**2. THE BUDGETARY REVIEW AND RECOMMENDATION REPORT OF THE PORTFOLIO COMMITTEE ON CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, DATED 28 OCTOBER 2013**

The Portfolio Committee on Co-operative Governance and Traditional Affairs, having considered the performance and submission of the Department of Cooperative Governance and Traditional Affairs to National Treasury for the medium term period, reports as follows:

1. **Introduction**
	1. **Mandate of Committee**

As a Committee of the National Assembly, as provided in Chapter 4 of the Constitution of South Africa, and in accordance with the Rules of the National Assembly, the Committee is mandated to:

* Consider, amend, approve or reject legislation;
* Consider and approve budgets and monitor expenditure of the Department and entities reporting to it;
* Consider progress reports from line-function departments, and provincial and local government authorities and entities on their respective mandates;
* Ensure that all appropriate executive organs of state are held accountable for their actions; and
* Conduct oversight over the national executive authority and any other organ of state.
	1. **Description of core functions of the Department.**

The aim of the Department of Cooperative Governance and Traditional Affairs is to improve cooperative governance across the three spheres of government in partnership with institutions of traditional leadership to ensure that provinces and municipalities carry out their service delivery and development functions effectively.

In accordance with the Intergovernmental Relations Framework Act (2005), the Municipal Property Rates Act (2004), the Municipal Systems Act (2000) and the Municipal Structures Act (1998), the Department is mandated to:

* Develop, monitor and support the implementation of national policy and legislation, seeking to transform and strengthen key institutions and mechanisms of governance to fulfil their development role;
* Develop, promote and monitor mechanisms, systems and structures to enable integrated service delivery and implementation within government; and
* Promote sustainable development by providing support to and exercising oversight over provincial and local government.

The Department’s aim and mandates underpins its three strategic priorities over the medium term, which are to:

* Strengthen accountability, governance and oversight of provincial and local government;
* Facilitate local economic development and improve access to basic services; and
* Develop a policy platform for a differential approach to municipalities.

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 is mandated by the Constitution to assist in the comprehensive transformation of local government.
* Funds are also transferred to the **South African Cities Network,** which enables cooperation between South African cities and maximises benefits through exchanging information.
	1. **Purpose of the Budgetary Review and Recommendation Reports**

The Money Bills Procedures and Related Matters Amendment Act (Act 9 of 2009) 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 of each year, portfolio committees must compile Budgetary Review and Recommendation Reports (BRRR) that assess service delivery performance given available resources; evaluate the effective and efficient use and forward allocation of resources; and may make recommendations on 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. **Method**

This Report assesses the service delivery and financial performance of the Department of Cooperative Governance and Traditional Affairs and its entities for the 2012/13 and 2013/14 (until October 2013) financial years. This assessment is informed by committee briefings, oversight reports, and other sources of information.

* + 1. Limitations

The Report does not include adequate data from non-governmental entities. However, in matters that involved public consultations, such as the processes of revising the local government equitable share formula and amending the Municipal Property Rates Act, this limitation is somewhat mitigated.

* 1. **Outline of the contents of the Report**

The rest of the Report proceeds as follows: section 2 provides an overview of key policy focus areas on cooperative governance and traditional affairs during the period under review; in section 3 a summary of previous key financial and performance recommendations of the Portfolio Committee on COGTA is presented; section 4 provides an overview and assessment of reported financial performance for 2012/13 and 2013/14 as well projected financial needs and areas needing improvement in terms of spending for the 2014/15 MTEF; section 5 deals with the performance of the COGTA ministry in terms of service delivery; Section 6 presents the Portfolio Committee’s observations and responses on COGTA’s technical, governance, service delivery and financial performance issues; a summary of additional reporting requests by the Portfolio Committee is tabulated in section 7; and recommendations in section 8 conclude the Report.

1. **Overview of the key relevant policy focus areas**

For the 2013 MTEF government ‘has adopted a policy of changing the composition of spending to focus on promoting economic support and development, investing in infrastructure, creating jobs and enhancing local government capacity.’[[1]](#footnote-1) In the COGTA ministry these policy thrusts are reflected as follows:

* 1. **Job creation**

Part of addressing the problem of South Africa’s high unemployment rate was the mainstreaming of job creation in every department. In the Department of Cooperative Governance this took the form of the Community Works Programme (CWP), which is being rolled out in various municipalities across the country. The target is to ensure that the programme is implemented in all 23 District municipalities and in 64 of the 108 municipalities that have been included in the Local Government Turn-Around Strategy (LGTAS).[[2]](#footnote-2) The current participation rate in the programme is at 332 500 in 228 sites of which 253 360 are work opportunities at 100 days a year by 2014/15.[[3]](#footnote-3) The programme is critical for poverty alleviation and skills development to assist with youth unemployment. The Department of Traditional Affairs on the other hand is advancing tourism as one of its main job drivers. This is also one of the thrusts of the President’s Speech, having noted that: ‘We identified tourism as one of our job drivers’[[4]](#footnote-4).

* 1. **Basic services**
		1. Water

The Mid-Term Review of the Priorities of Government estimates the current overall access to water to be 94.5%. Challenges around the operation and maintenance of water infrastructure at the municipal level militate against the achievement of universal access to water.

* + 1. Sanitation

The percentage of households with access to sanitation services and facilities currently stands at 74%. Sanitation services and facilities are still not fully functional in 26% of households.[[5]](#footnote-5)

* + 1. Electricity

In the 2013 State of the Nation Address, President Jacob Zuma announced that 85% of households are connected to the national grid. Government envisages universal access to electricity by 2014.

