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**SUBMISSION TO THE COMMISSION OF INQUIRY INTO THE  
FINANCES OF THE EASTERN CAPE PROVINCIAL  
ADMINISTRATION**

**BY THE PUBLIC SERVICE ACCOUNTABILITY MONITOR (PSAM),  
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**15 February 2006**

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## Section 1 – Overview of PSAM Submission

### **1.1 Introduction**

Ten years into South Africa's new democracy the Eastern Cape Province remains the poorest in South Africa with the Human Science Research Council estimating that 72 percent of the population live below the poverty line.<sup>1</sup> Since 1994 the Eastern Cape provincial administration has acquired the reputation for being one of the worst managed and most inefficient provincial administrations in South Africa.

In a bid to improve financial management and increase levels of public service delivery, a number of national and provincial government interventions have been made in the province. Between 1998 and 2000 the national Cabinet invoked Section 100 of the Constitution, enabling it to assume direct control over failing provincial government departments.<sup>2</sup> When this intervention failed to improve the state of financial management the national Cabinet intervened again in 2003, when it dispatched an Interim Management Team (IMT) to assume direct management of over 80 percent of the Eastern Cape budget. In tandem with this initiative, a Joint Anti-Corruption Task Team (JACTT) was dispatched to investigate and prosecute a back-log of corruption and fraud cases involving the provincial administration.

On 8 April 2005 the Eastern Cape Premier, Nosimo Balindlela, announced the establishment of a Judicial Commission of Inquiry into the Finances of the Eastern Cape Provincial Government. The mandate of the current Commission includes an evaluation of public expenditure management and the investigation of alleged incidents of maladministration, fraud and corruption (relating to procurement) within the Eastern Cape Provincial Administration dating back to 1994.

The terms of reference of the Commission, as proclaimed in the Provincial Government Gazette, include investigating and reporting to the Premier on the following matters:

- the causes of over-expenditure by Provincial departments and the measures taken to prevent recurrences;
- contraventions of the Public Finance Management Act of 1999 (PFMA), by departments;
- financial transfers by provincial departments, their procurement processes, and conflicts of interest relating to procurement;

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<sup>1</sup> HSRC Review, Vol. 2, No. 3, Sep. 2004, *Poor Households sink deeper into poverty*. [http://www.hsrc.ac.za/about/HSRCReview/Vol2No3/index.html?news\\_roundup.html~content](http://www.hsrc.ac.za/about/HSRCReview/Vol2No3/index.html?news_roundup.html~content)

<sup>2</sup> During 1998 the national Department of Finance intervened in the province in terms of section 100(1) of the Constitution. It agreed to provide the province with an amount of R600 million to partially cover its deficit for the 1997/98 financial year. The provincial cabinet in return had to make a commitment to keep within budget and improve financial and cash flow management over the next 3-year medium term expenditure framework period. The section 100 intervention was subsequently extended to for another year to 31 March 2000. See *General Report of the Auditor General on the Accounts of the Eastern Cape Provincial Administration for the Financial Years 1997-98 and 1998-99*, PR62/2000, Part 2, sections 2.1 – 2.3.

- handling of cases of fraud and corruption relating to procurement cases in all provincial departments and public entities;
- the identity and details of provincial property and their management;
- reasons why Auditor-General's recommendations and forensic reports on provincial departments were not acted on.<sup>3</sup>

### 1.1.1 The PSAM Approach to Governance

The Public Service Accountability Monitor's (PSAM's) submission to the Commission is based on a *rights-based approach* to governance. This approach asserts that citizens are not passive users of public services but active holders of fundamental rights. It is premised on the principle that democratic states are by definition constitutionally committed to the progressive realisation of, among others, socio-economic rights to health care, education and social welfare within their available resources.

In terms of this perspective, citizens have a right to access public information on the effective management of public resources. Moreover, the various public institutions and officials responsible for managing public resources are 'duty-bound' to meet the public interest and are obliged to open themselves to public scrutiny.<sup>4</sup> Corruption and the misallocation of public resources constitute a violation of citizens' basic rights to public goods and services.<sup>5</sup>

The South African Constitution commits the state to the progressive realization of citizens' socio-economic rights to housing, health care, food, water, social security and basic and further education within its available resources. These rights are expressed in the following sections of the constitution:

#### 'Section 26

- (1) Everyone has the right to have access to adequate housing.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right.'

#### 'Section 27

- (1) Everyone has the right to have access to –
  - (a) health care services, including reproductive health care;
  - (b) sufficient food and water; and
  - (c) social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.'

#### 'Section 29

<sup>3</sup> See Provincial Gazette No.1440, Notice No. 39 of 2005 dated 7 October 2005.

<sup>4</sup> The very concept of accountability presupposes that citizens as 'account-holders' have superior rights of authority over state officials ('accountors') and have the right to demand answers and impose sanctions. See Mulgan, R, 2000, *Accountability: An ever expanding concept*. Public Administration, Vol 78, No. 3, 2000 (555-573).

<sup>5</sup> See Ackerman, John M, February 2004, *Human Rights and Social Accountability*, unpublished paper.

- Everyone has the right –
- (a) to a basic education, including basic adult education; and
  - (b) to further education, which the state, through reasonable measures, must make progressively available and accessible.<sup>16</sup>

In addition to the above rights, Section 195(1) of the Constitution requires that public administration must: make 'efficient, economic and effective use of resources'; respond to people's needs and encourage public participation in policy making; and 'be accountable'.<sup>7</sup>

Consistent with these constitutional provisions, social accountability is defined by the PSAM as the obligation of politicians and public officials to explain and justify their decisions and performance to Legislatures and citizens against set criteria, and to take steps to correct errors or faults in order to prevent their recurrence<sup>8</sup>.

The criteria against which the PSAM measures the performance of political office bearers and officials are drawn directly from the Constitution and the supporting legislation passed to give effect to the provisions of the constitutional framework.

### **1.1.2 Accountability and service delivery in South Africa**

It should be recognised that the primary site of public service delivery in South Africa is via its nine provincial administrations. Fifty eight percent of budgeted expenditure is administered by these provincial administrations, with 38 percent administered through national government departments.<sup>9</sup> In addition, it is important to note that (citing 2004 figures) 47 percent of all public officials (or 743 646 public servants) in South Africa are employed by its provinces. A disproportionate number of these officials (119 281) are employed by the Eastern Cape Provincial Administration.<sup>10</sup> Almost half of national budgeted expenditure is allocated to the payment of the salaries of South Africa's public officials.<sup>11</sup> For this reason, the focus of inquiries into the effectiveness of public expenditure management and service delivery in South Africa should be directed primarily toward its provincial administrations and the performance of provincial officials, and not national government departments (which play a more limited oversight role in respect of the actual delivery of public services).

The key pieces of legislation governing the efficient and effective delivery of public services in South Africa, particularly at provincial level, are the Public Finance

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<sup>6</sup> Constitution of the Republic of South Africa, Act 108 of 1996, Chapter 2.

<sup>7</sup> Ibid, Chapter 10, Section 195(1)(b), (e) and (f).

<sup>8</sup> Part of this definition of accountability derives from H Corder, S Jagwanth and F Soltau, 1999, *Report on Parliamentary Oversight and Accountability*, Chapter 2, South African Parliament.

<sup>9</sup> National Treasury, *Budget Review*, 2005, p. 127. These figures are for the 2004/2005 financial-year. The remaining 4 percent of the national budget is allocated to local government to supplement its locally raised revenues. See also National Treasury, *Provincial Budgets and Expenditure Reviews: 2001/02 – 2007/08*, Sep. 2005, Chapter 8, p. 123.

<sup>10</sup> National Treasury, *Provincial Budgets and Expenditure Reviews: 2001/02 – 2007/08*, Sep. 2005, Chapter 8, p. 119 and 125 respectively.

<sup>11</sup> In 2004/2005 R87.8 billion (or 47.4 percent) of the national budget was allocated to expenditure on personnel. See National Treasury, *Provincial Budgets and Expenditure Reviews: 2001/02 – 2007/08*, Sep. 2005, Chapter 8, p. 123.

Management Act of 1999, the Public Service Act of 1994, and the Division of Revenue Act (DORA), which is passed annually. This legislation is fleshed out by sets of supporting regulations and implementation guidelines which tightly regulate the entire public expenditure management and accountability cycle. This cycle involves the following individual elements: strategic planning; budgeting; expenditure; reporting; auditing; and oversight.

