

REPORT OF THE AUDITOR-GENERAL

TO PARLIAMENT ON THE FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION OF THE NATIONAL PROSECUTING AUTHORITY FOR THE YEAR ENDED 31 MARCH 2008

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I was engaged to audit the accompanying financial statements of the National Prosecuting Authority (NPA) which comprise the appropriation statement, statement of financial position as at 31 March 2008, statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory notes, as set out on pages 70 to 112.

Responsibility of the accounting officer for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the modified cash basis of accounting determined by the National Treasury, as set out in accounting policy note 1 and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA) and the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998). This responsibility includes:
- designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error
 - selecting and applying appropriate

accounting policies

- making accounting estimates that are reasonable in the circumstances.

Responsibility of the Auditor-General

3. As required by section 188 of the Constitution of the Republic of South Africa, 1996 read with section 4 of the Public Audit Act, 2004 (Act No. 25 of 2004) (PAA) and section 36(4) of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998), my responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with the International Standards on Auditing and *General Notice 616 of 2008, issued in Government Gazette No. 31057 of 15 May 2008*. Because of the matters discussed in the Basis for disclaimer of opinion paragraphs, however, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis of accounting

4. The NPA's policy is to prepare financial statements on the modified cash basis of accounting determined by the National Treasury, as set out in accounting policy note 1.

Basis for disclaimer of opinion Irregular, fruitless and wasteful expenditure

5. The current supply chain environment within the NPA is not conducive for maintaining an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective, as required by section 38(1)(a)(iii) of the PFMA. This has resulted in the disclosure of the cumulative amount of R423 million worth of irregular expenditure awaiting condonement as disclosed in note 24 to the financial statements. Audit evidence obtained indicates that this figure is understated by a potential R86 million. The NPA also failed to disclose fruitless and wasteful expenditure of R1 million identified during the audit process. Furthermore, due to possible fraudulent activities having been identified, a full scale investigation into procurement at the NPA



has been launched. The outcome of the investigation cannot presently be determined and it is therefore uncertain whether and to what extent the irregular expenditure figure mentioned above will be affected when this investigation is concluded.

Tangible assets

6. The following misstatements were identified resulting mainly from ineffective asset management:
- the closing balance for tangible capital assets of R165 million as disclosed in note 27 to the financial statements could not be supported by an asset register;
 - minor assets disclosed in note 27 to the financial statements are understated by an estimated amount of R11 million; and
 - finance lease assets representing a material amount in relation to total assets were not disclosed in note 27 to the financial statements.

As a result of these matters, I was unable to satisfy myself as to the existence, completeness, valuation and rights and obligations of the closing balance of the assets as disclosed in note 27 to the financial statements.

Leave entitlement

7. The entity does not have adequate policies and procedures in place to address the capturing and submission of leave forms, as required by section 38(1)(a)(i) of the PFMA resulting in the following control weaknesses:
- a backlog in the capturing of manual leave forms has resulted in the leave records on the PERSAL system being incomplete; and
 - a large number of leave transactions captured on the E-leave system did not appear on the PERSAL system.

As a result of these matters, I was unable to satisfy myself as to the completeness and valuation/accuracy of the leave provision and leave gratuities disclosed in notes 22 and 7 to the financial statements respectively.

Intangible assets

8. A comprehensive software and intangible asset policy addressing the budgeting, planning, development, testing, ownership (and safeguarding) and roll-out phases of software development as well as the related costing and

cost allocation of the software development, has not been drafted and approved by the NPA, as required by section 38(1)(a)(i) of the PFMA, resulting in the following deficiencies:

- the closing balance of R40 million as disclosed in note 28 of the financial statements could not be supported with an asset register;
- the statement of financial performance includes intangible asset purchases amounting to R2 million that were erroneously classified and treated as current expenditure; and

As a result of these matters, I was unable to satisfy myself as to the existence, completeness and valuation of the intangible capital assets as stated in note 28 to the financial statements.

Prepayments and advances

9. Prepayments and advances of R22 million, disclosed in the statement of financial position, originated from the sale and leaseback transaction in the 2005/06 financial year. The amount in question is not recoverable from the lessor and the balance disclosed on the statement of financial position is therefore overstated by R22 million. As a result of the above transaction, departmental revenue of R22 million as disclosed in note 14 to the financial statements has to date not been surrendered to the National Revenue Fund as required by section 11(1)(a) of the PFMA.

Financial management

10. The present systems and procedures to effectively manage expenditure in terms of the budget have serious limitations, which has resulted in funds being spent very late in the financial year. R100 million was spent in March 2008 compared to R56 million in November 2007 which was the highest amount spent during any other month during the year under review. The reprioritisation of expenditure by the Department of Justice and Constitutional Development was approved late in March 2008, resulting in NPA reporting a bank overdraft of R29 million as the reprioritised funds were not available at year end.