* 1. **Infrastructure development**

Infrastructure development has featured prominently in both the 2012 and 2013 State of the Nation Addresses. Government’s infrastructure roll-out programme remains a key intervention with regard to stimulating economic growth and employment creation. Between 2009 and March 2013 government has spent approximately R860 billion on infrastructure including improvements to water and transport provision.[[6]](#footnote-6) The Department of Cooperative Governance has had a leading responsibility in terms of coordinating these infrastructure projects.[[7]](#footnote-7) However, the infrastructure roll-out programme has not transpired at the rate initially hoped for. As the President has noted, the programme ‘has been a valuable source of learning for government’[[8]](#footnote-8).

* 1. **Traditional affairs**

The key highlight relating to traditional affairs has been the process of amending the National Traditional Leadership Framework Act of 2004 in order to affirm the traditional institutions of Khoi-San communities and all other previously marginalised groups, including women. The Department of Traditional Affairs has also found itself tasked with assisting landless traditional leaders and communities following the re-opening of the lodgement of land claims to accommodate those dispossessed earlier than the initial cut-off time.

1. **Summary of previous key financial and performance recommendations of Committee**
	1. **2012/13 BRRR recommendations and responses by the Department**

*Administration Programme*

 In 2012/13 the Portfolio Committee noted that the budget for the Administration Programme had decreased from R205.4 million to R201.4 million (or R197.6 million when taking into consideration the adjusted appropriation). The Committee consequently recommended that the budget be increased to accommodate approved posts.[[9]](#footnote-9) Funding was made available to the Department of Traditional Affairs since the 2011/12 for the establishment of the operations (inclusive of the filling of priority posts) of the Department. Secondly, the Committee noted under expenditure to the amount of R11.6 on compensation of employees, which was incurred as a result of slow recruitment processes. The Committee recommended that, a database of unemployed, skilled and competent people be kept, to assist with improving the pace of the recruitment process. In this regard priority posts have been approved for the 2013/14 financial year. These posts are being fast-tracked for appointment by the 1st of January 2014.

*Policy, Research and Knowledge Management*:

In the previous financial year the Portfolio Committee noted that the entire programme did not perform well in terms of service delivery. For example, deadlines set for the achievement of targets relating to the formulation of legislation on Khoi and San communities, in the form of the National Traditional Affairs Bill, have been missed on numerous occasions. The Committee recommended that the submission of the proposed legislation to Cabinet, and to Parliament for processing, be fast-tracked. This responsibility has since been transferred to the Department of Traditional Affairs.

*Governance and Intergovernmental Relations*

Noting that by the end of February 2012 there were 93 technical experts deployed to 90 vulnerable rural municipalities, the Committee recommended that this technical support be extended to the 81 municipalities identified as having poor audit outcomes. Secondly, the Committee noted the establishment of the Anti-Corruption Inspectorate in Department, in response to the President’s 2010 call on fighting fraud and corruption. The Committee also noted the little progress made in this regard and thus recommended that the functionality of the Inspectorate be improved. The Department has subsequently reported that it has entered into partnership arrangements with the Directorate of Priority Crime Investigations (The Hawks) and the Special Investigating Unit (SIU) to investigate allegations of corruption.

*Disaster Response Management*

The Committee recommended that the budget allocation for this programme be increased in the light of the country’s increased vulnerability to natural disasters due to climate change. With effect from the 2012/13 financial year, the allocations for the Disaster Relief Fund have reportedly increased from R47 million in the 2011/12 financial year to R510 million in 2012/13. The allocation was further increased to R534 million in the main budget of the 2013/14 financial year. The Committee recommended that the Departments of Cooperative Governance and Human Settlements establish a better working relationship in order to speed up the post-disaster assessment process and prevent the under-spending of relief funds. The Department has subsequently reported that a National Disaster Advisory Forum and task teams have been established, including a Human Settlement task team consisting of officials from the Department of Human Settlement, which set policy and monitor all forms of expenditure. In addition, the National Disaster Management Centre is reported to have also recently established a Monitoring and Evaluation Unit that aims to monitor spending as well as all policies relating to Disaster Management.

*Provincial and Municipal Governance Support*

The Committee noted that the programme only achieved 32% of the targets set for the period under review. It therefore recommended that more realistic and measurable targets should be set. The Department subsequently reported that it has continually sought to address the issue of the measurability of targets by supporting Branch/Programme Managers, through planning processes, to craft targets in such a manner that periodic reporting on their implementation will not present challenges. The achievement of a 71% performance for the 2012/13 year can, in part, be attributed to the entrenchment of a “SMART” principle as prescribed by the National Treasury and required by the Auditor-General while developing targets. To this effect the Branch has achieved 11 out of 14 targets, with the rest being partially achieved.

*Traditional Affairs*

Noting the 2010 Presidential proclamation for the establishment of the Department of Traditional Affairs (DTA) as a separate entity, the Committee recommended that Treasury finalises negotiations for the DTA to have its own Budget Vote. However, the Department of Traditional Affairs is still reflected as a separate Programme (Programme 7) in Vote 3- Cooperative Governance and Traditional Affairs.

South African Local Government Association (*SALGA)*

The Committee noted the satisfactory performance of the South African Local Government Association (SALGA) in general. It recommended that the Association, in conjunction with COGTA, should encourage or assist those municipalities who had not yet established Municipal Public Account Committees (MPACs). It was further recommended that SALGA should focus on training municipal officials on municipal legislation, as well as explore the possibility of risk cover for councilors.