The PSAM monitoring and research methodology is linked closely to this cycle. It starts from government's constitutional obligation to ensure the delivery of socio-economic rights, and proceeds to ask what practical steps have been taken by governments in order to give effect to these rights via the delivery of public services.<sup>12</sup>

This methodology identifies a set of minimum information requirements necessary to judge the effective management of public services and the realisation of socio-economic rights (illustrated in Figure 1 below). These include information on the following:

- What resources are available to government departments (or contracted private companies) to provide public services
- What these departments (or private service providers) plan to do with these resources and how responsive these plans are to citizens' needs
- How effectively these departments (or private service providers) perform in the process of implementing these plans
- What corrective action is taken in response to the misallocation or abuse of public resources
- How satisfactorily departmental officials account to oversight bodies for their performance. What recommendations these bodies make to improve officials' performance, and whether these recommendations are implemented.

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<sup>12</sup> For instance, South Africa's constitutional commitment to provide effective healthcare within available state resources begs the following questions: What actual public healthcare resources exist? What plans have been made for their use, and how effectively have these plans been implemented to date? In the event that these plans have not been effectively implemented, what corrective action has been taken by implementing authorities and constitutional oversight bodies?



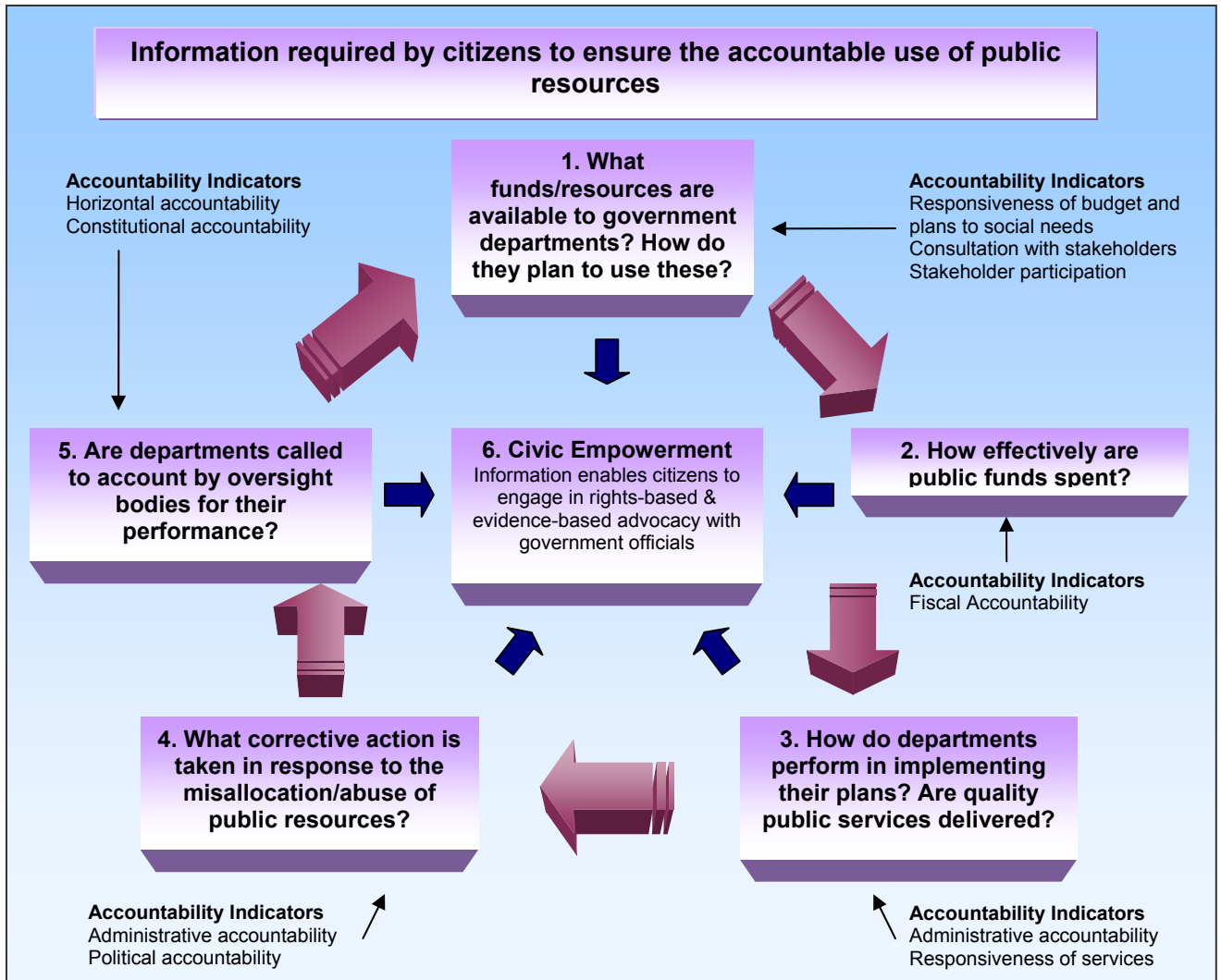


Fig. 1: Citizens' information requirements for social accountability

The PSAM methodology recognises that at every step in the process of administering public resources, a range of official documents are routinely produced by government departments for their own internal management purposes.<sup>13</sup> These documents provide a ready source of data and evidence to assess the social accountability of government departments and private service providers in meeting their constitutional obligations.<sup>14</sup>

<sup>13</sup> For instance, budgets are drawn up for each public service delivery programme at the beginning of each financial year. These budgets should be based on a clear account of the activities which the department intends to undertake during the year, as set out in its strategic plan. As the year progresses, government ministers require information on the implementation of these plans, among other things, to track the spending of the programme's budget (and avoid over- or under-expenditure). For this reason, senior managers are required to produce financial and performance reports on a quarterly, if not monthly, basis. These reports are necessary for the department's minister to report to audit institutions. In turn, these institutions table their own reports in parliaments and make written recommendations on how to improve the provision of services and the management of resources.

<sup>14</sup> This is particularly so given that the South African Constitution guarantees all citizens the right of access to 'any information held by the state', (see Sect 32(1) and in addition states with regard

The PSAM has developed a number of systematic monitoring and research activities which map onto, and which are designed to provide answers to, the above questions. These activities make use of official documents and involve the systematic collection and evaluation of official information sources as listed in the diagram below:

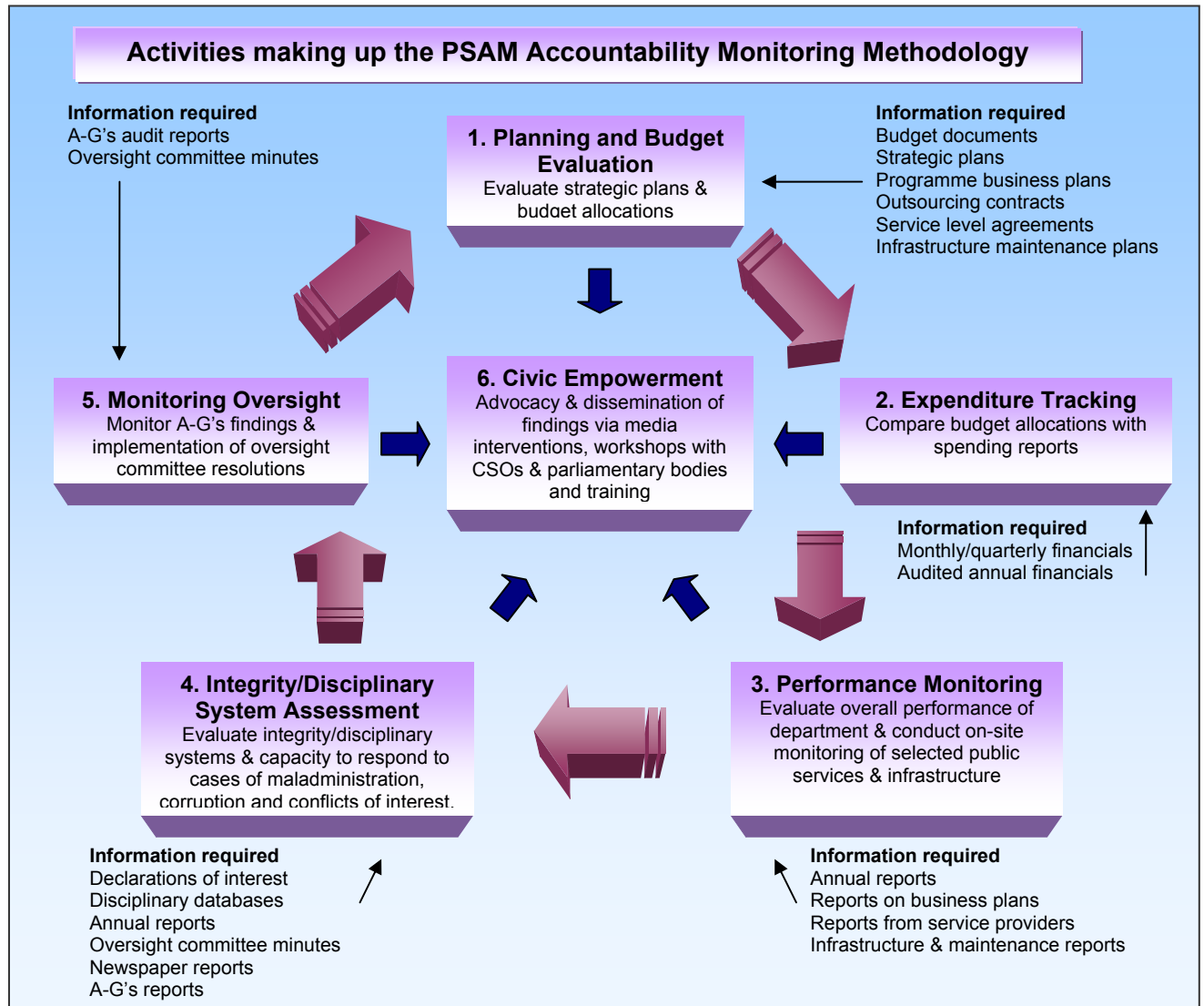


Fig. 2: PSAM monitoring methodology including information requirements and PSAM outputs.

Consistent with this approach the PSAM will provide the Commission with an evaluation of public expenditure management in the following Eastern Cape government service delivery departments:

- The Department of Housing and Local Government
- The Department of Education
- The Department of Health

to 'public administration' that 'transparency must be fostered by providing the public with timely, accessible and accurate information'. See Chapter 10, Section 195(1)(g).

- The Department of Social Development

On average, these departments collectively account for over 85 percent of the Province's total annual budget allocation.<sup>15</sup>

For purposes of this evaluation, five indicators of accountability and effectiveness will be used by the PSAM:

1. Resource allocation and strategic planning
2. Expenditure management
3. Internal monitoring of expenditure and service delivery
4. Legislative breaches and financial misconduct
5. Accountability to oversight bodies

This submission will contain a detailed evaluation of public expenditure management issues within each department during the period between 2000 and 2004 using the above indicators. It will also contain a list of recommendations for improving the financial management and performance of each of the above departments.

## **1.2 Overview of the PSAM Submission**

The following section will provide a brief overview of the PSAM's submission to the Commission. This includes an account of the key legislative provisions governing public expenditure management in provincial government departments. It also includes a summary of the PSAM's findings in respect of the performance of the Eastern Cape departments of Housing, Education, Health and Social Development in meeting these requirements. A detailed discussion of the individual performance of each department will follow in Sections 2, 3, 4 and 5 of this Submission.

### **1.2.1 Resource allocation and strategic planning**

#### **Requirement**

The ability of provincial government departments to deliver services effectively starts off with the strategic planning process. It is the responsibility of the provincial MEC in conjunction with the HOD to produce an effective strategic plan for their department. The process of drawing up this plan involves identifying the most pressing social needs of the population served by the department, identifying programmes and activities to practically address these needs, and then proposing a budget and identifying service delivery indicators for implementing programme activities. Only on this basis should departments' strategic plans be endorsed by the provincial Legislature, and a budget allocated to the department by the provincial Treasury.

In terms of the new Public Service Management Framework introduced in June 1999, all provincial service delivery departments are required to begin their strategic planning

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<sup>15</sup> For instance, in the 2001/2002 financial-year the combined budget allocation to the Departments of Housing, Education, Health, and Social Development (Welfare) was R18.1 billion whereas the total provincial budget allocation was R21.1 billion. This amounts to 85.4 percent of the provincial budget. See Eastern Cape Provincial Treasury, Budget Statement 2002/2003, 7 March 2002.

process at least 12 months before the start of the financial-year. By legislation a department's strategic plan must meet the following minimum requirements:

- It should identify the department's core objectives.<sup>16</sup>
- It should describe the activities and programmes necessary to realise these core objectives.<sup>17</sup>
- It should include measurable outputs for all programmes.<sup>18</sup>
- It should include information necessary to define the posts required to undertake the proposed activities and to determine the department's organisational structure.<sup>19</sup>
- It should include a human resource plan indicating the human resources required to meet the department's functions, including the number of employees, their competencies and training needs. It should also include a strategy 'to recruit, retain, deploy and develop' staff within the department's available budgeted funds.<sup>20</sup>
- It should include a detailed service delivery improvement plan identifying the department's 'customers' and their needs, and evaluate the department's capacity to meet these needs. This requires a process of extensive consultation with internal and external stakeholders.<sup>21</sup>

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<sup>16</sup> Public Service Regulations, 1999, Part 3, Section B. Strategic Planning, pp. 7-8.

<sup>17</sup> Ibid.

<sup>18</sup> The National Treasury Guide for Accounting Officers introduced in October 2000 states that departmental accounting officers 'should ensure that outputs are sufficiently quantified and appropriate service delivery indicators developed as soon as possible.' See Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 2 – Financial Planning, p. 10.

<sup>19</sup> Public Service Regulations, 1999, Part 3, Section B. Strategic Planning, pp. 7-8. Section B.2(a), (c) and (d) state that 'based on the strategic plan of the department, an executing authority shall (a) determine the department's organisational structure in terms of its core and support functions;... (c) define the posts necessary to perform the relevant functions while remaining within the current budget and medium term expenditure framework of her or his department, which shall constitute the department's approved establishment; and (d) utilise the human resource plan described in regulation IIID to plan to meet the resulting human resource needs.'

<sup>20</sup> Ibid, Part 3, Section D.1 (a), (b) and (c).

<sup>21</sup> The Public Service Regulations require departments to produce a Service Delivery Improvement Programme (SDIP) in which they identify who their 'customers' are, what services they provide to these 'customers', and what barriers prevent their 'customers' from accessing these services. The SDIP was clearly premised on an extensive process of consultation given that it was required to develop strategies to remove barriers to service delivery, improve communication with 'customers' and lead to the development of service standards. See, Public Service Regulations, 1999, Part 3, Section C.1 Service Delivery Improvement Programme, p. 8. Such consultation is required to meet the Constitutional principle that 'People's needs must be responded to, and the public must be encouraged to participate in policy making.' South African Constitution, Chapter 10 Public Administration, section 195(1)e. The need to involve both internal and external stakeholders in the strategic planning process was subsequently made explicit by National Treasury guidelines which state that departments must ensure stakeholder and community input. See Generic Format for Strategic Plans for Provincial Departments, National Treasury, 11 July 2002, Part A, Section 3.8, p. 10

### Performance

None of the strategic plans produced by the above departments in the period between 2000 and 2004:

- Include an accurate and up to date analysis of citizens' needs (including epidemiological trends and numbers of people requiring houses or access to clinics, nutrition, schools, or social grants).
- Show evidence of effective consultation with stakeholders (including management, trade unions, research institutions and Civil Society Organisations (CSOs)).
- Include accurate information on the service delivery environment (including the department's own organizational challenges and operational capacity).
- Include a coherent recruitment and retention strategy.

### Examples

- The strategic plans produced by the Eastern Cape Department of Housing consistently failed to identify the number and location of persons requiring housing in the province between 1999 and 2004 (See Section 2.1).
- The Education Department's strategic plans between 2002 and 2004 failed to take into account the impact of its excess staff on the Department's ability to stay within its personnel expenditure budget, nor the impact of its high administrative vacancy rate on the implementation of its programmes (See Section 3.1).
- The Eastern Cape Departments of Health failed to produce accurate, time-bound infrastructure and maintenance or capital expenditure plans between 1999 and 2004 (See Section 4.1).
- The Eastern Cape Department of Social Development failed to produce accurate and updated figures for the number and location of persons in the province in need of child support grants or those requiring other forms of social assistance, such as pensions and disability grants (See Section 5.1).