Lease commitments

11. The following misstatements were identified:
- Cell phone lease commitments amounting to R6,5 million have been incorrectly classified as a commitment in the financial statements instead of a finance lease commitment. The finance lease commitments as disclosed in note 23 to the financial statements are therefore understated by R6,5 million and commitments overstated by the same amount; and
 - Finance lease commitments as disclosed in note 23 to the financial statements is understated by a further R6,4 million due to the incorrect calculation of these commitments.

Housing guarantees

12. The NPA does not have any system of control in place to ensure the accuracy and completeness of housing guarantees recorded on the PERSAL system. Discrepancies identified included, amongst others, active housing guarantees on the system for officials who resigned and who were transferred to other national departments. In addition to the above, the cumulative amount of guarantees per the PERSAL system did not agree to the closing balance for housing guarantees of R4,7 million disclosed in note 19 to the financial statements.

As a result of these matters, I was unable to satisfy myself as to the existence, completeness, valuation and rights and obligations pertaining to housing guarantees disclosed in the financial statements.

Disclaimer of opinion

13. Because of the significance of the matters described in the Basis for disclaimer of opinion paragraphs, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on the financial statements of the NPA. Accordingly, I do not express an opinion on the financial statements.

Emphasis of matter

I draw attention to the following matter:

Significant uncertainty

14. Interim approval has been granted by the Accountant-General for the NPA to prepare its own set of financial statements from the 2002 financial year. Since then no finality has been reached on the following critical matters, affecting the accountability and governance status of the NPA:

- clear definition of the duties of the accounting officer of the NPA;
- the listing of the NPA as an entity in terms of the PFMA; and
- the mechanism of funding for the NPA.

In its "Announcements, tablings and committee reports" dated Friday 8 February 2008 SCOPA has recommended that the matters mentioned above be finalised as a matter of urgency to ensure that the NPA realises its mandate. To date the status quo remains.

OTHER MATTERS

I draw attention to the following matters that relate to my responsibilities in the audit of the financial statements:

Internal controls

15. Section 38(1)(a)(i) of the PFMA states that the accounting officer must ensure that the department has and maintains effective, efficient and transparent systems of financial and risk management and internal control. The table below depicts the root causes that gave rise to the inefficiencies in the system of internal control, which led to the disclaimer of opinion. The root causes are categorised according to the five components of an effective system of internal control. In some instances deficiencies exist in more than one internal control component.

Table 13: Root causes

Reporting item	Control environment	Risk assessment	Control activities	Information and communication	Monitoring
Irregular and fruitless and wasteful expenditure	x				
Tangible assets			x		
Leave entitlement			x		
Intangible assets			x		
Prepayments and advances			x		
Financial management			x		
Lease commitments			x		
Housing guarantees			x	x	

Control environment: establishes the foundation for the internal control system by providing fundamental discipline and structure for financial reporting.
Risk assessment: involves the identification and analysis by management of relevant financial reporting risks to achieve predetermined financial reporting objectives.
Control activities: policies, procedures and practices that ensure that management's financial reporting objectives are achieved and financial reporting risk mitigation strategies are carried out.
Information and communication: supports all other control components by communicating control responsibilities for financial reporting to employees and by providing financial reporting information in a form and time frame that allows people to carry out their financial reporting duties.
Monitoring: covers external oversight of internal controls over financial reporting by management or other parties outside the process; or the application of independent methodologies, like customised procedures or standard checklists, by employees within a process.

Non-compliance with applicable legislation

16. Treasury Regulations (TR) were not complied with in the following respects:

- expenditure was approved by the delegated or authorised official without taking into account any limitations or conditions attached to the delegation or authorisation as required in terms of TR 8.2.2; and
- payments to service providers were not in all instances made within 30 days as is required in terms of TR 8.2.3.

17. The Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and Supply Chain Management Practice Notes issued in terms of section 76(4)(c) of the PFMA were not complied with in the following respects:

- tenders were not in all instances awarded to the supplier with the highest points;
- tender process was not in all instances followed for payments exceeding R200 000 (prior to 1 December 2007) and R500 000 (from 1 December 2007 onwards);
- goods were not procured from an approved database of suppliers; and
- goods and services above the value of R1 million (VAT included) and procured in terms of Treasury Regulation 16A6.4 were not in all

instances reported to the National Treasury and the Auditor-General.

18. Appointments were not in all instances approved by the delegated or authorised official as required in terms of chapter 3 of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998).

