

Budgetary Review and Recommendations Report of the Portfolio Committee on Cooperative Governance and Traditional Affairs, Dated 20 October 2022

Having considered the 2021-22 financial and service delivery performance information of the Departments of Cooperative Governance and Traditional Affairs, Municipal Infrastructure Support Agent, CRL Rights Commission, Municipal Demarcation Board, and the South African Local Government Association, the Portfolio Committee on Cooperative Governance and Traditional Affairs reports as follows:

1. OVERVIEW

1.1. Section 5(2) of the Money Bills Procedures and Related Matters Act (2009) enjoins parliamentary Portfolio Committees to compile Budgetary Review and Recommendations Reports (BRRR) for tabling to the National Assembly. In terms of Section 5(3) of the Act, the Report's content is expected to encompass:

- Assessment of service delivery performance given available resources;
- Assessment of the effectiveness and efficiency of use and further allocation of available resources; and
- Recommendations on the further use of resources.

1.2. In line with Rule 227 of the National Assembly Rules, the Portfolio Committee is mandated to oversee the Departments of Cooperative Governance and Traditional Affairs (Votes 3 and 15), the Municipal Infrastructure Support Agent (MISA), the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic communities (CRL Rights Commission), the South African Local Government Association (SALGA) and the Municipal Demarcation Board (MDB). The Cooperative Governance and Traditional Affairs (COGTA) Minister duly tabled the 2021-22 reports and audited financial statements of the relevant Departments and entities, in line with Sections 8(3) and 64(a) of the Public Finance Management Act (PFMA) 1999.

1.3. These PFMA Sections instruct the Minister to submit the consolidated financial statements, and the audit report on those statements, to Parliament for tabling in both Houses. The reports have been tabled within the legislated deadline. From 10 – 18 October 2022, the Portfolio Committee convened meetings with the responsible Departments and Entities to consider their financial and service delivery performance in respect of the 2021-22 financial year. This report draws from the proceedings of these Departmental and Entity briefings, as well as the contributions of the Auditor-General's Office. Overall, the COGTA Portfolio's financial performance remained unchanged from the previous financial year, with the Department of Cooperative Governance (DCoG) still the only auditee with qualified auditing findings. All other auditees have received clean audits.

2. DEPARTMENT OF COOPERATIVE GOVERNANCE

2.1. As noted previously, the Department of Cooperative Governance is still the only auditee with qualified auditing findings. However, the qualification areas have reduced to three, from five in the previous financial year. All three qualification areas relate to the Community Work Programme (CWP). The Department is also the highest contributor to the irregular expenditure identified during the period under review, having incurred R500m to this end. This also relates mostly to the CWP, in particular contracts that did not follow proper Supply Chain Management (SCM) processes, including a contract concluded in 2018-19, which the Seriti Judgment declared irregular. There also remains an unresolved R3.3bn in irregular expenditure emanating from prior years going back as far as 2013.

2.2. The CWP was further predominantly responsible for the R4.4m incurred in fruitless and wasteful expenditure due to payments made to deceased CWP participants and those in the employ of the state. Although the Department incurred no unauthorised expenditure during the period under review, there is still an unresolved balance of R1.1m emanating from prior years. Thus, the bulk of the Department's Unauthorised, Irregular, Fruitless and Wasteful (UIFW) expenditure has been inherited from prior years. Most problems in the CWP arise from the actions of the non-profit organisations (NPOs) hired by the Department as CWP Implementing Agents (IAs). Fundamentally, the IAs have insufficient experience with financial reporting obligations, including proper asset management systems. Their experience with procurement from a public sector perspective is also limited. According to the Minister, the Department would ideally not have IAs, if it was at liberty to do so.

- 2.3.** To mitigate against the recurring CWP implementation problems, the Department is revising the CWP implementation model on an ongoing basis. This has included interfacing the CWP database with the Home Affairs and PERSAL databases to prevent payments to deceased people and those already in the employ of the state. Administratively, the Department has come a long way in terms of rectifying problems in the CWP. However, this corrective action has not removed all imperfections. The main outstanding issues are historical in nature. The CWP's impact on the broader community, and whether it actually empowers people to do useful work, are issues that must be interrogated further. The AG however has also identified potential irregularities in the process of appointing the latest cohort of IAs. The Department is disputing these potential irregularities and National Treasury will be adjudicating on the matter.
- 2.4.** DCoG has achieved 73 percent of its 2021-22 APP targets. While this is an improvement from the 68 percent achieved in 2020-21, it is still the lowest achievement rate in the entire COGTA portfolio of auditees. The Auditor-General has also raised the concern that the majority of the Department's performance indicators were changed in the course of the financial year. Although the Minister tabled in Parliament a letter dated 28 October 2021, informing the Speaker about the revision and re-tabling of the Department's 2021-22 APP, the AG maintains that poor planning problems are identified after tabling the initial APP, which is a concern to the Office.
- 2.5.** Among the examples flagged by the AG is the tabling of the Monitoring, Support and Interventions Management Bill, which was originally due on 31 March 2022, but later extended on several occasions. Gaps were also identified in relation to the Department's Section 139 improvement plans on the basis that the same municipalities require interventions, but are not improving. Across the APPs in the COGTA Portfolio, similar initiatives are being implemented and this makes it difficult to attribute impact to the actions of a specific auditee. The nature of the Department's 'support' and interventions are not clearly defined.

