15 February 2016

**ANALYSIS OF THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT THIRD QUARTER EXPENDITURE (OCTOBER-DECEMBER 2015)**

1. **IMPACT OF THE ADJUSTED ESTIMATES OF NATIONAL EXPENDITURE (AENE) OCTOBER 2015**

The October 2015 Medium Term Budget Policy Statement (MTBPS) notes that:[[1]](#footnote-1)

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| --- |
| * Government must work harder to improve value received for money spent by highlighting waste and inefficiency, and targeting corruption. * There is little room for new spending. * Departments may have to shift funds from other budget lines to meet compensation commitments. **Many of these resources will be drawn from goods and services and capital budgets.** * Spending priorities support the National Development Plan’s (NDP) priorities as expressed through the Medium Term Strategic Framework (MTSF) 2014-19. Budgets must be aligned accordingly. * **From 1 September 2015, government will subject all future legislation and regulations to a socio-economic impact assessment**. * Cost containment measures will continue to be strengthened. |

In terms of the October 2015 Adjusted Estimates of National Expenditure (AENE) the Justice Departments main appropriation of R16.86 was adjusted downwards to R16.84 billion.

The adjustment budget was impacted by *unspent funds* (of R1110 million due to delays in implementation of Integrated Justice System (IJS) projects and delays in filling of magistrates posts); as well as an additional allocation from Treasury for personnel expenses; the transfer of functions (and consequently some funds) between Justice and the Department of the Office of the Chief Justice and Judicial Administration; and certain shifts/virements[[2]](#footnote-2) within/between programmes in the Justice Vote.

This paper will briefly analyse the spending of funds in the Third Quarter of the 2015/16 financial year.

**2. OVERALL EXPENDITURE TRENDS**

By the end of the third quarter of 2015/16 the Justice Department spent R11.9 billion of the adjusted appropriation of R16.84 billion, including Direct Charges. This is 3.2 percentage points (or R533.8 million) *lower* than the approved projections of R12.4 billion.

Lower than projected expenditure is mainly due to;

1. delays in the filling of vacant posts,
2. delays in receiving claims from the JCPS cluster departments for the Criminal Justice System modernisation programme,
3. delays in the implementation of infrastructure projects by the Department of Public Works (DPW),
4. delays in the finalization of new motor vehicles leases.
   1. **Economic classification**

* ***Goods and Services***: Delays in filling vacant posts meant that overall spending on goods and services was 2.6 percentage points below projected spending during the third quarter of 2015/16.
* ***Capital Assets:***
* ***Buildings and fixed structures*** (capital works/infrastructure). Expenditure was 19.5 percentage points lower than the projected expenditure for the third quarter. (This means R427.4 million (64.6 per cent) of the allocated budget was spent against a projected R556.3 million (84.1 per cent)).
* ***Machinery and equipment***: lower than planned expenditure in the first and second quarter is repeated in the third quarter with expenditure *61.4 percentage points lower* than projected.

**Comment**

* Buildings and fixed structures (capital works/infrastructure). Improved expenditure in the first and second quarter is not reflected in the third quarter of 2015/16 and this lower than projected spending is a concern. The Department should report on reasons for delays in the implementation of infrastructure projects by the Department of Public Works (DPW).
* Machinery and equipment. Why does lower than projected spending on the machinery and equipment budget occur in the first, second and third quarters of the 2015/16 financial year?

**2.2 Earmarked Funds (Criminal Justice System Revamp and Integrated Justice System)**

National Treasury earmarked **R549.95 million** in 2015/16 for the Criminal Justice System (CJS) Revamp and Integrated Justice System (IJS) projects. Following the AENE this amount was shifted *downwards* to **R472.6 million** due largely to unspent funds of R60 million (which was a result of delays in the implementation of the integrated justice projects); and R20 million which was shifted for ICT set-up costs at the OCJ.

Although the Justice Department does show improved expenditure of earmarked CJS/IJS funds when compared with the third quarter of 2014/15 overall slow expenditure in respect of these earmarked funds continues to be a concern.