Municipal Demarcation Board *(MDB)*

Noting satisfaction with the financial performance of the Municipal Demarcation Board, the Committee recommended that the entity make use of party liaison officers at the Independent Electoral Commission (IEC) and constituency offices to improve the public participation process. The Board has subsequently establish a Stakeholder Management Unit to deal with public participation during demarcation processes. The Board also engages municipalities in facilitating public participation processes through Speakers’ Offices.

* 1. **Evaluation of response by Department and Minister of Finance**

In its responses to the Portfolio Committees, National Treasury notes one recommendation in relation to the PC on COGTA: *The National Treasury should look at the importance of increasing the allocation to Programme 4: Disaster Response Management, taking into consideration issues of climate change.* In response to this recommendation, Treasury notes that ‘the allocation to Programme 4 was increased marginally in 2013/14, taking into account the constrained fiscal environment.’[[10]](#footnote-10) However, no response was given by National Treasury on the matter of establishing a separate budget vote for the Department of Traditional Affairs.

1. **Overview and assessment of financial performance**
	1. **Overview of Vote allocation and spending (2009/10 2014/15)**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Programme** | **2009/10** | **2010/11** | **2011/12** | **2012/13** | **2013/14** | **2014/15** |
| Audited | Audited | Audited | Main | Adjusted | Audited | Main | Estimates |
| Administration |  179.3 |  169.5 |  206.1 | 201 402 |  197.5 |  205 838 |  219.0 |  227.1 |
| Policy, Research and Knowledge Management |  44.9 | 35.4 |  37.9 |  46 071 |  49.3 |  51 763 |  49.5 |  52.3 |
| Governance and Intergovernmental Relations |  23 936.8 |  30 663.7 |  33 270.8 |  37 981 926 |  38 111.9 |  38 108 109 |  40 706.7 |  44 620.8 |
| Disaster Response Management |  123.0 |  283.1 |  80.7 |  555 225 |  555.4 |  556 458 |  585.1 |  613.5 |
| Provincial and Municipal Government Systems |  209.6 |  244.5 | 252.4 |  284 726 |  285.2 |  274 437 |  272.1 |  286.2 |
| Infrastructure and Economic Development |  9 111.7 |  10 363.4 |  12 285.1 |  15 544 190 |  15 553.4 |  15 551 211 |  16 315.2 |  17 375.6 |
| Traditional Affairs |  56.2 |  61.8 |  88.6 |  102 050 |  102.5 |  107 362 |  105.2 |  111.9 |
| **Total**  | **33 661.6** | **41 821.4** | **46 221.6** | **54 715 590** | **54 855.2** | **54 855 178** | **58 252.7** | **63 287.4** |

* 1. **Financial performance 2012/13**

The Department of Cooperative Governance and Traditional Affairs was allocated a total amount of R54.9 billion for the 2012/13 financial year. R26.7 million of this was allocated to SALGA; R40.4 million to the MDB; R5.5 million to the South African Cities Network (SACN) and R34.2 million to the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities [CRL Rights Commission]. It should be noted that most of the entities also received substantial amounts of funds, sometimes far in excess of what the Department allocated, from other sources. For instance, the R26.7 million allocation to SALGA constitutes approximately only 9% of SALGA’s total income. The main source of revenue for the association remains membership levies, which make up 75% of SALGA’s total income. In 2012/13 this amounted to R307.5 million. Other sources of income include donor funding and ‘other income.’

* + 1. Quarterly spending trends

The Department had spent 39.4 per cent of its main appropriation (34.3 per cent of the adjusted appropriation) at the end of the second quarter of the 2012/13 financial year, primarily due to the under-spending of the Disaster Response Management programme (with 6.4 per cent expenditure) and the Infrastructure and Economic Development Programme (with 34.2 per cent expenditure) on their adjusted budget allocations. The Department had spent less than 40 per cent of its budget at the end of the second quarter. It is worth noting however, that while most of the programmes were under-spending, the Provincial and Municipal Systems programme had already spent 91.4 per cent of its budget at the end of the second quarter. At the end of the third quarter the Department had spent R38.7 billion or 70.6 per cent, which was still R2.0 billion or 4.8 per cent short of the projected expenditure for this period.[[11]](#footnote-11)

* + 1. Adjustments for 2012/13[[12]](#footnote-12)

The Department of Cooperative Government and Traditional Affairs received additional funds amounting to R6.58 million in six of its seven programmes (except Administration) for higher than anticipated personnel increases. The allocation of the Administration Programme was decreased by R3.89 million (current payments: Goods and services budget). The adjustments within the Administration programme were as follows:

1. An amount of R3 million has been shifted to the Policy, Research and Knowledge Management programme as a result of a shift of the Telecommunications function.
2. R1.77 million was shifted from the Administration programme to the Governance and Intergovernmental Relations programme as a result of the function shift of the Operation Clean Audit. These funds will be expended through the Management: Governance programme. The funds were shifted from the Chief Operating Officer and Corporate Services sub-programme.

The Department declared R2.62 million as a saving within the Governance and Intergovernmental Relations programme. This is a savings on the transfer payment to the United Cities and Local Government of Africa, and therefore results in a reduction of the Transfers and subsidies budget.