19. The National Strategic Intelligence Act, 1994 (Act No. 39 of 1994) was not complied with in the following respect:

- The National Intelligence Agency (NIA), in terms of section 2(b) of the above mentioned act, on 9 April 2003 had approved for the use of a service provider to perform technical surveillance counter measures (TSCM) services at the NPA for a period of 18 months. This service was subsequently subcontracted to another service provider who was not vetted or approved by the NIA; and
- NPA continued to utilise the subcontractor to perform TSCM services after the approved period by NIA.

Matters of governance

20. The PFMA tasks the accounting officer with a number of responsibilities concerning financial and risk management and internal control. Fundamental to achieving this is the implementation of certain key governance responsibilities, which I have assessed as follows:

Table 14: Matters of governance

Matters of governance	Yes	No
Audit committee		
The department had an audit committee in operation throughout the financial year.	x	
The audit committee operates in accordance with approved, written terms of reference.	x	
The audit committee substantially fulfilled its responsibilities for the year, as set out in section 77 of the PFMA and Treasury Regulation 3.1.10.	x	
Internal audit		
The department had an internal audit function in operation throughout the financial year.	x	
The internal audit function operates in terms of an approved internal audit plan.	x	
The internal audit function substantially fulfilled its responsibilities for the year, as set out in Treasury Regulation 3.2.		x
Other matters of governance		
The annual financial statements were submitted for audit as per the legislated deadlines per section 40 of the PFMA.	x	
The financial statements submitted for audit were not subject to any material amendments resulting from the audit.		x
No significant difficulties were experienced during the audit concerning delays or the unavailability of expected information and/or the unavailability of senior management.	x	
The prior year's external audit recommendations have been substantially implemented.		x
SCOPA resolutions have been substantially implemented.		x

OTHER REPORTING RESPONSIBILITIES

REPORT ON PERFORMANCE INFORMATION

21. I have reviewed the performance information as set out on pages 20 to 21.

Responsibility of the accounting officer for the performance information

22. The accounting officer has additional responsibilities as required by section 40(3)(a) of the PFMA to ensure that the annual report and audited financial statements fairly present the performance against predetermined objectives of the department.

Responsibility of the Auditor-General

23. I conducted my engagement in accordance with section 13 of the PAA read with *General Notice 616 of 2008, issued in Government Gazette No. 31057 of 15 May 2008.*

24. In terms of the foregoing my engagement included performing procedures of an audit nature to obtain sufficient appropriate evidence about the performance information and related systems, processes and procedures. The procedures selected depend on the auditor's judgement.

25. I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for the audit findings reported below.

Audit findings (performance information)

Non-compliance with regulatory requirements

26. The following instances of non-compliance with regulatory requirements were identified:

- The accounting officer of the NPA did not prepare a strategic plan that is consistent with the period covered by the medium term expenditure framework for approval by the relevant executive authority, as required by Treasury Regulation 5.1.1. Contrary to this requirement, the strategic plan prepared by the NPA covers the period to the 2020 financial year; and
- The strategic plan of the NPA did not include measurable objectives, expected outcomes, programme outputs, indicators (measures) and targets of the entity's programmes, as required by Treasury Regulation 5.2.3(d).

Measurable objectives not consistent

27. I draw attention to the fact that the five measurable objectives reported on in the annual report of the NPA are materially inconsistent when compared with the predetermined objectives as per the strategic plan.

OTHER REPORTS

Performance audit

28. A performance audit was conducted during the year under review concerning the NPA's use of consultants and single source appointments for the period April 2005 to September 2007. The report has not been finalised as yet.

APPRECIATION

29. The assistance rendered by the staff of the NPA during the audit is sincerely appreciated.

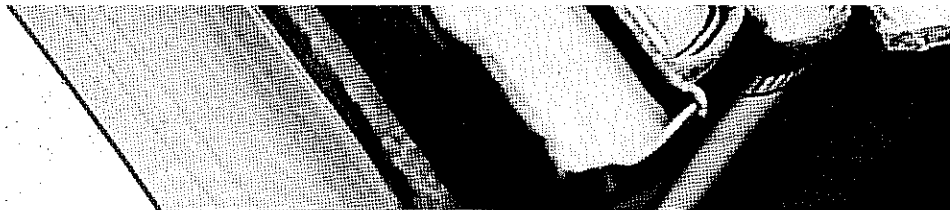
Auditor-General

Pretoria

31/07/2008



A U D I T O R - G E N E R A L



REPORT OF THE AUDITOR-GENERAL

TO PARLIAMENT ON THE FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION OF THE CRIMINAL ASSETS RECOVERY ACCOUNT FOR THE YEAR ENDED 31 MARCH 2008

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I was engaged to audit the accompanying financial statements of the Criminal Assets Recovery Account which comprise the statement of financial position as at 31 March 2008, statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory notes, as set out on pages 126 to 132.