## **1.2.2 Expenditure Management**

### Requirements

Public expenditure incurred by provincial departments is subject to strict regulation by the PFMA (supported by Treasury Regulations and a range of implementation Guidelines) and the DORA (passed annually).

The PFMA makes the accounting officer (generally the HOD) within any government department responsible for 'the effective, efficient, economical and transparent use of resources' and requires her/him to take appropriate steps to prevent 'fruitless and wasteful expenditure', which is defined as 'expenditure which was made in vain and would have been avoided had reasonable care been exercised.'<sup>22</sup> Moreover, the PFMA states that before transferring any funds to an entity within or outside government an accounting officer 'must obtain a written assurance from the entity that that entity implements effective, efficient and transparent financial management and internal controls systems.'<sup>23</sup>

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<sup>22</sup> Public Finance Management Act, sections 38(1)(b) and (cii), Chapter 1 Definitions, p. 8.

<sup>23</sup> Ibid, section 38(1)(j)

The DORA also states that all conditional grants can only be spent in a way which is consistent with their intended use. If provinces or municipalities under spend or make improper use of conditional grants the transferring national department can either delay further payments<sup>24</sup> or withhold these if there is 'a serious or persistent material breach of the conditions to which the allocation is subject.'<sup>25</sup>

In order to ensure effective public expenditure management by government departments the PFMA sets out the general requirement that accounting officers maintain 'effective, efficient and transparent systems of financial and risk management' and take steps to safeguard departmental assets.<sup>26</sup> In addition, the PFMA and Public Service Regulations both oblige MECs to ensure that their departmental personnel are governed by 'efficient, effective and economical' human resource management procedures.<sup>27</sup> A vital part of such procedures is the implementation of effective performance management systems to govern the employment of all officials.<sup>28</sup> Finally, the PFMA requires that accounting officers of departments ensure that they establish cost-effective procurement and provisioning systems.<sup>29</sup>

### Performance

All of the above departments routinely over- or under spent their budgets and incurred fruitless and wasteful expenditure in the four financial years between 2000 and 2004. During this period none of these departments were found to have established effective financial control mechanisms (including asset management systems, capital expenditure management systems, procurement systems, and controls over transfer payments) by the Auditor-General, or efficient and economical human resource management systems (including performance management systems or personnel and leave record systems).

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<sup>24</sup> Division of Revenue Act, 2003, section 21.

<sup>25</sup> Ibid, section 22(1)(b).

<sup>26</sup> Public Finance Management Act, 1999, Chapter 5, Section 38(a)(i), (c)(ii) and (d)

<sup>27</sup> Section 195(1)(h) of the Constitution states that public administration must exhibit 'good human resource management.' Public Service Regulations state that it is the responsibility of executing authorities within departments to assess the human resource needs of departments. This should be done by identifying the total numbers of staff required to meet departmental objectives, and the necessary competencies and capacities staff will require to fulfil these objectives. In addition, the regulations note that training needs should be assessed and all human resource planning should be undertaken with due cognizance of the available budget. See, Public Service Regulations, 2001, Section 3 D1, pp. 12-13. Lastly, section 38(b) of the PFMA states that accounting officers are responsible for the 'effective, efficient, economical and transparent use of the resources of the department.' This clearly presupposes that departments will implement efficient and effective human resource management processes and procedures.

<sup>28</sup> Resolution 13 of the Public Service Coordinating Bargaining Council, 1998, states that all senior management within the public service must sign performance agreements. See, Public Service Coordinating Bargaining Council Resolution 13 Senior Management (Performance Agreements), 1998, section 3. The Public Service Regulations of 2001 require that performance management systems should have been 'fully implemented by all departments with effect from 1 April 2001.' See, Public Service Regulations, 2001, part VIII, B.1. In addition Section 38(1)(b) of the PFMA requires that accounting officers ensure the 'effective, efficient, economical and transparent use of the resources of the department.'

<sup>29</sup> Public Finance Management Act, 1999, section 38(1)(a)(iii). The PSAM's references to procurement issues are drawn from Auditor-General and audit committee reports.

### Examples

- Between 2000 and 2004 the Department of Housing, Local Government under spent a cumulative total of R928 million (or 29 percent of the total budget) allocated for the construction of houses.<sup>30</sup> In addition, between 2001 and 2004 more than half the officials employed by the Department were additional to the fixed establishment, while the Department had an overall vacancy rate of over 35 percent. In the period between 2002 and 2004 only 15 performance agreements were signed with members of the Department's more than 1000-strong staff.
- Between 2000 and 2004 the Department of Education overspent its personnel budget by R1.1 billion (primarily due to its employment of an average of 13 000 staff additional to the fixed establishment<sup>31</sup>). In addition, in this same period, despite an infrastructure backlog totalling R15.8 billion, the Department spent only R19.7 million (or 37 percent) of an available amount of R510 million on infrastructure.
- The Department of Health failed to spend an amount of R326.9 million or 23.7 percent of its R1.37 billion infrastructure budget between 2000 and 2004. This translates into almost a quarter of the budget allocated for the maintenance and construction of hospitals, clinics and health centres in the province during this period. In addition, during this time it transferred R2.3 billion (or 13 percent) of its R17.6 billion total budget to local governments and external bodies (including CSOs) without ensuring that service level agreements were in place to control the effective use of these funds.
- Similarly, in the period between 2000 and 2004 the Department of Social Development transferred R528 million to local government and external bodies (including CSOs) without ensuring that service level agreements were in place to ensure the effective use of these funds. In this same period it had an average vacancy rate of 50 percent. Between 2001 and December 2004 the Department spent at least R52 million in its defense of court actions brought against it by social grant beneficiaries (resulting from its failure to process their grant applications timeously).

### **1.2.3 Internal monitoring of expenditure and service delivery**

#### Requirements

In terms of the legislative framework, the accounting officers of all government departments need to provide ongoing reports on their progress in implementing their strategic plans and their expenditure of budgeted funds to their executive authorities and relevant treasuries. This reporting system provides the basis for a monitoring framework which enables the department's internal audit unit to identify potential risks in the expenditure of funds and management of departmental resources.<sup>32</sup> This, in turn, allows the department's audit committee to advise departmental managers on the effective

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<sup>30</sup> See, Department of Housing, Local Government and Traditional Affairs, Annual Reports, 2001/02, p. 85, 2002/03, p. 110, and 2003/04, p. 80.

<sup>31</sup> In the period between 2001 and 2004 the Department had an average staff additional to the fixed establishment of 13 000.

<sup>32</sup> Public Finance Management Act, 1999, Section 38(1)(a)(ii). Internal audit units are required to have a three-year strategic plan and their objectives should be based on an assessment of key areas of risk for the Department concerned. See: Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 6 Corporate Management and Internal Controls, pp. 31-32.

running of its programmes and activities.<sup>33</sup> In order to ensure that this system works effectively departments are required by legislation to produce monthly financial reports and quarterly performance reports. They are also required to produce comprehensive annual reports and reports on their use of conditional grants. The strictures contained in these various reporting requirements can be summarised as follows:

#### *Monthly Financial Reports*

The accounting officers of provincial departments should submit a report to their MEC within 15 days of the end of each month.<sup>34</sup> A copy should also be sent to the provincial treasury concerned. These monthly reports then form the basis of a statement of revenue and expenditure for the Revenue Fund for which the provincial treasury is responsible. This statement is then published in the Government Gazette on a quarterly basis.<sup>35</sup> All monthly reports should contain the following information:

- Actual revenue and expenditure (by programme)<sup>36</sup>

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<sup>33</sup> Ibid, pp. 32-34. The Audit Committee is required to ensure effective communication between a department's internal audit unit and its management. It should, *inter alia*, examine the performance of the internal audit unit, review the effectiveness of a department's internal controls, monitor management's response to identified weaknesses, evaluate the performance of management, and consider the quality of financial information produced by the department. See Treasury Regulations, 2001, Section 3.2.

<sup>34</sup> Section 40(4)(b) and (c) of the Public Finance Management Act, Act 1 of 1999 (as amended) requires monthly financial reports. This section must be read with the applicable Treasury Regulations. The following Treasury Regulations apply for the applicable periods: Treasury Regulation 18.2.1 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 covers the period 1 June 2000 to 9 April 2001. Regulation 18.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 18.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005.