The Traditional Affairs programme has received a donation of R185 000 to the Kingships for the promotion of cultural events and hosting and meeting with their Southern African Development Community (SADC) counterparts.

The Department’s budget has also been increased by roll-overs amounting to R139.5 million. In this regard, the Governance and Intergovernmental Relations has rolled over R130.6 million to pay councillors whose term ended after the 18 May 2011 elections as a once-off gratuity; while the Infrastructure and Economic Development programme has rolled-over R8.88 million for project administration and payment of community wages through implementing agents in the Community Work Programme.

**Roll-overs, Unforeseeable expenditure, virements/shifts, savings and other adjustments**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Programme R'000** | **Main Appropriation** | **Roll-overs** | **Savings** | **Other adjustments** | **Adjusted appropriation** |
| 1. Administration | 201 402 |   |   | -3 897 | 197 505 |
| Policy, Research and Knowledge Management | 46 071 |   |   | 3 222 | 49 293 |
| Governance and Intergovernmental Relations | 37 981 926 | 130 628 | 2 620 | 1 955 | 38 111 889 |
| Disaster Response Management | 555 225 |   |   | 167 | 555 392 |
| Provincial and Municipal Government Systems  | 284 726 |   |   | 452 | 285 178 |
| Infrastructure and Economic Development | 15 544 190 | 8 888 |   | 351 | 15 553 429 |
| Traditional Affairs | 102 050 |   |   | 442 | 102 492 |
| **Total** | **54 715 590** | **139 516** | **2 620** | **2 692** | **54 855 178** |

*Source*: Finance and Public Accounts Cluster (2013).

* + 1. Auditor-General Reports

*COGTA:* The 2012/13 financial year saw the Department of Cooperative Governance and Traditional Affairs (COGTA) obtaining an unqualified audit opinion for the second consecutive year. However, this is short of the clean audit opinion the Department had envisaged for 2012/13. Among the factors that prevented the achievement of a clean audit was the incurring of an irregular expenditure amounting to R727 438 000. This was due to non-compliance with procurement policies. Fruitless and wasteful expenditure to the value of R2000 was also incurred. The Department has also discovered a possible fruitless and wasteful expenditure that amounts to R21 631 118, which is currently under investigation by the Internal Audit Unit.

*CRL Rights Commission:* The Commission received an unqualified audit opinion. However, 2012/13 saw the Commission incurring irregular expenditure to the value of R564 692. This has not been condoned by National Treasury and no disciplinary proceedings have been undertaken.

*MDB:* The Municipal Demarcation Board received an unqualified audit opinion for the 2012/13 financial year as planned. The Board’s total revenue for 2012/13 amounted to R41 323 000 while the actual expenditure to revenue received amounted to R34 195 000. There was thus an under spending of R6 972 000 and Treasury’s decision on whether the Board should retain these funds was still pending. The Board reports that expenditure was below target due to a timing difference between the demarcation process and the financial year.

*SALGA:* The key highlight for SALGA in 2012/13 was the achievement of a clean audit, which followed four consecutive years of unqualified audit opinions.

* + 1. Summary of key financial issues contained in any other relevant report(s) for 2012/13

*COGTA*: Main spending in COGTA is concentrated on three programmes: *Government and Intergovernmental Relations, Infrastructure and Economic Development, and Disaster Response Management.* These programmes host sub-programmes on Local Government Equitable Share, the Municipal Infrastructure Grant and Disaster Relief Transfers respectively. All three sub-programmes receive very large amounts of funds. As a result the problem of under-spending tends to be more pronounced in these areas. As the Minister of Finance recently noted, ‘the withholding of local equitable share funds to municipalities where conditional allocations from previous years have not been fully spent, unspent disaster relief grants, delays in the Community Work Programme, and slower than anticipated spending on school infrastructure backlogs are the main areas of spending underperformance.’[[13]](#footnote-13) For the period under review under expenditure amounted to R713.7 million and R439.5 million in the *Government and Intergovernmental Relations and Disaster Response Management* programmes respectively.

*MISA*: During the 2012/13 financial year the Municipal Infrastructure Support Agent (MISA) also registered under expenditure of 34 per cent, which amounts to R49.1 million. R11.8 million of this was reportedly under-spent as a result of the process of transferring some officials from DCoG to MISA, which took longer than expected. Furthermore, not all earmarked officials agreed to the proposed transfers, and the external recruitment process could only be initiated upon the resolution of this issue. The rest of the under expenditure, or R36.7 million, was reportedly due to delays in rolling out technical support to municipalities as a result of delays in the approval of Integrated Support Plans (ISPs) by municipal councils, which is a pre-condition for the implementation of support and insufficient internal capacity.

* 1. **Financial performance 2013/14**

For 2013/14 COGTA has an available appropriation of R58.3 billion, which represents a nominal increase of R3.4 billion, or 6.2 percent, from 2012/13. R26 million is allocated to SALGA, which represents a real decrease of -7.79 percent compared to the previous financial year; R42.2 million is allocated to the MDB and also marks a real decrease of -1.08 percent; the SACN receives R5.8 million, which is -0.14 percent less than the previous financial year in real terms; and at R32.5 million the CRL Rights Commission allocation shows a real decrease of -10.01 percent compared to 2012/13.