Table 1: 3rd Quarter Expenditure of Earmarked CJS/IJS Funds

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **ADJUSTED BUDGET 2015/16** | **3RD QUARTER ACTUAL EXPENDITURE** | **% OF ACTUAL EXPENDITURE**  **AT END DECEMBER 2015** | **% OF ACTUAL EXPENDITURE**  **AT END DECEMBER**  **2014** |
| Dept Correctional Services | R59 million | R3.9 million | 6.6% | 18.2% |
| Dept of Home Affairs | R4.9 million | R2.18 million | 44.5% | 47.2% |
| DoJ&CD | R266.9 million | R68 million | 25.5% | 5% |
| Dept of Social Development | R5.2million | R2.1 | 20.9% | 47.6% |
| NPA | R74.3 million | R29 million | 39.1% | 77.7% |
| IJS - Programme Management Office | R51 million | R22 million | 43.2% | 24.3% |
| Office of the Criminal Justice System review | R5.9 million | R819 000 | 13.9% | 0% |
| Office of the Chief Justice | R5 million | 0 | 0 | 0.1% |
| Total | R472.6 million | R127 million | 26.9% | 24.4% |

**Comment**

* Slow spending on the criminal justice sector and integrated modernisation continues to be attributed to the delays in receiving claims from the JCPS cluster departments for the Criminal Justice System modernisation programme, as well as the delays in processing claims for these projects due to prolonged procurement processes within the Department. What measures is the Department/JCPS cluster putting in place to avoid underspending?

**2.3 Spending on selected items**

In light of Treasury’s emphasis on the implementation of cost containment measures spending on goods and services must be minimised.[[3]](#footnote-3) Total spending on goods and services in the third quarter was below projected spending. In particular spending on advertising, entertainment, communication and computer services remains relatively minimal for the period under review.

However, spending was higher than projected on selected items, namely:

* Agency and support/outsourced services - due to psychiatric evaluation payments of witnesses, offenders and plaintiffs referred by courts which depends on the nature of the cases.
* Contractors - due to a higher than expected increase in curator fee payments and more employees using the Employees Assistant Programme (EAP) which is a service available for all employees of the Department responsible for providing counselling service to employees facing work and/or family challenges .

**3. PROGRAMME ANALYSIS**

Spending on the Departments five programmes must be aligned with the NDP Outcomes and Departmental strategic priorities.

**3.1 ADMINISTRATION PROGRAMME**

At the end of the third quarter of 2015/16 total expenditure on Administration programme was R1.2 billion which is 1.5 percentage points (or R28.5 million) *lower* than the approved projections.

Lower than projected spending in this programme, occurred in the Ministry, Management and Corporate Services subprogrammes mainly due to;

1. outstanding payments for travel and subsistence; and
2. delays in the finalisation of information system management projects in courts.

Significant overspending occurred under compensation of employees (R8.8 million) which can be attributed employees receiving their service bonuses during the period under review.

**3.2 COURT SERVICES PROGRAMME**

At the end of December 2015 spending on the Court Services programme was R4.4 billion of the total adjusted appropriation of R5.6 billion. This was slightly behind the approved projections by 0.7 percentage points, or R38 million.

Lower than projected spending occurred in particular in the Family Advocates, Magistrates Commission, Facilities Management and Government Motor Transport subprogrammes.[[4]](#footnote-4)

It should, however, be noted that spending on the Court Services programme did increase significantly by 15.7 percentage points when compared to the 56.8 per cent achieved during the same period in the 2014/15 financial year. The increase was mainly triggered by improved spending on court infrastructure projects. However, this improved expenditure on buildings and other fixed structures (capital works/infrastructure) was still 19.5 percentage points lower than projected for the third quarter.

**3.3 STATE LEGAL SERVICES PROGRAMME**

The lower than projected spending identified in this programme in the second quarter continued in the third quarter of the financial year. Spending on the State Legal Services programme was 6.8 percentage points behind approved projections. (R712 million expenditure against a projected R783 million.)