<sup>35</sup> The National Treasury, Best Practice Guideline, on In Year Management, Monitoring and Reporting states that these monthly reports should be made public on a quarterly basis through publication in the Government Gazette. It reads 'The reports will focus attention on performance against budget *and* against service delivery plans, and will alert managers where remedial action is required. In addition, reports will be consolidated and published monthly for National Departments and quarterly for Provinces in the national Government Gazette, in line with international best practice.', Introduction, p.4, July 2000. Treasury Regulation 18.1.2 directs that: 'A provincial treasury must submit a statement to the National Treasury on actual revenue and expenditure with regard to its revenue fund before the 22nd day of each month in the format determined by the National Treasury. Such a statement must include a certificate to the effect that the information supplied has been verified by the head official of the provincial treasury. The information supplied must be based on information submitted to the provincial treasury by provincial accounting officers in terms of section 40(4)(c) of the Act'. Section 32(2) of the PFMA then determines that: 'After the end of a prescribed period, but at least quarterly, every provincial treasury must submit to the National Treasury a statement of revenue and expenditure with regard to the Revenue Fund for which that treasury is responsible, for publication in the national Government Gazette within 30 days after the end of each prescribed period.'

<sup>36</sup> Section 40(4)(b) and (c) of the Public Finance Management Act, Act 1 of 1999, read in conjunction with Treasury Regulation 18.2.1(a) of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 for the applicable period; alternatively Treasury Regulation 18.1.1 of Government Notice R.345 of Government Gazette 22219 of 9 April 2001 which directs that the accounting officer must also comply with the reporting requirements of the annual Division of Revenue Act; alternatively Treasury Regulation 18.1.1 of Government Notice R.740 of



- Performance in implementing service delivery plans<sup>37</sup>
- Projections of revenue and expenditure until the end of the year<sup>38</sup>
- Information on the spending on conditional grants and the extent of compliance with the conditions imposed<sup>39</sup>
- Information on all transfers<sup>40</sup>
- An explanation of any material variances and a summary of steps that are taken to ensure that the projected expenditure and revenue remain within the budget<sup>41</sup>

#### *Quarterly Performance Reports*

Provincial departments should submit a report to their MEC within 15 days of the end of each quarter.<sup>42</sup> These reports should contain the following information:

- Performance against budget and service delivery programme, including programme specific performance indicators.<sup>43</sup>
- Quarterly financial information
- An explanation of underspending/overspending and proposed corrective actions<sup>44</sup>

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Government Gazette 23463 of 25 May 2002 which also requires that the accounting officer comply with the reporting requirements of the annual Division of Revenue Act.

<sup>37</sup> National Treasury, Best Practice Guideline, on In Year Management, Monitoring and Reporting, Introduction, p.4.

<sup>38</sup> Sect 40(4)(c)(ii) of the Public Finance Management Act, Act 1 of 1999 (as amended) as read with Treasury Regulation 18.2.1(b) of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 for the applicable period;

<sup>39</sup> Division of Revenue Act, 2002, Section 16(1)(a) and (d). Section 16(1)(a) states that 'the relevant receiving officer must, in respect of an allocation transferred to - (a) a province, and as part of the report contemplated in section 40(4)(c) of the Public Finance Management Act, within 15 days after the end of each month, submit a report to the relevant provincial treasury, the relevant provincial executive authority and the transferring national officer.'

<sup>40</sup> National Treasury, Best Practice Guideline, In Year Management, Monitoring and Reporting, Monthly Reports, p. 9, July 2000.

<sup>41</sup> Public Finance Management Act, 1999, Sect 40(4)(c)(iii).

<sup>42</sup> See further in this regard: Regulation 5.3.1 and 5.3.2 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000, which cover the period 1 June 2000 to 9 April 2001. Regulation 5.3.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 5.3.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005. In addition, the Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 4 – Reporting and Accountability, at page 9 directs that departments must produce reports which can 'be used by managers to develop plans, evaluate alternative courses of action and, where necessary, institute corrective actions.'

<sup>43</sup> Ibid. See also the Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000. This Guide states that 'While the Act focuses on financial reporting, as financial data are leading indicators of performance, the accounting officer must also include non-financial indicators, which are produced quarterly. These non-financial indicators are often department or programme specific, and should be stipulated in the performance agreement between the accounting officer and executive authority, and endorsed by the portfolio committee in the relevant Legislature. The monthly monitoring reports will be consolidated and published in the National Government Gazette, in line with international best practice.' See Section 2 – Accountability Cycle, p. 7.

<sup>44</sup> Treasury Regulations, 2001, Sect 5 (3)(1).

### *Annual Reports*

The Accounting Officer for provincial departments should submit an annual report to their MEC by 31 August each year. The MEC should table this report in the provincial Legislature by 31 August. The annual report should contain the following information:

- An account of the activities of the department for the year against the measurable objectives set out for each of the department's programmes<sup>45</sup>
- An account of the department's performance against predetermined objectives<sup>46</sup>
- A copy of the departments audited financial statements<sup>47</sup>
- A copy of the Auditor-General's comments on these financial statements<sup>48</sup>
- A report by the department's Audit Committee<sup>49</sup>
- A report on misconduct and corrective action within the department<sup>50</sup>

### *Reports on Conditional Grants*

The Accounting Officer for a provincial department that has received a conditional grant should submit a report to the provincial Treasury, the department's MEC, and the Director-General of the national department which transferred the grant, within 15 days of the end of each month. This report should contain the following information:

- The amount of the conditional grant
- Expenditure for the month (and until the end of the year)
- An account of the department's compliance with the conditions of the grant
- An account of problems encountered and steps taken to deal with these problems<sup>51</sup>

### Performance

During the period between 2000 and 2004 all four departments failed to establish effective internal audit units and internal audit committees. Numerous instances of non-compliance with the above reporting requirements were also identified. As a result all four departments failed to maintain adequate systems for monitoring the economy, efficiency and quality of their services.

### Examples

- In the period under review neither the internal audit unit nor the Audit Committee functioned effectively within the four departments. Consequently, this calls into question the efficacy of the internal monitoring of in-year financial expenditure and performance reporting (See Sections 2.3, 3.3, 4.3 and 5.3).
- Between 2001 and 2004 the Auditor-General observed that the quality of information in the Department of Housing and Local Government's monthly and quarterly reports was inadequate and often inaccurate and that the MEC had not

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<sup>45</sup> Public Finance Management Act, 1999, Sect 40(1)(d) in conjunction with Sect 27(4). Sect 5 (2)(3) of the Treasury Regulations, 2001, state that 'The strategic plan must form the basis for the annual reports of accounting officers as required by sections 40(1)(d) and (e) of the Act.'

<sup>46</sup> Ibid, Sect 40(3)(a)

<sup>47</sup> Ibid, Sect 40(1)(d)(ii)

<sup>48</sup> Ibid, Sect 40(1)(d)(iii)

<sup>49</sup> Treasury Regulations, 2001, Sect 3.1.10.

<sup>50</sup> Public Finance Management Act, 1999, Sect 40 (3) (b)(i) and (ii)

<sup>51</sup> The specific conditions applying to the use of conditional grants vary from year to year. The above conditions are drawn from Sect 16.1 of the Division of Revenue Act, No.5, 2002.

always been provided with the necessary quarterly performance reports (See Section 2.3).

