

Budgetary Review and Recommendations Report of the Portfolio Committee on Cooperative Governance and Traditional Affairs, Dated 19 October 2023

Having considered the 2022-23 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. The Portfolio Committee on Cooperative Governance and Traditional Affairs 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).
- 1.2. The Portfolio Committees is enjoined to compile Budgetary Review and Recommendations Reports (BRRR) for tabling to the National Assembly in connection with the service delivery performance and utilisation of the allocated resources by the overseen Departments and entities. In this regard, the Committee duly convened meetings with these Departments and entities to consider their financial and service delivery performance in respect of the 2022-23 financial year. The financial performance has remained unchanged from the previous two financial years, with the Department of Cooperative Governance still the only auditee with qualified auditing findings.

2. DEPARTMENT OF COOPERATIVE GOVERNANCE

- 2.1. With an achievement rate of 63 percent in respect of the predetermined objectives for the 2022-23 financial year, the Department of Cooperative Governance has recorded the lowest performance in the entire portfolio. This was also the case in the previous financial year, but the performance has regressed from the 73 percent recorded in this period. The non-achievement of an unqualified audit opinion is one of the targets which the Department has consistently failed to attain over the years due to, among other things, the non-implementation of post-audit action plans relating to the Community Work Programme. Even those targets reported as achieved cannot all be confirmed with certainty as the Auditor-General (AG) was unable to verify the reported achievements for some of the indicators. Consequently, the AG issued an adverse audit opinion in respect of the Department's performance information.
- 2.2. The Department's underperformance during the period under review has been concomitant with an unusually high staff turnover, with 240 of the 483 employees recorded at the beginning of the financial year having been terminated or transferred out of the Department by 31 March 2023. This is 50 percent of the employees who started out on 01 April 2022. At the Senior Management Service (SMS) level, the turnover was also significant as 27 of the 96 SMS members were terminated or transferred out of the Department by the end of the financial year. In this regard, the AG found that the departmental leadership did not implement effective human resource management to ensure that critical areas are capacitated.
- 2.3. Expenditure on the allocated budget on the other hand amounted to approximately 95 percent. Of the Department's R115bn allocation, R110.7bn was spent leaving an under expenditure amount of R4.3bn, which will be surrendered back to the National Revenue Fund. This is twice the under expenditure amount of R2.8bn incurred in the previous financial year. Significantly contributing to the under-expenditure is the fact that the Department transferred R83.9bn of the R87.3bn Local Government Equitable Share (LGES) and withheld the rest to those municipalities that did not comply with the Division of Revenue Act's conditions. These municipalities are thus constrained from delivering free basic services to indigent households within their jurisdictions. The non-transferred amount compares

unfavourably to the previous financial year where R76.1bn of the R77.9bn LEGS was transferred.

- 2.4.** Underspending by municipalities on disaster management conditional grants is another critical highlight. Of the R516.7m disaster response grants transferred between July and September 2022 to address the infrastructural damage following the floods of April to May 2022, R324.4m was spent by 18 April 2023, which was approximately only two months away from the municipal financial year end. The Portfolio Committee also elevated this matter of underspending during its deliberations on the Department's Third Quarter Performance Report.
- 2.5.** The Department ended the financial year with a closing balance of R3.4bn in irregular expenditure. Of this amount, R475.1m was incurred during the period under review in connection with an invalid contract entered with a Community Work Programme Implementing Agent. The closing balance on fruitless and wasteful expenditure, on the other hand, amounted to R888 000 with R16 000 having been incurred during the period under review. Below is tabular summary of departmental programme expenditure trend on the allocated 2022-23 budget.

