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AN ANALYSIS OF THE 2011/12 DEPARTMENT OF LABOUR'S ANNUAL REPORT

A. Overview

During 2011/12 financial year, 365 000 additional jobs were created in 2011. At the beginning of the financial year, unemployment rate was at 25 per cent, however by the end of the fourth quarter, unemployment had dropped to 23.9 per cent. Gross domestic product (GDP) growth is estimated to have increased to 3.1 per cent in 2011. The general economic performance was positive but the economy was still constrained due to stagnation in the production sector and a number of strikes. Added to domestic challenges was the negative global economic performance.

The entire 2011/12 financial year has been dominated by the impact of the deteriorating global economy, in particular the ongoing European debt crisis. Both the World Bank and the International Monetary Fund have recently lowered their global growth forecast, projecting a slight recession for the Eurozone in 2012. Consequently, the South African Reserve Bank's forecast for 2012 growth is around 2.8 per cent, much lower than the previous year's 3 per cent.¹ As a result, this has had a negative impact on government's goal to fight unemployment, poverty and inequality.

However, an assessment of the South African labour market cannot ignore the racial and gender dimensions inherited from apartheid. They remain intact and, arguably, much of the marginal gains that have been made since 2003 have been eroded by the brief recession of 2009. While transformation of the South African labour market remains a top challenge, low productivity and sluggish economic growth, especially in labour-intensive industries make it difficult to fight unemployment and restructure apartheid employment patterns. As such, when compared with other emerging markets, South Africa's unemployment rates are far higher. In South Africa, too few people work. Only 41 per cent of adults between the ages of 18 and 60 years do work of any kind, whether full-time, part-time or informal. In comparable developing countries like Brazil and Malaysia, the rate of participation in the economy by working-age adults is around 66 per cent. In developed economies, such as the US and UK, it is 70 per cent.²

Therefore, given the broader picture within which the South African economy operates, it is important to assess labour market institutions within this context. The purpose of this brief is to analyse the 2011/12 Annual Report of the Department of Labour against its 2011 set targets. Most importantly, the assessment is made within the broader context of the Department's effort to achieve its objective of:

Playing a significant role in reducing unemployment, poverty and inequality through pursuing the objectives of full and productive employment and decent work for all including:

¹ Business Unity South Africa (2012)

² Patel, S.(2012)



employment creation and enterprise development; standards and rights at work including equality of opportunities; social protection; and social dialogue.³

B. Issues Raised by the Auditor-General (AG)

For the second consecutive year, the Department has maintained an unqualified audit opinion. Although the audit opinion has not remained unqualified on financial statements, predetermined objectives remain qualified. In addition, there has been a regression in terms of supply chain management and the Human Resources; asset and expenditure management remains unchanged.

Similar to the previous financial year, the AG has raised a number of areas for concern. These include:

Leadership

- The accounting officer did not effectively exercise oversight responsibility regarding compliance with laws and regulations and related internal controls relating to assets (including Public Private Partnerships (PPP)), supply chain management and reporting on predetermined objectives.
- Management did not establish an Information Technology (IT) governance framework that supports and enables the Department to report efficiently on its activities, including reporting on predetermined objectives which resulted in the Information and Communications Technology (ICT) strategy for the Department and its entities reporting to it not being developed and approved.
- Lack of monitoring policies for entities reporting to the Department executive authority.⁴

Financial and Performance Management

- Management did not prepare adequate, regular and complete financial and performance reports that are supported and evidenced by reliable information.
- Material differences which were not identified by management prior to submission of the financial statements were identified between the financial statements and the supporting schedules for PPP assets, lease commitments, commitments and accruals.
- Further, differences were noted on the figures reported in the annual performance report and the auditor's recalculation.⁵

Governance

³ National Treasury (2012)

⁴ Auditor-General (2012)

⁵ *ibid*



- Management did not implement adequate risk management activities to ensure that IT governance risks of the Department are addressed.
- The ICT strategy and policies were not adequate.
- The business continuity plan which should form a basis for the IT governance framework to direct the positioning of IT, resource requirements, risk and internal control management was not developed and implemented.⁶

The Department has four programmes, namely: Administration, Inspection and Enforcement Services (IES), Public Employment Services (PES) and Labour Policy and Labour Market Programmes. In terms of performance targets, the Department has not been consistent in its achievement of targets.