* Quarterly spending trends
1. *Operational Expenditure*: Between April and June the Department spent 13.1% of its operational budget compared to 6.8% in 2012/13. When not taking inflation into account, this represents 121.4% growth in operational expenditure in the first quarter of 2013/14. This growth was ‘primarily related to growth in payments to lead agents for salaries, management fees, and protective clothing under the Community Work Programme.’[[14]](#footnote-14)
2. *Transfers and subsidies*: Between April and June 2013, the Department had spent R136.3 million of its available Budget of R55.8 billion. During the same period in the previous financial year, the Department had only spent R36.7 million of its available Budget of R52.7 billion. This therefore marks a nominal expenditure growth of 271.4%, which is attributed partly to higher transfers under the Municipal Disaster Fund. However, this expenditure does not reflect the Local Government Equitable Share as this takes place during the second quarter of the financial year.
* Reported spending pressures.

As already alluded to, expenditure on goods and services under the Infrastructure and Economic Development Programme constituted the largest element of operational expenditure with R219.1 million spent at the end of the first quarter in 2013/14. Compensation of employees and goods and services under the Administration and Traditional Affairs Programmes was the next largest element of operational expenditure amounting to R48 million and R16.5 million respectively.

1. **Overview and assessment of service delivery performance**
	1. **Service delivery performance for 2012/13**
		1. Annual Performance Plan

*COGTA:* The departmental performance progress for the year under review has improved. 71% of targets? were achieved compared to the past three financial years where the performance was around 60%. However, the department’s management of performance information is not optimal, which is one of the reasons for failure to obtain a clean audit during the year under review.

*CRL Rights Commission:* The Auditor-General noted material findings concerning the usefulness of the information provided by the Commission in terms of its measurability and reliability. For instance, 93% of targets were found to be ‘not time bound in specifying a time period or deadline for delivery.’[[15]](#footnote-15) Also, in many instances the reported information was found to be ‘materially misstated due to the cumulative effect of numerous individually immaterial uncorrected misstatements in the targets relevant to the selected programmes.’[[16]](#footnote-16)

*MDB:* For 2012/13 the Board has an estimated performance of 75% for the implementation of stakeholder relations, engagement, and communication strategy. However, no indication of actual/audited performance was provided.

*SALGA:* The entity achieved 84 per cent of its targets for 2012/13, just as in the previous financial year.

*SACN:* In its single briefing to the Committee the South African Cities Network provided no meaningful information to enable the Committee to hold it to account for its performance in 2012/13. Annual Reports for both 2011/12 and 2012/13 were also not available to assist the Committee with assessing the entity’s financial and service delivery performance for the period under review.

* + 1. Programme Performance

*COGTA:*

1. *Administration***:** The programme was initially responsible for delivery of the Department’s flagship projects such as Operation Clean Audit 2014, the Clean Cities and Towns campaign and the Business Adopt-a-Municipality initiative. However, these were shifted to other programmes.
2. *Governance and Intergovernmental Relations:*Under this programme, the Department, together with National Treasury, developed and issued guidelines for the establishment of municipal public account committees. The number of established committees increased from 103 in 2009/10 to 223 of the current 287 municipalities in 2012/13 as part of the improvement of municipal audit outcomes.[[17]](#footnote-17) Out of six targeted provinces, five provinces (Western Cape, Eastern Cape, Mpumalanga, Free State and Kwazulu-Natal) were supported to develop provincial frameworks on out of pocket expenses for ward committees.[[18]](#footnote-18) A hundred and eighteen municipalities in 7 provinces were also reportedly supported to implement credit control and debt collection policy guidelines. The programme had a funded establishment of 41 posts and there were no vacancies as at 31 January 2013.
3. *Disaster Management:*In terms of strengthening accountability and reporting on disaster management across the spheres and sectors of government, the programme reported having managed to develop a Draft Disaster Management Amendment Bill by end of the 2012/13 financial year. A flood risk and vulnerability profile was also finalised.
4. *Provincial and Municipal Governance Systems:* The programme reportedly achieved its target of supporting 70 municipalities to develop technical skills.
5. *Infrastructure and Economic Development:* In 2012/13, 159 621 participants were employed at 148 operational sites through the Community Work Programme (CWP) sub-programme. The CWP had a funded establishment of 17 posts and there were no vacancies as at 31 January 2013. Through the initiative to promote economic development, the Programme was also able to support the development of the Nkangala Business Development Forum, West Coast District Development Forums and the Sedibeng United Business Forum. With regard to the Business-adopt-a-Municipality initiative, the Programme signed four Memoranda of Understanding between identified municipalities and SANTAM, ESKOM, Rand Water Foundation, and Mercedes Benz.

*CRL Rights Commission:*

The work of the CRL Rights Commission centred around 4 programmes: Investigation and Conflict Resolution; Research and Policy Development; Community Engagement and Public Education and Advocacy.