	Appropriation per programme							2021/22	
	2022/23							Final Budget	Actual Expenditure
	Approved Budget	Shifting of Funds	Virement	Final Budget	Actual Expenditure	Variance	Expenditure as % of final budget		
	R'000	R'000	R'000	R'000	R'000	R'000	%	R'000	R'000
Programme									
1. Administration	317 624	-	31 084	348 708	348 080	628	99,8%	338 675	332 2
2. Local Government Support & Intervention Mng	18 537 711	-	(2 640)	18 535 071	18 520 496	14 575	99,9%	17 418 275	17 403 1
3. Institutional Development	87 580 212	-	(8 444)	87 571 768	84 106 367	3 465 401	96,0%	78 599 372	76 645 0
4. National Disaster Management Centre	4 290 687	-	(20 000)	4 270 687	3 900 043	370 644	91,3%	698 256	536 9
5. Community Work Programme	4 301 204	-	-	4 301 204	3 834 095	467 109	89,1%	4 205 153	3 525 6
Subtotal	116 027 438	-	-	116 027 438	110 709 081	4 318 357	96,2%	101 259 931	98 443 0
TOTAL									
Appropriation per economic classification									
Economic classification									
Current payments	5 021 961	(674)	(1 690)	5 019 597	4 454 375	565 222	88,7%	5 011 236	4 166 6
Compensation of employees	366 212	-	-	366 212	346 427	19 785	94,6%	358 126	337 4
Goods and services	4 655 749	(674)	(1 694)	4 653 381	4 107 944	545 437	88,3%	4 653 110	3 829 2
Interest and rent on land	-	-	4	4	4	-	100,0%	-	-
Transfers and subsidies	109 963 424	-	1 690	109 965 114	106 234 171	3 730 943	96,6%	96 203 531	94 231 5
Payments for capital assets	42 063	74	-	42 127	19 936	22 191	47,3%	45 092	44 7
Payments for financial assets	-	600	-	600	599	1	99,8%	72	-
Total	116 027 438	-	-	116 027 438	110 709 081	4 318 357	96,2%	101 259 931	98 443 0

Source: Department of Cooperative Governance (2023).

3. MUNICIPAL INFRASTRUCTURE SUPPORT AGENT

- 3.1.** The entity has been having an Acting Chief Executive Officer since the previous year's Budgetary Review and Recommendations process. It is indicated that the previous CEO, Mr Ntandazo Vimba, was 'released' from his contract position with effect from 27 March 2023, however the timelines for the recruitment of a substantive CEO have not been specified. MISA is also set to manage elements of the Community Work Programme especially those relating municipal services and environmental services, although it is no clear whether entity has adequate capacity to deliver on this additional responsibility.
- 3.2.** The entity further indicates that it will strive to optimally utilise its resources in supporting the 66 dysfunctional municipalities that were identified nearly three years ago in the Department of Cooperative Governance's 2021 State of Local Government Report. Both the entity's financial and service delivery performance have remained commendable during the period under review, having maintained the achievement of consecutive clean audits and sustaining a 91 percent attainment of predetermined objectives within the allocated budget. Below is tabular summary of entity programme expenditure trend on the allocated 2022-23 budget.

Description	Final Appropriation	Actual Expenditure	Variance	% Expenditure to Final Appropriation
Programme	R'million	R'million	R'million	%
Administration	86.74	84.70	2.04	98%
Technical Support Services	321.29	320.22	1.07	100%
Infrastructure Delivery Management Support	232.77	171.19	61.58	74%
Total	640.80	576.11	64.69	90%

Description	Final Appropriation	Actual Expenditure	Variance	% Expenditure to Final Appropriation
Economic Classification	R'million	R'million	R'million	%
Compensation of Employees	208.00	197.08	10.92	95%
Goods & Services	426.80	373.30	53.50	87%
Depreciation & Amortisation	6.00	5.73	0.27	96%
Total	640.80	576.11	64.69	90%

Source: Municipal Infrastructure Support Agent (2023)

4. DEPARTMENT OF TRADITIONAL AFFAIRS

- 4.1. The Department of Traditional Affairs' service delivery performance during the year under review is notable for a regression from achievement of 100 percent of predetermined objectives in 2021-22 to 82 percent in 2022-23. As a result, the Department underspent its allocated budget of R180m by R5.6m. The underspent amount will be surrendered back to the National Revenue Fund. The Department primarily attributes this under expenditure to challenges experienced in the legal constitution of traditional councils, which affected the implementation of several activities. Fruitless and wasteful expenditure amounting to R262 000 was also recorded. In this regard, the Internal Audit Unit identified the Department's expenditure management as inadequate.
- 4.2. The Department's Annual Report notes that there were significant developments that affected it during the year under review. These related to its human and financial resources capacity, which reportedly remain a critical challenge. To mitigate against these, the Department reports having commenced with the review of its organisational structure to better align it to its broader mandate and strategy. It also pursued various means to address the financial constraints faced. The Department has also been non-compliant with Regulation 72(2) of the Public Service Regulations (2016) as nearly 20 per cent of its employees did not sign performance agreements as required in terms of the statute.
- 4.3. The Department's legal services costs have tripled from R1.8m in 2021-22 to R6.4m in 2022-23. The explanation provided is that the Department has been inundated with a considerable number of litigation because of the disputes and claims in the traditional leadership institution, which have compelled it to defend itself in court. The termination of the national of state disaster in respect of COVID-19, and the associated travel restrictions, has also seen the Department's travel and subsistence costs doubling from R9.9m in 2021-22 to R18.5m in 2022-23. Below is tabular summary of departmental programme expenditure trend on the allocated 2022-23 budget.