Measurability of targets

- Twenty five per cent of strategic priorities relevant to the Public Employment Services Programme were not specific in clearly identifying the nature and the required level of performance.
- A total of 28 per cent of the targets related to the IES were not time bound in specifying a time period or deadline for delivery.
- A total of 33 per cent reported indicators relevant to IES were not accurate when compared to source information. This was due to lack of monitoring, review, standard operating procedures and information systems for the recording of actual achievements by senior management.
- A total of 22 per cent and 47 per cent of the indicators relevant to IES and Public Employment Services respectively were not verifiable in that valid processes and systems that produce the information on actual performance did not exist.⁷

Reliability of Information

- A total of 47 per cent of the actual reported performance relevant to the selected programmes was not valid, accurate or complete when compared to the source information

Achievement of Planned Targets

- Of the total number of planned targets, only 82 were achieved during the year under review. This represents 59 per cent of the total planned targets that were achieved during the year under review.

While the Department has improved in addressing numerous issues related to financial management and received an unqualified opinion, it still struggles to improve on

⁶ Ibid

⁷ Ibid



predetermined objectives (performance targets) as it received a qualified opinion in this area.

Summary of Key Issues from the Auditor-General

- Whereas the Department has maintained an unqualified audit opinion, there are emerging risks in comparison to the prior year. There is a general increase in non-compliance with laws and regulations relating to SOM processes, HR management and contract management, non-compliance with the PFMA, National Treasury Regulations and DPSA.
- Significant internal control weaknesses are not addressed on time, impacting on the goal to achieve clean administration and thus the mandate of the portfolio.

C. Programme Performance

Programme1: Administration

The following units fall under this programme: Ministry, Office of the Director-General (DG), Chief Operations Officer (COO), Internal Audit, Risk Management, Security Services, Communication, Human Resources Management (HRM), Chief Information Officer (CIF), Legal Services and Chief Financial Officer (CFO).

Over the years, the Administration programme has become critical given the institutional incapacity of the Department to deliver on critical services due to lack of proper management of assets and contracts and the general poor resourcing of key programmes. In response to these challenges, the Department established two key posts to further enhance institutional capacity, i.e. the Chief Operations Officer (COO) and Chief Information Officer (CIO).

The Department has 421 service points spread across the country. These include 126 labour centres, 31 satellite offices, 19 mobile offices, 153 visiting points, and also services provided in the 45 Thusong Service Centres. In order to deliver on its mandate of public employment services and inspectorate services, the Department has in the Provinces, included at service points, a staff complement of over 5 767.⁸ In order to improve service delivery the Department has to ensure that access point staff are empowered to deliver on the entire suite of the Departments' services and information, inclusive of employment services, social security, labour protection services and dispute resolution etc.⁹

Currently, the most critical projects under this programme are:

- Organisational Review and Design;

⁸ Department of Labour (2012)

⁹ Ibid



- Information technology Transition;
- Improve service delivery access and quality; and
- Management of organisational Performance Information.

Issues for Consideration

- Given delays in the filling of posts due to a slow vetting process, the Department should state measures taken to address this challenge.
- The Department should state the vacancy rate in Provinces. KwaZulu/Natal, Eastern Cape, Western Cape and Mpumalanga had high vacancy rates. Have these been reduced?
- The Department should state the role of the Chief Operations Officer (COO). It is important to guard against the overlap of functions of the Human Resources Management division and the COO's office.
- Taking into consideration the Committee's oversight visits to provinces and the DG's report in 2011 regarding interaction with the Department's staff, what has been done so far to address challenges that were identified?
- One of the biggest challenges identified by the Committee during oversight visits to labour centres, has been the lack of resources for staff sent to visiting points. What measures have been implemented to address lack of resources at the visiting points?
- What measures have been implemented to address low staff morale in some labour centres during the 2011/12 financial year?

Programme 2: Inspectorate and Enforcement Services (IES)

The purpose of this programme is to realise decent work by regulating non-employment and employment conditions through inspection and enforcement in order to achieve compliance with all labour market policies.¹⁰

In the Department's 2011-2016 Strategic Plan, the IES unit listed the following challenges:

Lack of capacity and requisite competencies within inspectorate

- There is lack of appropriate training which includes induction of new recruits into IES and functional competence based on training programmes for new and existing inspectors.
- No sufficient funding for tools of trade for inspectors such as: motor vehicles, cellular phones, lap tops and other technical equipment.