Responsibility of the accounting officer for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the modified cash basis of accounting determined by the National Treasury, as set out in accounting policy note 1.1 and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA). This responsibility includes:

- designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error
- selecting and applying appropriate accounting policies
- making accounting estimates that are

reasonable in the circumstances.

Responsibility of the Auditor-General

3. As required by section 188 of the Constitution of the Republic of South Africa, 1996 read with section 4 of the Public Audit Act, 2004 (Act No. 25 of 2004) (PAA), my responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with the International Standards on Auditing and *General Notice 616 of 2008, issued in Government Gazette No. 31057 of 15 May 2008*. Because of the matters discussed in the Basis for disclaimer of opinion paragraphs, however, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis of accounting

4. The department's policy is to prepare financial statements on the modified cash basis of accounting determined by the National Treasury, as set out in accounting policy note 1.1.

Basis for disclaimer of opinion Asset Forfeiture Unit case register

5. The Asset Forfeiture Unit case register is the only source for the identification and monitoring of court cases that will affect the Criminal Asset Recovery Account. As at 31 March 2008 this case register contained numerous cases for which the status was unknown. The total monetary value declared confiscated and forfeited in these cases, dating back from 2000, that had not been followed up amounted to R163 million. It is therefore uncertain whether and to what extent the Criminal Asset Recovery Account's financial statements could have been affected by these cases.

Forfeiture assets and monies receivable from confiscation and forfeiture orders

6. The Criminal Assets Recovery Account failed to disclose forfeiture assets and monies receivable from confiscation and forfeiture orders in the financial statements. Furthermore the Criminal Assets Recovery Unit did not maintain an asset register in order to account for all the assets forfeited to the State. As a result of

the incomplete case register mentioned in the preceding paragraph it is not possible to quantify the effect of the non-disclosure.

Disclaimer of opinion

7. Because of the significance of the matters described in the Basis for disclaimer of opinion paragraphs, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on the financial statements of the Criminal Assets Recover Account. Accordingly, I do not express an opinion on the financial statements.

Other Matters

I draw attention to the following matters that relate to my responsibilities in the audit of the financial statements:

Internal controls

8. Section 38(1)(a)(i) of the PFMA states that the accounting officer must ensure that the department has and maintains effective, efficient and transparent systems of financial and risk management and internal control. The table below depicts the root causes that gave rise to the inefficiencies in the system of internal control, which led to the disclaimer of opinion. The root causes are categorised according to the five components of an effective system of internal control. In some instances deficiencies exist in more than one internal control component.

Table 15: Root Causes

Reporting item	Control environment	Risk assessment	Control activities	Information and communication	Monitoring
Asset Forfeiture Unit case register			x		
Forfeiture assets and monies receivable from confiscation and forfeiture orders			x		

Control environment: establishes the foundation for the internal control system by providing fundamental discipline and structure for financial reporting.
Risk assessment: involves the identification and analysis by management of relevant financial reporting risks to achieve predetermined financial reporting objectives.
Control activities: policies, procedures and practices that ensure that management's financial reporting objectives are achieved and financial reporting risk mitigation strategies are carried out.
Information and communication: supports all other control components by communicating control responsibilities for financial reporting to employees and by providing financial reporting information in a form and time frame that allows people to carry out their financial reporting duties.
Monitoring: covers external oversight of internal controls over financial reporting by management or other parties outside the process; or the application of independent methodologies, like customised procedures or standard checklists, by employees within a process.

Matters of governance

9. The PFMA tasks the accounting officer with a number of responsibilities concerning financial and risk management and internal control. Fundamental to achieving this is the

implementation of certain key governance responsibilities, which I have assessed as follows:

Table 16: Matters of governance

Matter of governance	Yes	No
Audit committee		
The department had an audit committee in operation throughout the financial year.	x	
The audit committee operates in accordance with approved, written terms of reference.	x	
The audit committee substantially fulfilled its responsibilities for the year, as set out in section 77 of the PFMA and Treasury Regulation 3.1.10.	x	
Internal audit		
The department had an internal audit function in operation throughout the financial year.	x	
The internal audit function operates in terms of an approved internal audit plan.	x	
The internal audit function substantially fulfilled its responsibilities for the year, as set out in Treasury Regulation 3.2.	x	
Other matters of governance		
The annual financial statements were submitted for audit as per the legislated deadlines in section 40 of the PFMA.	x	
The financial statements submitted for audit were not subject to any material amendments resulting from the audit.		x
No significant difficulties were experienced during the audit concerning delays or the unavailability of expected information and/or the unavailability of senior management.	x	
The prior year's external audit recommendations have been substantially implemented.		x
SCOPA resolutions have been substantially implemented.		x

APPRECIATION

10. The assistance rendered by the staff of the Criminal Asset Recovery Unit during the audit is sincerely appreciated.

Auditor - General

Pretoria

31/10/2008



AUDITOR - GENERAL