#### **1.2.4 Legislative breaches and financial misconduct**

##### Requirements

The PFMA states that an accounting officer for a government department commits an act of financial misconduct if she/he willfully or negligently makes or permits unauthorized, irregular, fruitless or wasteful expenditure or if she/he fails to comply with one of the following provisions:<sup>52</sup>

- If she/he fails to ensure that her/his department has an efficient and effective system of financial and risk management and internal control,<sup>53</sup> a system of internal audit under the direction of an audit committee,<sup>54</sup> and an appropriate procurement and provisioning system.<sup>55</sup>
- If she/he fails to take effective steps to collect all money due to the department,<sup>56</sup> or to prevent unauthorized, irregular, fruitless or wasteful expenditure.<sup>57</sup>
- If she/he fails to take effective disciplinary steps against any departmental official who commits an act which undermines the financial management or internal control systems of the department or who makes or permits an unauthorized, irregular, or fruitless and wasteful expenditure.<sup>58</sup>
- If she/he fails to ensure that the provisions of DORA are complied with when transferring funds, or if she/he fails to ensure that entities outside of government to whom it intends transferring funds have effective, efficient and transparent financial management and internal control systems.<sup>59</sup>
- If she/he fails to take effective steps to prevent overspending by the department or within one of its main programmes.<sup>60</sup>
- If she/he fails to keep full and proper records of the financial affairs of the department or if she/he fails to submit all reports, returns, notices and other information to the provincial Legislature, her/his MEC, the provincial treasury or the Auditor-General.<sup>61</sup>
- If her/his annual report and audited financial statements do not fairly present the state of affairs of the department, its financial results and its performance against its predetermined objectives or its financial position at the end of the financial year.<sup>62</sup>

##### Performance

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<sup>52</sup> Public Finance Management Act, 1999, section 81(1)(a) read with section 86(1). Section 86(1) states that the accounting officer's non compliance with one of the provisions listed in this section must be committed wilfully or 'in a grossly negligent way' in order to constitute a potential criminal offence.

<sup>53</sup> *ibid* section 38(1)(a)(i)

<sup>54</sup> *ibid* section 38(1)(a)(ii)

<sup>55</sup> *ibid* section 38(1)(a)(iii)

<sup>56</sup> *ibid* section 38(1)(c)(i)

<sup>57</sup> *ibid* section 38(1)(c)(ii)

<sup>58</sup> *ibid* section 38(1)(h)(i) and (ii)

<sup>59</sup> *ibid* section 38(1)(i) and (j)

<sup>60</sup> *ibid* section 39(2)(a)

<sup>61</sup> *ibid* section 40(1)(a) and (f)

<sup>62</sup> *ibid* section 40(3)(a)

The Auditor-General reported multiple breaches of the PFMA by the above departments between 2000 and 2004. Despite a number of these breaches being reported to the relevant MECs and the Provincial Legislature as instances of 'financial misconduct'<sup>63</sup> no accounting officers were subject to disciplinary hearings as a result of the Auditor-General's findings.<sup>64</sup>

#### Examples

- Each year, for the four years between 2000 and 2004, the Auditor-General reported acts of financial misconduct within the Eastern Cape Department of Education. Similarly, the Auditor-General reported acts of financial misconduct within the Departments of Health (2000/2001), and Department of Social Development in 2001/2002 (See Sections 3.4, 4.4 and 5.4).<sup>65</sup>
- The Auditor-General reported that the Eastern Cape Department of Health had consistently failed to establish an effective financial and risk management and internal control systems in the three years between 2001 and 2004. Similarly, the Social Development Departments was found to have not maintained such systems for the four years between 2000 and 2004 (See Sections 3.2, 3.3, 5.2., 5.3).
- Between 2002 and 2004 the Auditor-General reported that the Department of Housing and Local Government had failed to ensure that the Department's transfer payments were used effectively, efficiently and for their intended purposes (See Section 2.2).

### **1.2.5 Accountability to oversight bodies**

#### Requirements

In terms of the Constitution the Office of the Auditor-General must audit and report annually on the 'accounts, financial statements and financial management' of all government departments. These reports must then be submitted to the provincial

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<sup>63</sup> Section 81 of the Public Finance Management Act, Act 1 of 1999, defines 'financial misconduct' as a wilful or negligent failure to comply with the requirements of sections 38 through to 42 of the PFMA, or where unauthorised, irregular or fruitless and wasteful expenditure occur. This form of misconduct is committed by either the accounting officer or an official to whom a power or duty is assigned by the former.

<sup>64</sup> The first reported disciplinary charges against an Eastern Cape official in terms of the PFMA were instituted by the MEC for Education, Mkangeli Matomela, in November 2004. See 'Bhisho cracks down on incorrect spending', The Herald, 24 November 2004. However, even this report fails to indicate that these charges were a direct response to the Auditor-General's departmental audit findings.

<sup>65</sup> The Auditor-General does not state that such acts of financial misconduct were committed by the accounting officer for the Department concerned, merely indicating that the conduct was '*considered to be financial misconduct in terms of section 81*' of the PFMA. In the case of the Provincial Department of Education, the Auditor-General determined that the failure to provide his office with adequate documentation required to perform the audit amounted to financial misconduct in terms of section 81. It is noteworthy that section 41 of the PFMA directs that: *An accounting officer for a Department... must submit to the... Auditor-General, such information, returns, documents, explanations and motivations as may be prescribed or as the...Auditor-General may require.*

Legislature.<sup>66</sup> One of the key functions of the Auditor-General is to ensure that government departments are properly managed and that their resources 'are procured economically and utilised efficiently and effectively.'<sup>67</sup>

The various portfolio committees of the Provincial Legislature are then tasked with scrutinising the content of department's annual reports and investigating queries raised in the Auditor-General's report. According to the Constitution, the Legislature and its committees are tasked with exercising oversight of executive authorities in the province and their corresponding government departments.<sup>68</sup> In carrying out this function a provincial Legislature or any of its committees may 'summon any person to appear before it' and 'require any person or government institution to report to it.'<sup>69</sup>

### Performance

Since 1996 the Auditor-General has raised the same issues indicating weak financial management in all four departments. These issues relate to poor asset management, a lack of effective personnel controls, the absence/ineffectiveness of internal auditing, and inadequate controls over transfer payments. All four departments regularly displayed an inability and/or an unwillingness to address problems raised by the Auditor-General and recommendations made by their respective portfolio committees.

### Examples

- Between 2000 and 2004 the Auditor-General issued audit disclaimer opinions for 74.5 percent of the combined budget allocated to the Eastern Cape departments of Housing, Education, Health and Social Development. This effectively means that these departments could not adequately account for R58.6 billion out of a total of R78.5 billion spent during this period. Over this four year period the provincial Department of Housing received three audit disclaimers, the provincial Department of Education received four consecutive audit disclaimers, the provincial Department of Health received three disclaimers, and the provincial Department of Social Development received two audit disclaimers. (See Figure 3 below).
- In 2002 the Auditor-General pointed out that not a single Eastern Cape Standing Committee on Public Accounts (SCOPA) resolution had been implemented in the seven financial years between 1995 and 2002.<sup>70</sup>
- Despite being required (in 2000) to 'clear up audit queries' raised by the Auditor-General none of the department's strategic plans during the period between 2000 and 2004 included clear and detailed steps to address these queries.<sup>71</sup>

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<sup>66</sup> Constitution of the Republic of South Africa, Act 108 of 1996, section 188(1) and (3).

<sup>67</sup> Auditor-General Act, 1995, section 4(d).

<sup>68</sup> Constitution of the Republic of South Africa, Act 108 of 1996, section 114(1) and (2).

<sup>69</sup> Ibid, section 115(a) and (b).

<sup>70</sup> See General Report of the Auditor General on the Accounts of the Eastern Cape Provincial Administration for the Financial Years 1997-98 and 1998-99, PR62/2000, Part 1, section 6. This report notes that SCOPA 'has pursued its mandate with commendable diligence during the past number of years and has conducted hearings on a number of audit reports. However, the committee is being frustrated in its effort to contribute to proper accountability since not one of the Committee's resolutions tabled in and accepted by the legislature since its inception, has been responded to by the accounting officers concerned.' This finding is also repeated in the Interim Management Team Report, June 2003, p. 17.

<b>Financial Year</b>	<b>Total Expenditure R'000</b>	<b>Disclaimer Amount R'000</b>	<b>No. of Departments issued with disclaimers</b>	<b>% of Budget not adequately accounted for</b>
2000/01	15,810,487 <sup>72</sup>	15,810,487 <sup>73</sup>	4 out of 4	100
2001/02	17,025,344 <sup>74</sup>	16,418,959 <sup>75</sup>	3 out of 4	96.44

<sup>71</sup> With the introduction of the PFMA in 2000 the National Treasury identified seven 'immediate steps' that departments should implement. These steps were ranked in importance with step required that accounting officers 'clear up audit queries.' See 'Guide for Accounting Officers', Public Finance Management Act, National Treasury, Oct. 2000, Section 3, pp. 15-18. The National Treasury asserted that failure to make progress in regard to any of the seven 'immediate steps' 'will constitute grounds for financial misconduct. Ibid, Section 3 - Summary, p. 18.