- In order to address these challenges, the Department was set to adapt an ILO modular to the South African situation and implement it across the country.

¹⁰ Ibid



- An induction and competence based programme would be developed and implemented in line with departmental HRD Strategy
- Requests for funding would be made through the Medium Term Expenditure Framework (MTEF) process to provide the much needed tools of trade for inspectors where reprioritisation is required this will be done (page 23 of the 2011-2016 Strategic Plan)
- What has been done to address these challenges? Has the ILO module been developed? Has the induction programme been developed and implemented? And, did the IES request more funding during the MTEF process and did it receive more funding?

Lack of Inspection and Enforcement Manual and Poor Enforcement of Legislation

- The absence of an inspection and enforcement manual and a standard operating procedure will result in non-uniform procedures applied and implemented by inspectors in different provinces. This will have an effect of poor enforcement of legislation as a result of poor inspections and investigations.
- There is also no structured relationship between the DoL and the Department of Justice and Constitutional Development to ensure speedy and successful prosecution of cases brought before courts by labour inspectors.

- According to the Department, a Standard Operating Procedure and Inspection and Enforcement Manual have been developed and were finalised in April 2011
- Given the above mentioned challenges, what steps have been taken to formalise a relationship with the Department of Justice and Constitutional Development?
- Has the training programme for inspectors on gathering evidence and investigations been agreed upon with the Justice College and Legal Services, as stated in the Strategic Plan? (2011-2016 Strategic Plan, page 24)

No Inspection and Enforcement Case Management System

- The IES requires an Information Technology System to ensure case management which includes registrations, referrals and document management. The IES branch has been operating without a reliable and efficient technology for the past few years. This has resulted in unreliable data, poor reports generated, and poor management of cases and feedback to clients.

- To address the challenge, the Department set to explore other ways and means of procuring an efficient IT system which will be best suited for the business of inspection and enforcement

- What measures did the IES branch take to procure an efficient IT system which is best suited for the business of inspection and enforcement?



High Vacancy Rate

The unit has experienced high staff turnover due to inspectors leaving for better remuneration elsewhere, the Department has been unable to retain highly skilled and qualified inspectors due to the low salaries paid compared to market related salaries in the private sector. This affects performance and visibility of labour inspectors.

The Department has reviewed the job profiles of inspectors and a new structure with commensurate salaries will be developed and implemented, funds permitting, and a new cadre of inspectors will be appointed over the years. Further, the filling of vacancies will be expedited.

- Has a new structure been developed in the IES branch?

No Coherent Communication Strategy

There is lack of a coherent communication strategy to ensure advocacy and education of employers and employees about labour legislation. This results in employees not knowing their rights on employment conditions and standards, no respect of worker rights, non-existent health and safety standards and employers not knowing their obligations.

- To address these challenges the Department set to develop an advocacy and education programme to create awareness among employees and employers on their rights and obligations as provided for by legislation
- The branch is set to hold information sessions and seminars with all stakeholders in targeted industries
- Was this achieved? If not, why was it not achieved?

While the IES programme is one of the core programmes of the Department, it has not achieved a number of its targets. In addition, while the programme has identified a number of key challenges and risk areas, these have not been translated into specific targets. Therefore, there are challenges when analysing actual performance of the programme. It is therefore advisable that the IES programme outline targets, especially on administrative challenges, that hamper on the inspectors' operations.

Programme3: Public Employment Services (PES)

The purpose of the Public Employment Services Programme is to provide assistance to companies and workers to adjust to changing labour market conditions and to regulate private employment agencies.



• The programme objective excludes the role of the PES in registering and placing unemployed people.

Entities under this programme include: Management and Support Services, Employer Services, Registration and Placement Services, Designated Groups Special Services, Sheltered Employment Factories and Subsidies to Designated Workshops, Productivity South Africa, Unemployment Insurance Fund, Compensation Fund and Training of Staff (PES).

Some of the challenges that were listed by this programme include:

- Inadequate communication and marketing strategies of the Department bills and objectives;
- Inadequate IT support;
- Resistance to the Employment Services Bill by external stakeholders;
- Resistance to collaborate with the Department by Private Employment agencies;
- An incomplete Sheltered Employment Factories' Business Case.