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1. *Investigation and conflict resolution***:** The Programme investigated and mediated on the matters around the destruction of graves in Aliwal North and in Veeplaas. These cases were to be finalised in the 2012/13 financial year. However, details on the outcome of these cases have not been provided. During an investigation into matters concerning the exhumation of graves, it was found that the South African Heritage Authority had in some cases granted permission for the exhumation of remains for developmental purposes, without adequate consultation with those concerned. In addition, the consultative criteria of the National Heritage Resources Act Regulations were deficient. The Commission was to propose amendments to the Regulations in 2012/13. The outcome of this proposal has also not been provided. Thirdly, the Programme engaged the Department of Home Affairs regarding a complaint concerning alleged unfair discrimination in the Public Holidays Act. Schedule 1 of the Act prescribes Christian Holydays as holidays to the exclusion of other religious groups. The Commission conducted public hearings on the matter during 2012/13. However, it is not clear whether the issue has been resolved. The Programme also found that the Marriage Act excluded marriage officers of other religious denominations. It is also not clear whether the Commission managed to resolve this issue in 2012/13. Finally, the Programme envisaged resolving, by 2012/13, imbalances between the isiZulu and Sesotho speaking pupils in Nquthu, KwaZulu-Natal. The Basotho pupils were reportedly being discriminated against by being forced to learn isiZulu as their first language despite being the dominant majority in the area. It is also not clear whether this issue was resolved.
2. *Research and Policy Development*: The programme undertook further research on the role of the performing arts in preserving socio-linguistic heritage. Seminars to discuss this topic were held in the Free State, Northwest and Gauteng.
3. *Community Engagement:* The Programme reportedly met all its service delivery targets. However, this may be due more to the absence of measurable and reliable information than a lack of effective service delivery performance by the Commission.
4. *Public Education and Advocacy.* This Programme also reported no variance in terms of meeting its service delivery targets, but given the findings of the Auditor-General, this may also be due to the absence of measurable and reliable information than to effective service delivery performance by the Commission.
	* 1. Key reported achievements

In addition to the achievements already mentioned above on programme performance, the Department Cooperative Governance and National Treasury finalised the revision of the Equitable Share Formula, taking in account recommendations made by the Financial and Fiscal Commission.

* + 1. Key reported challenges

*COGTA*: The Department experienced some blockages that resulted in 30% of planned targets not being achieved. 19% of projects were partially achieved and were targeted for completion within the first quarter of the 2013/14 financial year.Some of the blockages relate to a lack of human and financial resources, delays in processing work that is related to project implementation, for example, delays in appointment of service provides which results in late execution of projects. Late submission of reports by provinces and municipalities, or in instances where reports are submitted but need to be reworked to improve quality, was another common occurrence. Some blockages are outside the control of the department, for example, the necessary but prolonged stakeholder consultative process concomitant with the finalisation of policies or legislation.

*MISA*: The entity has also encountered challenges during the implementation of its core support programmes.[[19]](#footnote-19) Inadequate internal capacity has been constraining MISA’s efforts to accelerate delivery and extend its reach to a higher number of municipalities. Also reported were difficulties around the redeployment of technical professionals to municipalities prioritised for support due to persisting capacity gaps in municipalities currently receiving support. There are also institutional challenges in the system of training and developing technical skills. Additional challenges included a high turnover rate among skilled and experienced technical professionals in local government; the appointment of technical officials without requisite qualifications and/or experience by municipalities; and poor absorption and retention of graduates by municipalities after they complete their training with MISA support.

*CRL Commission:* While expenditure in the CRL Commission has increased significantly - from R20.3 million in 2009/10 to R34.2 million in 2012/13 – the allocated budget is still insufficient in terms of enabling the Commission to fulfil its constitutional mandate effectively.

* + 1. Non-financial audit outcomes and steps taken to address findings

The Departments of Cooperative Governance and Traditional Affairs will develop a focused Post Audit Action Plan 2013/14 to address the finding on the poor management of performance information. The 2012/13 performance measures and targets will also be reviewed for purposes of subjecting them to the SMART criteria in an effort to improve on the management of performance information. The measures and targets for the 2013/14 financial year were also subjected to the SMART criteria. The Office of the Auditor-General and the National Treasury were also consulted and the resultant inputs were incorporated into the APP 2013/14. Additional interventions include:

* Development and implementation of a procurement plan with timeframes in order to avoid late appointment of service providers;
* Filling of critical posts;
* Establishment of a Policy Forum to expedite the submission of quality documents and content analysis;
* Establishment of an Inter-Programme/Branch engagement on cross cutting issues and also on sharing experiences for improved execution of projects; and
* Institutionalisation of self-assessment using the Management Performance Assessment Tool (MPAT).
	1. **Service delivery performance for 2013/14**
* Oversight visit reports- summary of key service delivery issues.
1. *Capacity*: The capacity of some provincial Departments of Cooperative Governance and Traditional Affairs to support, monitor and evaluate municipalities appeared inadequate. Mandates often do not seem commensurate with the resources provided. This hampers the ability to develop strong monitoring and early warning systems for local government. As a result many municipalities continue to struggle with capacity issues. Stronger municipalities are contingent on stronger provinces. There is therefore a compelling need to capacitate provinces, financially and otherwise, to enable them to fulfil their oversight function over municipalities. Capacity in terms of attracting and retaining critical personnel is another related challenge, particularly in rural-based municipalities. Critical posts remain vacant for long periods. Acting positions are prevalent and this constrains meaningful decision-making. Of the critical posts that have been filled, very few have been occupied for more than a year. The resultant lack of continuity and institutional memory poses serious service delivery challenges. The inability to fill critical posts is also related to political instability prevalent in some municipalities.
2. *Governance:* There are concerns around the functioning of Intergovernmental Relations (IGR) Structures, which are meant to foster coordination between the provinces, districts and local municipalities. Senior Managers often do not participate in IGR meetings, delegating junior officials who do not have decision-making powers. The minimal participation of other spheres of government in municipal planning processes is also a concern. The Committee notes and welcomes the Department’s envisaged assessment of Provincial IGR structures in order to devise appropriate interventions to improve functionality.
3. *Financial management:* Many municipalities in the country would qualify for intervention in terms of Section 139 of the Constitution. Secondly, despite spending exorbitant amounts on consultants to assist with preparing annual financial statements, many municipalities were sitting with disclaimer audit opinions for consecutive years. There is thus a question of value for money that requires a concerted effort to address it. The question of intergovernmental debt is alsosignificant . Many municipalities are providing services for which they are not paid. Non-payment by government departments, businesses and households cripples service delivery in some municipalities. Most concerning is the fact that both the National and Provincial Departments of Cooperative Governance and Traditional Affairs, as well as District municipalities, owe local municipalities substantial amounts in unpaid debts. The Committee notes and welcomes the Task Team established by the Department to deal with the recovery of debt owed to municipalities.
4. **COMMITTEE key findings**
* Technical issues
1. *Policy and legislative projects:* The Portfolio Committee has registered dissatisfaction with the Department’s procedural handling of policy and legislative projects, such as the Municipal Property Rates Amendment Bill and National Traditional Affairs Amendment Bill.
2. *Monthly financial statements:* Monthly financial statements requested from the Department were not forthcoming. The Department informed the Committee, in its understanding; the Department was not compelled to provide such information in terms of the country’s laws. However, in a subsequent meeting the Department pronounced that this perception was incorrect as COGTA was always willing to provide any information reasonably required by the Committee in the course of exercising its oversight mandate over the Department.
* Governance and operational issues

