been an increase in unprotected strikes and some of them have been marked by violence.

·         The labour inspectors experienced difficulties in executing their duties on businesses owned by foreign nationals as a result of lack of cooperation from owners.

·         The UIF spent less than half the amount it received from contributions on payment of benefits. It received R13.7 billion from contributions and spent R6 billion on payments of benefits.

·         The Committee noted the challenges faced by the Compensation Fund in terms of performance and governance as reflected in the Auditor-General’s report on financial statements of the Fund. During its annual report presentation to the Committee, the Compensation Fund presented a detailed performance and governance improvement plan.

**7. Conclusion**

The Department did not achieve 47 per cent of its planned targets. In terms of financial performance, the Department recorded an underexpenditure (surplus) of R104.9 million (R120.7 million when departmental revenue is included) in the 2012/2013 financial year, which is much higher than the previous financial year’s under spending (surplus) of R17.9 million. The Department is in a good financial position with assets worth more than its liabilities. The value of net assets amounted to R13.5 million.

Overall the Department should be commended for fulfilling its mandate and encouraged to improve where there is still room for improvement.

**8. Recommendations**

The Committee recommends that:

·         In view of the fact that 57 per cent of indicators were not well defined, it is recommended that the Minister ensures that the Department develops clear policies and procedures for collection, collation and reporting of key findings.

·         The Minister ensures that the Department investigates the reason for failure to achieve the significant number of its targets and put together a plan to address such failures.

·         The Minister should ensure that the vacant posts are filled with suitably qualified persons within 12 months as required by the Public Service Regulations.

·         The Minister should ensure that the Treasury Regulations are strictly adhered to, particularly the Supply Chain Management regulations and that there are consequences for failure to comply.

·         The Minister should ensure that the Department and its entities adhere to the Framework for Managing Programme Performance Information (FMPPI) in developing its performance indicators.

·         The Minister should ensure that sufficient resources are made available to the Department, especially Inspection and Enforcement Services programme, to ensure that compliance to legislation is monitored and enforced.

·         The Minister should ensure that the Department implements its Performance Management System and performance bonuses are awarded accordingly.

·         The Minister should ensure the smooth hand over of the IT services to the Department. In this regard, the Department is required to report progress to the Portfolio Committee on a quarterly basis.

·         While the role of the Department through the CCMA in facilitating the resolution of labour disputes is acknowledged, it should be encouraged to play a more proactive role. It is therefore recommended that the Minister ensures that the CCMA is financially capacitated to play a more proactive role in dispute resolution.

·         The job creation initiative of the Unemployment Insurance Fund (UIF) and the Industrial Development Corporation (IDC) be commended. Further, the Minister should ensure that in its report, the UIF reports on sustainability of jobs created in order to assist the Committee to ascertain the impact of this initiative.

·         The Minister should ensure that the call centre of the DoL and its entities is capacitated and its efficiency monitored.

·         The Minister should ensure that the increase in the time for claiming UIF benefits is translated into an increase in payment of benefits.

·         The Minister should ensure that the Department devise a mechanism to bring the businesses owned by foreign nationals in line with the labour legislation.

·         The Minister should monitor the implementation of the turn-around plan put forward by the Compensation Fund and report to the Committee regarding progress with implementation of the plan.

Report to be considered.