Description	Final Appropriation R'000	Actual Expenditure R'000	Variance R'000	Expenditure as a % of Final Appropriation
Administration	60 565	59 456	1 109	98.2%
Research, Policy and Legislation	27 891	25 781	2 110	92.4%
Institutional Support and Coordination	91 687	89 215	2 472	97.3%
Total	180 143	174 452	5 691	96.8%

Economic Classification	Final Appropriation R'000	Actual Expenditure R'000	Variance R'000	Expenditure as a % of Final Appropriation
Current Payments	128 748	123 819	4 929	96.2%
-Compensation of Employees	89 673	86 209	3 464	96.1%
-Goods & Services	39 075	37 610	1 465	96.3%
Transfers and Subsidies	46 995	46 986	9	100.0%
-Provinces & Municipalities	10	9	1	90.0%
-CRL Commission	46 818	46 818	-	100.0%
-Public Cooperation (SABC Licenses)	2	1	1	50.0%
-Households	165	158	7	95.8%
Payments for Capital Assets	4 400	3 647	753	82.9%
-Machinery & Equipment	4 400	3 647	753	82.9%
Payments for Financial Assets	-	-	-	0.0%
Total	180 143	174 452	5 691	96.8%

Source: Department of Traditional Affairs (2023).

5. CRL RIGHTS COMMISSION

- 5.1. For the period under review, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities registered improved performance in the achievement of predetermined objectives, from 82 percent in 2021-22 to 94 percent in 2022-23. As it was also the case during the Portfolio Committee's deliberations on the entity's Third Quarter Report, the resolution of all internal and external audit queries has remained an area that requires improvement. This matter was also one of the highlights of the previous financial year's Annual Report.
- 5.2. Expenditure highlights include a R1.9m consultant fee paid over 251 days in connection with the Commission's Capacity and Capability Review Project. The Commission's operating lease liability, which amounted to R57 000 in 2021-22, increased to R455 000 in 2022-23. Similarly, R72 000 was spent on marketing in 2021-22 but this increased to R657 000 in 2022-23. Internal Auditing fees have also gone up from R206 000 in the previous financial year to R957 000 during the year under review. The Commission also reports having applied to Treasury for condonation of irregular expenditure amounting to R2000 due to unauthorised use of a petrol card by an employee. Below is tabular summary of entity expenditure trend on the allocated 2022-23 budget.

Economic Classification	Final Allocation	Actual Expenditure R'000	Variance R'000	Expenditure % of Final Allocation
Compensation of employees	31 644	25 929	5 715	18
Administrative expenditure	4 792	6 644	(1 852)	139
Operational expenditure	10 730	10 672	58	1
Total	47 166	43 245	3 921	8

Source: CRL Rights Commission (2023)