3. MUNICIPAL INFRASTRUCTURE SUPPORT AGENT

- 3.1.** MISA has improved from an achievement rate of 81 percent in 2020-21 to 91 percent in 2021-22. However, the majority of the entity's indicators refer to 'support' that has been provided to municipalities without the 'support' being clearly defined as to what activities have been undertaken to ensure that the municipalities in question are supported. Although the Entity has not incurred any irregular and fruitless and wasteful expenditure during the year under review, there is still an unresolved balance of R528 689 in fruitless and wasteful expenditure emanating from prior years.

4. DEPARTMENT OF TRADITIONAL AFFAIRS

- 4.1.** Regarding service delivery performance against the 2021-22 APP targets, Traditional Affairs is the only auditee in the entire COGTA Portfolio that has achieved 100 percent of the targets set. This sustains the Department's previous financial year's performance. Although the Department incurred no unauthorised expenditure during the year under review, there is still an unresolved amount of R2.2m emanating from prior years.

5. CRL RIGHTS COMMISSION

- 5.1.** The CRL Rights Commission's 82 percent achievement of pre-determined service delivery objectives has not changed significantly from the previous financial year where the Commission achieved 81 percent. The administration and the legal services and conflict resolution programmes account for all the non-achieved targets. Although no irregular and fruitless and wasteful expenditure has been incurred during the year under review, there is still a closing balance of R11.9m relating to irregular expenditure incurred in the prior years. There is also a closing balance of R1.6m relating to fruitless and wasteful expenditure incurred in the prior years.

6. MUNICIPAL DEMARCATION BOARD

- 6.1.** The Municipal Demarcation Board's performance against pre-determined service delivery objectives amounts to 95 percent achievement of APP targets, which is a slight regression compared to the previous financial year, where 100 percent of targets were achieved for the first

time in the MDB's entire history. Spending on allocated budget has also regressed from 100 percent in 2020-21 to 84.7 percent in 2021-22. Besides the Department of Cooperative Governance, the Board was the only entity in the COGTA Portfolio that had incurred irregular expenditure to the value of R500 000 following the appointment of a service provider whose tax matters were not in order. This has increased from the R398 000 irregular expenditure incurred in the previous financial year. Although the Board incurred no fruitless and wasteful expenditure during the period under review, there remains an unresolved balance of R6.8m emanating from prior years.

7. SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

- 7.1.** The South African Local Government Association's financial and service delivery performance during the period under review remains commendable. Over the last ten years, the entity has sustained its good financial governance, as seen in the achievement of a tenth consecutive clean audit. Achievement against predetermined objectives has also improved from 85 percent in 2020-21 to 92 percent or 57/62 in 2021-22. Some of the non-achieved targets were reportedly due to dependencies on other parties, which suggests some possible weaknesses in the target setting process. Fruitless and wasteful expenditure remains insignificant, although it has risen from R53 in 2020-21 to R4 732 in 2021-22.
- 7.2.** The fruitless and wasteful expenditure relates to interest charged on unpaid SABC licenses that were sent to an employee that had long left the employment of SALGA, with no indication from the Service Provider that the e-mails are not getting through. Irregular expenditure on the other hand has reduced from R250 000 in 2020-21 to zero during the year under review. SALGA continues deriving 93 percent of its revenue from membership levies collected from the 257 member municipalities. The overall collection rate was 76 percent during the period under review, which is an improvement from 71 percent in 2020-21. The reliance on membership levies remains a strategic risk for SALGA, especially in the context of the country's subdued economic climate.