<sup>72</sup> Actual Expenditure of 4 Departments under review in 2000/01, Education: R7.19 billion, Province of the Eastern Cape, Budget Statement, 2004/05, Feb. 2004, p. 116; Housing: R762.05 million, Eastern Cape Department of Housing, Local Government and Traditional Affairs, Annual Report 2000/01, Income Statement, p. 76; Social Development: R4.07 billion, Eastern Cape Department of Social Development, Annual Report, 2000/01, p. 67, section 4.3; and Health: R3.79 billion, Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Income Statement, p. 20.

<sup>73</sup> All four departments under review received audit disclaimers in 2000/01. See Education: Eastern Cape Department of Education, Annual Report, 2000/01, p. 43, 2.3.; Housing: Eastern Cape Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, p. 69, 2.3; Social Development: Eastern Cape Department of Social Development, Annual Report, 2000/01, p. 53, section 2.3.1 and 2.3.2; and Health: Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, p. 15, 2.3.

<sup>74</sup> Actual expenditure of 4 departments under review in 2001/02, Education: R7.86 billion, Province of the Eastern Cape, Budget Statement, 2004/05, Feb. 2004, p. 116; Housing: R606.39 million, Eastern Cape Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, Income Statement, p. 91, Social Development: R4.66 billion, Eastern Cape Department of Social Development, Annual Report, 2001/02, p. 77; Health: R3.89 billion, Eastern Cape Department of Health, Annual Report 2001/2002, Appropriation Statement, p. 83.

<sup>75</sup> Three Departments received audit disclaimers in 2001/02, Education, Eastern Cape Department of Education, Annual Report, 2001/02, p. 101, 3.5.; Social Development: Eastern Cape Department of Social Development, Annual Report, 2001/02, p. 60, section 4; and Health: Eastern Cape Department of Health, Annual Report, 2001/02, p. 61, 4. The Eastern Cape Department of Housing received a qualified audit opinion in 2001/02, Eastern Cape Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, p. 83 of 109.

2002/03	20,912,087 <sup>76</sup>	9,993,369 <sup>77</sup>	2 out of 4	47.79
2003/04	24,841,579 <sup>78</sup>	16,396,832 <sup>79</sup>	3 out of 4	66.01
<b>Total</b>	<b>78,589,497</b>	<b>58,619,647</b>		<b>74.59</b>

Figure 3: Audit disclaimers versus actual expenditure by reviewed departments between 2000 and 2004

<sup>76</sup> Actual Expenditure of 4 departments under review in 2002/03, Education: R9.15 billion, Province of the Eastern Cape, Budget Statement, 2004/05, Feb. 2004, p. 116; Housing: R844.60 million, Eastern Cape Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, Notes to Annual Financial Statements, Note 1, p. 125; Social Development: R6.43 billion, Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 65; and Health: R4.49 billion, Eastern Cape Department of Health, Annual Report 2002/2003, Appropriation Statement, p. 179.

<sup>77</sup> Two departments received audit disclaimers in 2002/03, Education: Eastern Cape Department of Education, Annual Report, 2002/03, p. 143, 4; Housing: Eastern Cape Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, p. 107, 4. Social Development received a qualified audit opinion, Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 59, section 4; and Health received an unqualified audit opinion, Eastern Cape Department of Health, Annual Report 2002/2003, p. 167, 3.

<sup>78</sup> Actual Expenditure of 4 departments under review in 2003/04, Education: R9.91 billion, Province of the Eastern Cape, Budget Statement, 2004/05, Feb. 2004, p. 116; Housing: R1.24 billion, Eastern Cape Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, Income Statement, p. 77; Social Development: R8.44 billion, Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 84; and Health: R5.24 billion, Eastern Cape Department of Health, Annual Report 2003/2004, Part E: Appropriation Statement, p. 185.

<sup>79</sup> Three departments received audit disclaimers in 2003/04, Education: Eastern Cape Department of Education, Annual Report, 2003/04, p. 126, 4.2.4; Housing: Eastern Cape Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, p. 61, 4; and Health: Eastern Cape Department of Health, Annual Report 2003/2004, p. 173. Social Development received an unqualified audit opinion, Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 74.

**Submission with regard to the  
Eastern Cape Department of Housing, Local Government and  
Traditional Affairs.**

The following analysis focuses on the Department's performance between 2000/01 and 2003/04 in respect of the following areas:  
resource allocation and strategic planning; expenditure management; internal monitoring of expenditure and service delivery; legislative breaches and financial misconduct; and accountability to oversight bodies.

**Public Service Accountability Monitor**



## 2. Department of Housing and Local Government

### **2.1 Resource Allocation and Strategic Planning**

#### **Summary**

*The Department's strategic planning is inadequate. Evidence suggests that the Department's strategic plans over the MTEF and its one year operational plans were compiled in the absence of any comprehensive information relating to the Department's service delivery and organisational environment. For example, for the years under review, the Department did not quantify how many houses it needed to build and where it needed to build them. In addition, the plans contain little evidence to suggest that effective consultation with the department's internal and/or external stakeholders took place. Of particular concern is the fact that neither of the Department's plans contained any reference to conditions attached to the transfer of funds to external bodies, or to any monitoring mechanisms for ensuring compliance with these conditions. Neither plan demonstrated that the Department had in place a coherent and organised plan to address its crippling staff shortages. Lastly, neither strategic plan demonstrates that Departmental objectives had been coherently and convincingly articulated in terms of timeframes, costing, and monitoring.*

#### **Findings**

The following analysis is based upon the Department of Housing, Local Government and Traditional Affairs' 2002-2004 and 2003-2006 strategic plans. These are the only two strategic plans that the PSAM has been able to source from the provincial government in regard to the financial years under scrutiny by the Commission.

In terms of legislation informing the creation of strategic plans there has been a great deal of change over the past decade. The introduction of a new Public Service Management Framework in 1999, aimed at transforming the public service to be more delivery focused (consistent with the Constitution) and made a number of broad recommendations concerning strategic planning. The Framework noted that planning was to be more integrated into the work of departments, progress was to be more vigorously monitored and evaluated, and the results of planning properly reported on. In addition, the Framework stated that planning had to begin with the priorities of a department and be timed to coincide with the Medium Term Expenditure Framework (MTEF) cycle. It also contended that strategic priorities had to be clearly identified, and targets and business plans developed and carefully monitored.<sup>80</sup>

The regulations governing the creation of this new Framework were published in 1999 as the Public Service Regulations. These regulations made a number of broad recommendations in regard to the creation of strategic plans. The Regulations noted that:

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<sup>80</sup> See, 'Baseline Implementation Guide', Department of Public Service and Administration, 22 June 1999, pp. 15-16.

As the Strategic Plan for the Department, an executing authority shall establish a medium-term programme that includes a description of –

- (a) the department's core objectives, based on Constitutional, legislative and functional mandates and the service delivery improvement programme developed in accordance with regulation III C;
- (b) the core and support activities necessary to achieve the core objectives, avoiding duplication of functions;
- (c) the functions the department will perform internally and those it will contract out; and
- (d) information systems to enable the executing authority to monitor fulfilment of the department's core objectives.<sup>81</sup>

In addition, these regulations note that departments should undertake human resource planning, which should indicate the human resources required to meet a department's functions, including the number of employees, their competencies and training needs. It should also include a strategy 'to recruit, retain, deploy and develop' staff within the department's available budgeted funds.<sup>82</sup>

With the passing of the Public Finance Management Act (PFMA) in 1999 the rules governing the creation of strategic plans were tightened up considerably. A new set of Treasury Regulations, implemented in May 2000 in terms of the PFMA, detailed a new framework of reporting and accounting for strategic planning.<sup>83</sup> In July 2000 the Public Finance Management Act Implementation Guide added more detail to the Treasury Regulations of May 2000, as did the Guide to Accounting Officers published by the Treasury in October 2000.<sup>84</sup> The passing of the PFMA also saw changes effected to the Public Service Regulations governing strategic planning which saw a strengthening of the regulations in 2001 by introducing the obligation that departments describe and plan their goals and targets, and properly monitor and account for their actions in terms of these goals and targets.<sup>85</sup>

The implementation of the PFMA and new Treasury Regulations finally resulted in the creation, in July 2002, of a Generic Strategic Planning template which attempts to 'coordinate the reporting requirements of the PFMA and its Treasury Regulations, the PSA [Public Service Act] regulations, and the requirements of the Departments of Health

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<sup>81</sup> Public Service Regulations, 1999, Part 3, Section B. Strategic Planning, pp. 7-8. The Service Delivery Improvement Programme, as detailed in (a) above, involved departments having to identify who their 'customers' were, what services they provided to them, and what barriers existed preventing their 'customers' from accessing these services. The Service Delivery Improvement Plan was supposed to develop strategies to remove barriers to service delivery, improve communication with 'customers' and lead to the development of service standards. See, Public Service Regulations, 1999, Part 3, Section C.1 Service Delivery Improvement Programme, p. 8.