*Section 139 interventions:* the Committee notes the inconsistencies in the practice of provincial intervention into municipalities in terms of section 139 of the Constitution. A number of municipalities that should be under section 139 were often not. The Committee also notes that where Section 139 had been invoked, evidence of improvement was not always clear - and that interventions were often highly ambitious, seeking to resolve long-standing problems within a minimum of 6 months and maximum of 12 months. A long-term perspective on interventions was lacking. The Committee further notes the differing interpretations of Section 139, which lead Administrators to misunderstand their powers. Also noted are the increasing resistance and objections to interventions, and the common disagreements around the terms of reference for the intervention. The transfer of skills by the administrator as well the provision of exit reports, are the Committee’s other areas of concern. There is also very little indication that Provincial Legislatures exercised oversight over the Provincial Executives’ actions in terms of section 139. The Committee welcomes the process of finalising the Bill on Support, Monitoring and Interventions, which should assist in addressing this matter.

* Service delivery performance

*Infrastructure*: the level of municipal technical and financial capacity to operate and maintain bulk infrastructure is less than desirable and needs improvement. The Committee has noted that it is not uncommon for some technically insolvent municipalities to use capital grants for operational expenditure. This has seen the Municipal Infrastructure Grant (MIG) for instance being used to pay for salaries instead of infrastructure projects. Where the MIG was being used for its intended purpose, emphasis tended to be on the development of new infrastructure. The problem of ageing existing infrastructure has been consequently neglected. Poor spending on the MIG is also prevalent, resulting in late implementation of infrastructure projects. The Committee welcomes the establishment of the Municipal Infrastructure Support Agent (MISA) to address this matter. The Committee also notes and welcomes the report that ninety two municipalities across all provinces were supported to better manage spending on MIG in 2012/13. The Committee welcomes the initiative to develop an Integrated Urban Development Framework (IUDF), which would go a long way in managing the impact of urbanisation on municipal capacity to deliver basic services.

* Financial performance including funding proposals

The Committee notes and welcomes the marginal increase in allocation for the Disaster Response Management Programme for 2013/14,in response to the previous year’s recommendation. However, the Committee is still awaiting a response on the matter of establishing a separate budget vote for the Department of Traditional Affairs.

1. **table of committee’s reporting requests**

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| **Reporting matter** | **Action required** | **Timeframe** |
| Audit outcomes of municipalities – sound financial management | Breakdown of all municipalities’ audit outcomes since 2009/10 – 2012/13 | 30 November 2013 |
| Plan of action from the National Department of Cooperative Governance to assist municipalities in achieving clean audits  | 30 November 2013 |
| Monitoring throughout the financial year (Department must provide the committee with monthly expenditure reports) | Ongoing |
| Report on use of consultants for Annual Financial Statements | 30 November 2013 |
| Skills transfer plan for every municipality (consultants not write reports, must be done in-house by department) | February 2014 |
| Breakdown and age analysis of all debts owed to municipalities by government | February 2014 |
| Report on the findings and recommendations of the Task team dealing with the recovery of debt for municipalities | February 2014 |
| Bulk infrastructure and service delivery | Report on infrastructure damaged by disasters in all provinces since 1998 – what progress have been made to repair/replace it, budget that was spent on it, and assistance from sector departments  | Quarterly reports |
| Staff capacity in municipalities | Report on all Municipal Managers and Section 56 managers in all municipalities (where positions were filled after 2011 was it in compliance with the Municipal Systems Amendment Act, 2011, if not what actions have been taken against municipalities for non-compliance)  | March 2014 |
| Report on performance contracts of section 57 managers | 2nd term of 2014 |
| Report on steps taken against municipal managers and senior managers who have not met the deadlines to obtain the necessary qualifications as stipulated in Treasury Circular 60 | 2nd term of 2014 |
| Legislation | Progress on National Traditional Affairs Amendment Bill | 1st term of 2014 |
| Report on the findings of the Commission for Dispute and Claims | 2nd term of 2014 |
| Policy | Progress report on the Local Government Turnaround Strategy (LGTAS) | As soon as approved by Cabinet |
| Local Government Equitable Share Formula | Report on the implementation of the new Local Government Equitable Share Formula and its provision for maintenance of infrastructure | 2nd term of 2014 |
| Anti-corruption | Presentation to clarify the roles and functions of the Department’s Anti-Corruption Inspectorate  | 2nd term of 2014 |
| Municipal Systems Infrastructure Grant | Report on the gaps the Department is experiencing with regard to the administration of the MSIG. | 2nd term of 2014 |