8. COMMITTEE OBSERVATIONS

- 8.1.** There is doubt as to whether the matters relating to the CWP in the Department of Cooperative Governance can be resolved as they appear to be intractable problems. There was no sense of comfort given as to whether the problems will be resolved by a certain deadline. The CWP remains a major concern for the Portfolio Committee. The Department needs to take decisive action to show the Implementing Agents that they cannot continue to do as they please. Failure should not be rewarded.
- 8.2.** While the Portfolio Committee notes the Department's efforts to revise and remodel the CWP, it appears that this has neither produced any tangible outcomes nor made any significant difference to the end users. The Implementing Agents are out of touch with the people as they often reside away from where CWP work is taking place.
- 8.3.** The Department of Cooperative Governance seems to be insufficiently appreciative of the fact that, for some, the CWP is the only means of putting food on the table. Had sufficient cognisance been given to this, the late payment of stipends would not persist.
- 8.4.** It is not acceptable for the Minister to distance herself from the problems of the CWP and plead non-involvement in the Programme's Supply Chain Management processes. The Minister is the Department's political head, and any negative audit outcomes ultimately reflect unfavourably on her. The manner in which the Director-General habitually brushes over these CWP matters is also frustrating.
- 8.5.** The Portfolio Committee should no longer accept as permissible the excuse that consequence management could not be instituted because the responsible officials are no longer in the employ of the Department. There must be consequences for wrong-doing irrespective of whether or not the wrong-doer is in the employ of the Department.
- 8.6.** There is an apparent skills and capacity deficit at the level of the Department of Cooperative Governance. It is not clear what action is the Department's executive authority undertaking to address this matter. It is not acceptable for the Minister to attribute the Department's skills and capacity deficit solely to the position of the Chief Financial Officer that needs to be brought up to the Deputy Director-General level. If the skills and capacity deficit cannot be addressed properly at the departmental level, there is very little hope that municipalities will ever get it right.

- 8.7.** The National Disaster Management Centre does not have adequate disaster response capacity. Its disaster response is haphazard and lacks organisation and planning. People affected by floods in April/May 2022 still live in shelters six months later, with no access to decent accommodation. Fire services are generally non-functional. In the North-West, fire trucks do not have water.
- 8.8.** It is not clear how the Municipal Infrastructure Support Agent is engaging the problem of ageing infrastructure, especially as it relates to access to drinkable water. The Makana Local Municipality is grappling with this problem. Following the floods of April 2022, the Port St Johns Local Municipality is also experiencing water shortages. Some communities are swimming in sewer. The floods have also left Ward 6 in Msinga Local Municipality without access to water. In Ladysmith, some police stations and hospitals do not have access to water.
- 8.9.** Provincial inconsistencies and discrepancies in remuneration of traditional leaders and funding of traditional councils persist. The Department of Traditional Affairs has also not been sufficiently vocal regarding the shooting and killing of traditional leaders.
- 8.10.** The CRL Rights Commission is commended for attaining consecutive clean audits and is encouraged to maintain this trend. The Commission's lack of footprint in the provinces, however, is drawback as the conflict resolution space in these areas is being taken up by the courts, but from a foreign Roman Dutch Law perspective. Key conflicts relating to cultural matters have been seen in respect of two Kings in amaMpondweni, Eastern Cape, and the Bulobedu tribe in Limpopo. In all these instances, the CRL Rights Commission has not been sufficiently visible.
- 8.11.** Furthermore, it seems inconsistent for the Commission to be requesting for more funding despite not having fully spent the budget allocated to it during the previous financial year. Nevertheless, the Commission is doing good work and should improve and build on the good work started. The Portfolio Committee looks forward to participating in the Commission's national initiation indaba scheduled towards the end of November 2022.
- 8.12.** While the Portfolio Committee congratulates the Municipal Demarcation Board on its financial and service delivery achievement during the year under review, it remains concerned that Board's footprint at ward level, where it matters the most, is not yet well-stamped. The outsourcing of Board functions to municipalities contributes to this problem. The Board's lack of regional representation is a recurring matter.
- 8.13.** The involvement of the Municipal Demarcation Board's Chairperson in party-political work risks compromising the Board's independence and neutrality and must strongly be discouraged.
- 8.14.** It is not understandable why the South African Local Government Association's supportive role to municipalities should become minimal following constitutional intervention. There seem to be no logical reason as to why this should obtain.

9. COMMITTEE RECOMMENDATIONS

- 9.1.** The Auditor-General and the Department of Cooperative Governance should strive to find common ground regarding the potential irregularities identified in the process of appointing the latest cohort of Implementing Agents. In the next BRR reporting cycle, both the AG and DCoG should update the Portfolio Committee on how this matter has been resolved.
- 9.2.** The Portfolio Committee should, at the earliest convenience, convene a workshop with the Department of Cooperative Governance to discuss the Community Work Programme in more detail.
- 9.3.** The Department of Traditional Affairs should furnish the Portfolio Committee with a report on the killing of traditional leaders, particularly in KwaZulu-Natal where the problem has become systemic.
- 9.4.** The Portfolio Committee should, at the earliest convenience, engage the South African Local Government Association on the role it ought to play in the constitutional intervention process in municipalities.