• How has the Department addressed these challenges?

A number of targets were not achieved under this programme. Part of the challenge relates to legislation that has not yet been finalised. Therefore, for both the PES and SEF the biggest challenge has been clarity on the policy framework. Some of the targets not met include:

Target	Actual Performance	Reason for Variance
Employment services finalised by 70%	Bill currently at NEDLAC	Delays arising from stakeholder consultation process
50% of job seekers assessed and profiled	40% of job-seekers were assessed and profiled	Candidates not turning up for appointments for assessment
498 000 job seekers placed relative to opportunities	Placed 96 505 job-seekers	High percentage of registered work-seekers with low level skills to match registered opportunities
1 500 private employment agencies registered	1 162 Private Employment Agencies registered	Some have cancelled registration, others licences expired and not reviewed, Insufficient legal instrument to enforce registration and



	Youth 28 339 Women 17 055 PWDs 608	deregistration of PEAs low skills levels of registered candidates and insufficient opportunities
	Only 0.67% increase in sales was achieved. No additional people with disabilities were employed	Government not placing orders with SEF
	No learners were recruited for training	SEF was not accredited as an institution of learning
	15 165 jobs saved	Insufficient funding to save jobs

Source: Annual Report 2011/12

Issues to consider

- Understanding the skills challenge in the country, some targets should be revised as this challenge will not change anytime soon.
- In order to increase SEF products sales by government departments, a political intervention should be taken by the Minister of Labour, Treasury, Public Service and Administration and the Presidency. Further, the issue should be tabled before NEDLAC given the potential central role that SEF can play in employment and training of PWDs.

Programme4: Labour Policy and Industrial Relations

The purpose of the programme is to facilitate the establishment of an equitable and sound labour relations environment and the promotion of South Africa's interests in international labour matters through research, analysing and evaluating labour policy, and providing statistical data on the labour market, including providing support to institutions that promote social dialogue.

The programme consists of the following sub-programmes: Management and Support Services, Strengthen Civil Society, Collective Bargaining, Employment Equity and Standards, Commission for Conciliation Mediation and Arbitration, Research Policy and



Planning, Labour Market Information and Statistics, International Labour Matters and National Economic Development and Labour Council.

- Regarding the establishment of a provident fund for domestic workers and farm workers, was the Department not consulted by Treasury in the initial stages of formulating the model for the fund? At what stage was the Department consulted and what progress has been made so far?

D. Budget Expenditure 2011/2012 Financial Year

The Department was originally allocated R1 981 458 000 in 2011/12 financial year. The allocation included the R599 402 000 provision in respect of transfer payments. During the adjustment period, the budget was increase by 1.81 per cent, increasing the total budget to R2 017 383 000. The total budget utilisation was 99.5 per cent, which was an underutilisation of R10 261 million (0.5 per cent).

Underutilisation is reflected under the following economic classifications	
	R 609
	R 5 953
	R 620
	R 3 079
Total	R10 261

Source: Annual Report 2011/12

Under spending on Payments for Capital Assets and Goods and Services is due to less than anticipated orders being processed for the procurement of new office furniture and equipment.

Under spending on transfers and subsidies is attributed to less than anticipated expenditure by the National Councils for the Blind, Physical Disabled and the Deaf Federation of South Africa.

The Department expected to pay for SAPS VIP Police, NIA and Emergency Medical Services during the 12th ILO African Regional Meeting, however, when stakeholders submitted their claims in terms of services rendered, the final amounts were much lower than what was initially projected.

Virement Applied

Programme	Shifted to	R 000
2. Inspection and Enforcement	1. Administration	R3 541



	1 Administration	R 2 090
	1 Administration	R 2 947
		R 3 573
	3 Public Employment Services	R10 000
		R10 000

Source: Annual Report 2011/12

According to the Department, an amount of R10 million was shifted from Programme 2 Inspection and Enforcement Services (Compensation of Employees) to Programme 3 Public Employment Services (Transfers and Subsidies) in order to increase the provision made in respect of the SEF, aimed at funding operational losses of the SEF.