6. MUNICIPAL DEMARCATION BOARD

- 6.1. During the period under review, the Municipal Demarcation Board's core activities related to the municipal outer boundary determination and re-determination process following receipt of approximately 206 proposals for municipal outer boundary re-determinations. The Board envisages concluding this process towards the end of the current 2023-24 financial year. Legally, the process must be completed at least six months before next year's national and provincial elections to enable the Independent Electoral Commission to consider municipal boundaries when determining the national voters' roll and voting district boundaries within which voters must be registered.
- 6.2. Although the Board reportedly embarked on an expansive programme to inform the public about the municipal outer boundary re-determination process, it is worth noting that this was mainly applied through print, digital and social media. There is no mention of physical sites visits to the affected residents, which has been the major source of frustration for the majority of those that made submissions to the Portfolio Committee on the Independent Municipal Demarcation Authority Bill. As also indicated during the Portfolio Committee's deliberations on the MDB's Third Quarter report early this year, the Board's work remains constrained by the non-implementation of a regionalisation model due to inadequate finances.
- 6.3. The Board's current set-up therefore remains highly dependent on municipalities and departments to facilitate its public and stakeholder awareness and public education, which risks compromising the entity's independence. This remains a major drawback to the delivery of the Board's mandate at provincial and regional levels as it constrains the facilitation of continuous engagement with communities. This was also the main recurring theme during the Portfolio Committee's public hearings on the Bill as communities consistently lamented the Board's tendency to make important demarcations decisions remotely without meaningful engagements with residents of the affected areas.
- 6.4. In terms of service delivery performance, the Board has reportedly achieved 92 per cent of the targets set out in the 2022-23 Annual Performance Plan. This is a slight regression compared to the previous financial year where 95 per cent of predetermined service delivery objectives were achieved. The allocated budget of R74.3m, on the other hand, has been spent in full. Below is tabular summary of entity expenditure trend on the allocated 2022-23 budget.

Government grant	74 340
Other Income	1 651
Total Income	75 991
Employee costs	(38 461)
Administrative costs	(6 761)
Other operating costs	(29 689)
Total Expenditure	(74 911)
Surplus/(Deficit)	1 080

Source: Municipal Demarcation Board (2023)

7. SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

- 7.1. Critical highlights in the 2022-23 Annual Report of the South African Local Government Association (SALGA) include the appointment of a new Chief Executive Officer, and the successful lobbying of National Treasury to increase the Local Government Equitable Share by 1.4 percent. The latter is hailed as an intervention that will reduce municipalities' financial burdens. Also lobbied were the Departments of Cooperative Governance and Water and Sanitation for capex funding in the 2023-24 Division of Revenue Act grant frameworks for

conditional grants to local government to include innovative, technological solutions to improve basic water service delivery.

- 7.2.** Consequently, the two Departments jointly agreed that the Municipal Infrastructure Grant, Water Services Infrastructure Grant, and the Regional Bulk Infrastructure Grant will, in future, require all Water Services Authorities to consider innovative solutions in their infrastructure built programme. The entity's financial and service delivery performance during the period under review has continued to be commendable as achievement against predetermined objectives has improved from 92 percent in 2021-22 to 98 percent during the year under review. Below is tabular summary of entity expenditure trend on the allocated 2022-23 budget.

STATEMENT OF FINANCIAL PERFORMANCE

<i>R million</i>	2023	2022	2023 % change
Operating revenue	801.9	749.2	7.0
Operating expenditure	(783.6)	(591.6)	32.5
Operating surplus	18.3	157.6	(88)
Net non-operating revenue	59.0	35.2	67.2
Surplus	77.2	192.8	(59.9)

Source: South African Local Government Association (2023)

8. COMMITTEE OBSERVATIONS

- 8.1.** The reported progress relating to addressing the material irregularities in the Community Work Programme has been too slow as the Department of Cooperative Governance has taken a long time to implement the necessary remedial measures recommended by the Auditor-General. However, the renewed efforts to fast-track the process are noted.
- 8.2.** Administrative support and capacity building for CWP site managers is non-existent, with some supervisors having to travel long distances just to deliver attendance registers, while municipalities should be able to assist with this.
- 8.3.** The Department of Cooperative Governance's failure to prevent the low expenditure on conditional grants by municipalities is indicative of the Department's insufficient use and analysis of the reports issued by municipalities in terms of Section 71 of the Municipal Finance Management Act.
- 8.4.** It is concerning that during the period under review the Municipal Infrastructure Support Agent provided technical support to only five Water Services Authorities (WSAs) while there are at least 22 dysfunctional WSAs that are struggling to spend more than 50 percent of their conditional grant allocations.
- 8.5.** The Department of Cooperative Governance has overstayed its stagnation on qualified audit outcomes. It is not acceptable to explain this away. The stagnation means that the Department is not able to render credible recommendations that would lead municipalities towards better audit outcomes.
- 8.6.** The Department of Cooperative Governance's Municipal Intervention and Support Packages are not gaining traction. The absence of consequences management for municipalities that fail to implement these packages exacerbates the matter.
- 8.7.** Congratulations are extended to the Municipal Infrastructure Support Agent, the Department of Traditional Affairs, the Municipal Demarcation Board, the CRL Rights Commission and the South African Local Government Association for sustaining consecutive clean audit outcomes. However, the clean audits should be measured against the outcomes achieved on the ground.