1. **Recommendations**
	1. **Financial performance including forward funding recommendations**
* The Department of Traditional Affairs is still reflected as a separate Programme (Programme 7) in Vote 3- Cooperative Governance and Traditional Affairs. As in the previous BRR Report the Committee recommends that the Department finalises its consultation with the National Treasury on this matter as soon as possible.
* The Committee notes the non-utilisation of the Municipal Systems Infrastructure Grant (MSIG) for capacity building and recommends that the Grant be used for capacity building in municipalities.
* ***Municipal Infrastructure Grant expenditure****:* The Committee recommends that the Department provides a roll-out plan on steps to improve MIG spending in those municipalities not covered by the MISA programme. Secondly, a system of flagging should be introduced during the course of the year in order to identify any obstacles in municipalities and assist them to address these immediately, rather than wait for the end of the year. MISA should provide fixed targets and provide regular reports to the Committee on progress against these targets. Quarterly reports in this regard are expected by the Committee.
* ***Intergovernmental debt:*** The Committee notes the progress made on reducing intergovernmental debt. However, there are still substantial amounts of monies owed to municipalities. In most instances current accounts are being honoured but the recovering of old debts” remains a challenge The Committee recommends that the Department furnish it with a report (in February 2014) on: Outstanding debt that is owed to municipalities per province; period of arrears; Departments owing the outstanding amount; whether payments were made, challenges regarding the settlement of these accounts; the and timeframe to address these challenges and/or the settlement of the accounts.
	1. **Performance related recommendations**
* ***Policy and legislative projects****:* The Portfolio Committee has registered dissatisfaction with the Department’s procedural handling of policy and legislative projects, such as the Municipal Property Rates Amendment Bill and National Traditional Affairs Amendment Bill. It is recommended that the Department be more consultative with Parliament on its legislative and policy endeavours.
* ***Section 139 Interventions****:* Currently, legislation does not provide for the involvement of district municipalities in interventions into local municipalities. The Committee recommends that the involvement of the districts be considered.
* ***Strengthening measures to fight corruption and unethical conduct****:* While noting the partnerships created between the Department, the Hawks and the Special Investigating Unit, the Committee recommends that the Department should: ensure full compliance with the MFMA and the PFMA; ensure that criminal charges are pursued against those found guilty of misconduct and in this regard a multi-agency approach should be used; and identify 4 priority cases to pursue against guilty parties and report back to the Committee on progress against these prosecutions. Quarterly progress reports on these recommendations should be provided to the Committee. The Committee also observes that the roles and functions of the Department’s Anti-Corruption Inspectorate are not well defined in relation to other structures dealing with corruption. In this regard the Committee is not satisfied with manner in which the Department has responded to the Committee’s repeated queries on this matter. The Committee recommends that Department provides a satisfactory presentation on the issue.
* ***Disbursement of disaster funding****:* While noting and welcoming the marginal increase in allocation for Programme 4, the Committee also observes that the disbursement of disaster funding has been slow and un-coordinated. Damage recurs and people remain in the same or in a worse situation than before. The Committee recommends that a more effective and efficient way of assessing disaster areas and dispersing of disaster funding should be formulated. An intervention strategy should ideally have the following components: Immediate Term Strategy – evacuation, temporary shelter, feeding, clothing and medical assistance; Medium Term Strategy – Assistance with Social Services and reissue of identity documents; and Long Term Strategy – Rehabilitation of infrastructure.The Committee further recommends that the department should make clear distinctions on roles and functions among the three spheres of government with regard to intervention on disaster-stricken areas.
* ***Local Government Turnaround Strategy:*** The Committee is still awaiting the final draft of the Local Government Turnaround Strategy, which the Department had promised to finalise by June 2013. The Committee recommends that the Department provides immediate feedback on this matter.
* ***CRL Rights Commission:***The Committee notes the ongoing negotiations relating to the optimal placement of the CRL Rights Commission to enable it to better fulfil its role and functions. The Committee recommends that these negotiations be finalised urgently.
* ***Municipal Demarcation Board:*** While satisfied with the financial performance of the Municipal Demarcation Board during the period under review, the Committee is concerned about the perception that the Board’s demarcation rulings may not have always lived up to the standards of impartiality and independence expected of the institution. The Committee recommends that the new incoming Board does its utmost to guard its independence and ensure that it seen to be impartial in executing its duties.
1. **Appreciation**

For fruitful, cordial and constructive engagements the Committee thanks the Departments of Cooperative Governance and Traditional Affairs, SALGA, the Municipal Demarcation Board, the CRL Rights Commission, the South African Cities Network, the Office of the Auditor-General, National Treasury and the Financial and Fiscal Commission, among others. The Committee would also like to extend a word of appreciation and acknowledge the cooperative spirit of the municipalities and traditional communities visited by the Committee in the course of undertaking its oversight.

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3. Ibid. [↑](#footnote-ref-3)
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9. PC on COGTA, (2012). [↑](#footnote-ref-9)
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12. This sub-section draws extensively from the work of the Finance and Public Accounts Cluster at the Research Unit. [↑](#footnote-ref-12)
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