All the subprogrammes under this programme, namely, State Law Advisors, Litigation and Legal services, Legislative Development and Law Reform, Master of the High Court and Constitutional Development contributed to the underspending.

This was mainly due to;

1. the high vacancy rate across the subprogrammes; and
2. delays in the payment for notches and merit awards which is expected to be finalised before the end of the financial year.

**3.4 NATIONAL PROSECUTING AUTHORITY (NPA) PROGRAMME**

In comparison with expenditure in the second quarter, which was *slightly above projected expenditure,* in the third quarter spending in the National Prosecuting Authority programme was slightly behind the approved projections by 0.1 percentage points.

However, unlike the second quarter of the financial year where the Asset Forfeiture Unit subprogramme recorded lower than projected spending due to vacant posts in the third quarter spending in this subprogramme was on track.

Significantly higher than planned spending was identified in the Office of Witness Protection subprogramme which overspent by 7.6 percentage points mainly due to higher than projected increases in the accommodation charges for witnesses as well as an increase in witness operational expenditure.

The lower than projected spending (by 8 percentage points) which occurred in the Support Services subprogramme is mainly due to outstanding payments in respect of contractual expenditure for the fleet and security services.

**3.5 AUXILIARY AND ASSOCIATED SERVICES PROGRAMME**

In the 2015 budget the Departments allocation for the modernisation of Justice IT Systems was R426.4 million. This was adjusted during the AENE to R431.4 million. At the end of the second quarter of 2015/16, the Department had spent only 23.9 per cent (R82.3 million) of its departmental IT budget. However, expenditure has improved by the end of the third quarter to 74.4 per cent of the allocated budget.

**3.6 MAGISTRATES**

Spending on Direct Charges (magistrate’s salaries was 8.4 percentage points behind the approved projections by the end of December 2015 mainly due to higher number of vacant posts. This expenditure was, however, 4.7 percentage points higher than the total expenditure during the same period in the 2014/15 financial year.

**3.7 VACANCIES**

The Department’s vacancy rate was 10.6 per cent (2974vacant posts) by the end of the third quarter of 2015/16. This is an improvement from the second quarter when the vacancy rate stood at 13.1 per cent. Vacancies can still be attributed to the non-filling of critical posts such as advocates, attorneys, legal related officers, magistrates and senior managers.

The Court Services (1125) and National Prosecuting Authority (850) programmes are the major contributors to the vacancy rate.

**4. PROGRESS REPORTS**

The Department should be asked to:

* Elaborate on expenditure of the Capital works/infrastructure budget
* Report on steps to fill high vacancies in critical positions such as magistrates, advocates, attorneys, legal related officers and senior managers
* Report on steps within the JCPS cluster to resolve slow spending of earmarked funds for CJS/IJS projects

**Sources**

Adjusted Estimates of National Expenditure (AENE) October 2015

DoJ&CD Annual Performance Plan 2015/16

DoJ&CD Strategic Plan 2015-2020

DoJ&CD First Quarter Performance Report to the Portfolio Committee of Justice and Correctional Services (September 2015)

Medium Term Budget Policy Statement (October 2015)

National Treasury (October-December 2015/16)

1. MTBPS 2015 p2 [↑](#footnote-ref-1)
2. Virements involve the utilisation of unspent funds from amounts appropriated under one main division (programme) towards the defrayment of excess expenditure under another main division (programme) within the same vote. Shifts involve the utilisation of unspent funds towards increased expenditure **within** the programme of a Vote via the shifting of funds for example between a subprogramme and economic classification. [↑](#footnote-ref-2)
3. National Treasury Instruction Note 01 of 2013/14 on Cost Containment Measures [↑](#footnote-ref-3)
4. There was no expenditure under the Government Motor vehicle transport subprogramme for the first, second and third quarter of 2015/16. [↑](#footnote-ref-4)