- 8.8. The Department of Cooperative Governance should not be apportioning blame for municipal failure to submit District Development Model One Plans to provinces, as the ultimate authority on the matter vests in it.
- 8.9. The low rate of arrests pertaining to the operation of illegal initiations schools, particularly in the Gauteng region, is a cause for concern.
- 8.10. It is concerning that the Commission on Khoisan Matters has been in existence since 01 September 2021 and yet, more than two years later, not a single Khoisan Leader has been recommended to the Minister for recognition.
- 8.11. The Municipal Demarcation Board's reported milestones regarding the current municipal outer boundary determination and re-determination process are inconsistent with the Portfolio Committee's lived experience on the ground where no community member spoke positively about the Board's activities. People's lived experience on the ground should be the litmus test against which Board views the achievement of its indicators and targets.
- 8.12. The Municipal Demarcation Board has largely reported positively on its work and yet it has regressed on the achievement of its predetermined objectives, from 95 percent in the previous financial year to 92 percent during the year under review.
- 8.13. It is concerning that the Municipal Demarcation Board still does not have a provincial footprint even though the Portfolio Committee has been raising this matter repeatedly over the last five years. The Board's continued reliance on the municipal Speaker's Office for its public engagements is unlikely to garner it a positive community response as that office is not known for political neutrality and independence.
- 8.14. There is often no feedback provided after the Municipal Demarcation has listened to the representations of the affected communities and conducted its own investigations.
- 8.15. The CRL Rights Commission is commended for its increased performance and for detailing the specific areas where it undertook its work during the period under review. The Commission's challenge in connection with regional representation is acknowledged.
- 8.16. Congratulations are extended to the South African Local Government Association for having successfully lobbied for a 1.4 percent increase in the Local Government Equitable Share. The association's other interventions, however, having not resulted in reduction in the number of dysfunctional municipalities.

9. COMMITTEE RECOMMENDATIONS

- 9.1. The Department of Cooperative Governance should furnish the Portfolio Committee with a report detailing the actions taken to hold into account those responsible for the R3.4bn irregular expenditure relating to the Community Work Programme.
- 9.2. The Department of Cooperative Governance should improve administrative support and capacity of CWP site managers, and consider prioritising the participation of local Small, Medium and Micro Enterprises over the big corporates who are often not sufficiently familiar with local realities.
- 9.3. The Portfolio Committee should consider having a discussion around the outcomes of the forensic investigations relating to the Community Work Programme. In this regard, the Department of Cooperative Governance should furnish the Committee with all the relevant forensic reports that will inform the discussion.
- 9.4. The Department of Cooperative Governance should lead from the front and improve its audit outcomes as to be in a better position to make credible recommendations towards better municipal audit outcomes.

- 9.5. To ensure that its Municipal Intervention and Support Packages gain traction, the Department of Cooperative Governance should institute consequences management against those municipalities that fail to implement the packages.
- 9.6. The Municipal Infrastructure Support Agent should furnish the Portfolio Committee with a progress report relating to its intervention in the water crisis experienced at Ward 20, Dumezweni, Port St Johns Local Municipality.
- 9.7. The Portfolio Committee should closely monitor the process of introducing the Traditional and Khoi-San Leadership Bill as an Executive Bill, as to ensure adherence to the Constitutional Court deadline.
- 9.8. After hearing the inputs of affected residents and conducting its own investigations, the Municipal Demarcation Board should ensure that it provides feedback by a certain deadline, as consultation without feedback is meaningless.
- 9.9. The Municipal Demarcation Board should submit to the Portfolio Committee a list of all the areas consulted in respect of the current municipal boundary determination and re-determination process. A list of the relevant contact people and the municipalities that are to be established or dis-established should also be enclosed.
- 9.10. The Portfolio Committee should engage National Treasury on funding provisions to enable the Municipal Demarcation Board and the CRL Rights Commission to decentralise and have at the very least, satellite offices in the provinces as this is where the services of these Constitutional Institutions are most needed.

Report to be considered.