- The virement was approved by Treasury in accordance with the Regulation. The Department has stated that the virement has had no negative impact on service delivery. However, on page 45 of the Annual Report, the IES programme did not meet the target to roll out the Roving Safety Representative programme to Mpumalanga and Limpopo due to budgetary constraints.
- Given challenges that the IES faces due to lack of resources and tools of trade to conduct quality inspections, any virement processed from this programme raises concerns about the Department's priority towards decent work.

Irregular Expenditure

The Department incurred irregular expenditure of **R15 688 60.54 million** with regards to the following:

- Expenditure for casual labourers not approved in accordance with Delegation - R 78 000.
- Correct procurement procedure not followed - R1 144 million.
- Inspectors wrongful remuneration – R1 240 million.
- Expenditure for Suppliers not according to SCM prescripts- R1 620 million.
- Accenture to assist the Department with IT related services – R11 606.

The Department should explain how the R10 million was incurred. How was the irregular expenditure of R11 606 million to Accenture incurred?



E. Human Resources Management

In assessing organisational performance, it is important to evaluate the state of its internal environment, i.e. its people. Although sometimes the picture depicted by figures is not a true reflection of the state of the organisation, but it certainly raises legitimate curiosities and therefore should be queried.

During the 2011/12 financial year, the Department had a staff complement of 7 057. A total of 184 are PWDs.

2011/12 Terminations

Occupational Band	Number
Unskilled and defined decision making	16
Senior Management	2
Top Management	1
Total	304

Source: Department of Labour Annual Report

While it is common for professionals to constantly search for new challenges, but the Department turnover rate within the three bands, i.e. professionally qualified, skilled technical and semi-skilled categories is noticeably high. Top reasons for staff to leave the Department include; resignation, transfer to other departments, retirement, death, etc.

- Does the Department have a retention strategy for the skilled occupational bands?
- What measures are there to transfer skills from the retiring staff to junior officials?

F. Outstanding Issues to be considered by the Committee

- During the 2011 BRRR, the Committee recommended that the Compensation Fund must commission a study on the reasons for reduction in claims payments to determine whether there is an increase in compliance levels or, on the other hand, poor reporting from employers. In addition, the study must be able to reflect on sector compliance and



no-compliance in reporting workplace injuries. The Fund should therefore report to the Portfolio Committee whether this recommendation has been fulfilled.¹¹

- The Committee recommended that due to an increasing demand for the CCMA's services, the Department and the CCMA should a sustainable funding model for the entity. The CCMA and the Department should report back to the Committee on their achievements in this regard.¹²
- The Committee recommended that the Department's Strategic Plan must have measurable objectives that are quantifiable and easy to evaluate. Therefore, the Department should report on how this has been implemented.¹³

G. Conclusion and Recommendations

- The Department of Labour has a critical role to play to stabilise the labour market through sound labour policies that not only ensure peaceful workplace relations but that also sustain employment creation. As such, the Department has the responsibility to ensure efficiency and effectiveness in delivering services to the people through proper oversight over its entities.
- The Department should take measures to improve on performance targets and performance indicators by ensuring that reported information is measurable and reliable. The Portfolio Committee's main focus should be on the Inspection and Enforcement Services, Public Employment Services and the Compensation Fund.
- The Committee should closely monitor the PPP contract of Siemens as it draws to an end and ensure that there is smooth handover from Siemens to the Department. Moreover, in ensuring that the Department builds internal IT capacity, the Committee should oversee that qualified and competent staff are recruited.
- The Committee should ensure that the Department plays a role in overseeing the Compensation Fund (CF) in the turnaround its performance. The Department's accounting officer should play a closer role in influencing and steering the Fund's leadership to achieve positive results. In addition, the Department's entities must share good practices in order to assist the Fund to improve on audit outcomes.
- The Committee should hold quarterly meetings with the Department to review and monitor high-risk areas such as procurement processes, Information Technology and Human Resources Management.
- The Committee should closely monitor performance of NEDLAC as concerns have been raised.
- The Committee should monitor the use of consultants by the Department and entities. Where consultants are used, there should be a transfer of skills to permanent staff. Therefore, the Committee should ensure that there are comprehensive programmes to ensure transfer of skills.
- The Committee should invite the Department's internal audit committee to verify information presented before it.

¹¹ Portfolio Committee on Labour (2011)

¹² Ibid

¹³ Ibid



- Through oversight, the Committee should ensure sharing of good practices attained by other entities within the portfolio to assist the CF and NEDLAC to improve audit outcomes.

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