<sup>82</sup> Ibid, Part 3, Section D.1 (a), (b) and (c).

<sup>83</sup> Treasury Regulations for Departments, Constitutional Institutions and Trading Entities, Issued in Terms of the Public Finance Management Act, 1999, National Treasury, 31 May, 2000.

<sup>84</sup> See, Public Finance Management Act Implementation Guide, National Treasury, July 2000, Section 2 - Strategic Planning, pp. 8-9, and Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 2 – Financial Planning, pp. 7-11.

<sup>85</sup> See, Public Service Regulations, 2001, Section 3 B Strategic Planning, p. 11.

and National Treasury.<sup>86</sup> This document sets out in great deal all the obligations placed on departments in terms of the creation and monitoring of effective strategic plans.

It is important to note that all of the above regulations concerning the creation of strategic plans which followed the passing of the PFMA only came into effect during the 2002/03 financial year. The Treasury Regulations from May 2000 regarding strategic planning, and informed by the PFMA, for example, only had to be implemented from 1 April 2002.<sup>87</sup> Similarly, the Guide for Accounting Officers notes that the implementation of its strategic planning requirements had to be effected by August 2002.<sup>88</sup> However, the Guide for Accounting Officers, released in October 2000, states that departmental accounting officers 'should ensure that outputs are sufficiently quantified and appropriate service delivery indicators developed as soon as possible.'<sup>89</sup> Similarly, the PFMA Implementation Guide notes that the strategic plan for the period commencing 1 April 2002 had to be prepared with due regard to the:

- (a) usefulness and appropriateness of the planned outputs in meeting the programme objectives/outcomes agreed by the executive authority of the department;
- (b) the affordability of the plan, having regard to the resources likely to be available to the department and the overall fiscal policy of the Government;
- (c) achievability of the plan, having regard to the resources likely to be available and the vision, level of capacity and commitment of the people responsible for driving the process of achieving the department's objectives/outcomes; and
- (d) accessibility of the plan to those responsible for its execution and those to whom the department is accountable for their performance in executing the plan (the Executive Authority, the relevant Treasury and Parliament or the provincial Legislature concerned).<sup>90</sup>

On the basis of the Public Service Regulations as they stood in 1999, and the recommendation from the Treasury that departments implement effective strategic planning in line with the PFMA 'as soon as possible' this analysis of the Department's strategic planning for the 2002-2004 and 2003-2006 MTEF periods will compare the Department's performance against all the legislation governing the creation, implementation and monitoring of strategic plans.

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<sup>86</sup> Generic Format for Strategic Plans for Provincial Departments,' National Treasury, 11 July 2002, Section 1, p. 5.

<sup>87</sup> Treasury Regulations for Departments, Constitutional Institutions and Trading Entities, Issued in Terms of the Public Finance Management Act, 1999, National Treasury, 31 May, 2000, Section 5.1.1 Date of Implementation, p. 15.

<sup>88</sup> Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 2 – Financial Planning, p. 10. Changes to the Public Service Regulations in 2001 regarding strategic planning were also subject to Treasury Regulation clause 5.1.1. See Public Service Regulations, 2001, Part 3 B.1(g), p. 11.

<sup>89</sup> Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 2 – Financial Planning, p. 10.

<sup>90</sup> Public Finance Management Act Implementation Guide, National Treasury, July 2000, Section 2 - Strategic Planning, p. 8.

In terms of the Treasury Regulations strategic plans must cover a three year period and be consistent with the institutions input to the MTEF.<sup>91</sup> The first year of the strategic plan is known as the operational plan and is to be updated annually on a rolling basis.<sup>92</sup> The operational plan details the outputs to be delivered in that particular year (i.e. the first year of the strategic plan). This is to ensure that when a Legislature considers a department's budget it knows what is being 'bought' to meet that department's mandate. In terms of Public Service Regulations, departments are also required to develop Service Delivery Implementation Plans.<sup>93</sup>

The Eastern Cape Department of Housing, Local Government and Traditional Affairs' strategic plan for the 2002-2004 period includes, in the Department's terminology, an 'Operational/budget Achievability Plan' and a 'Service Delivery Plan.' The first plan has an end of year time-line and represents the Department's operational plan. The second plan is not a Service Delivery Implementation Plan, as envisaged by the Public Service Regulations, but rather a more detailed operational plan, in that it essentially repeats the objectives of the Operational/Budget Achievability Plan, but breaks them down in more detail by financial year quarter. Neither of the plans contain any information relating to the Department's strategic planning over the three year period of the MTEF, therefore there is, in effect, no three year strategic plan objectives included in the Department's strategic plan for 2002-2004.

The Department's strategic plan for the 2003-2006 period contains two long tables – table one is called 'Reporting objectives, strategies, outputs and measures', while table two is called, 'Performance Targets and monitoring mechanisms.' However, this second table is then subtitled, 'Reporting objectives, strategies, outputs, measures' which is the same title as the first table. Table one contains objectives, outputs and performance measures (broken down into four sections - cost, quantity, quality and time-line). Table two contains objectives, outputs, performance measures (this time only one section) and then includes details of budget allocations over the MTEF period. It is not clear which table represents the Department's three year MTEF strategic plan and which table is supposed to be the Department's operational plan because both plans include both one year, and three year objectives. In addition, both tables, aside from being in a slightly different format, present the same information, although table one generally presents slightly more information in relation to objectives than does table two.

While inconsistencies in the organisation of these plans have been noted above, the following section will review their adherence to legislative requirements that govern the creation of strategic plans.

### **Needs Analysis**

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<sup>91</sup> Treasury Regulations for Departments, Constitutional institutions and Trading Entities. Issued in terms of the Public Finance Management Act, Act 1 of 1999, Part 3, paragraph 5.2.3(a). The said Regulations appeared in Government Gazette No. 21249, Notice No. 556 dated 31 May 2000. The current, updated Treasury Regulations, as contained in Government Gazette No. 27388, Notice No.R.255 dated 15 March 2005, contain the same provision at Part 3, paragraph 5.2.2.(a).

<sup>92</sup> Ibid, paragraph 5.2.3(e).

<sup>93</sup> The Service Delivery Improvement Plan was conceived to develop strategies to remove barriers to service delivery, improve communication with 'customers' and lead to the development of service standards. See, Public Service Regulations, 1999, Part 3, Section C.1 Service Delivery Improvement Programme, p. 8.

It is self-evident that for any strategic plan to be effective it must take into account the service delivery environment and challenges that face a particular department when planning commences.<sup>94</sup> This pre-supposes that Department's undertake detailed needs analysis exercises that accurately identify challenges and indicate where need is greatest. However, both strategic plans reviewed for the Department of Housing, Local Government and Traditional Affairs indicate that no proper review of the challenges facing the Department was undertaken. Both simply list the same twelve 'shortcomings' that the Department claims characterise municipalities in the province.<sup>95</sup> The first problem with this list is that it is exactly the same list in both strategic plans, despite the fact that they were created a year apart. This implies that the Department achieved nothing in the 2002/03 financial year that impacted positively on the 'shortcomings' that it identified in that year.

The second problem with the list is that it does no more than state generally self-evident problems. For example, the lists note that there is high unemployment and poverty in the province which is also faced with the 'scourge of HIV / AIDS'.<sup>96</sup> Other shortcomings identified are 'weak administration' and 'poor financial management.' In terms of strategic planning, these phrases are of little or no value. To be of any use to those planning the activities of the Department over the short and longer-term, the Department needs to identify exactly where and why administration is 'weak' and financial management 'poor'. Only by doing so can the Department hope to direct its resources where they are most needed. The plans also note that there are 'patches of fraud and corruption', but, once again, fails to articulate where and why fraud and corruption are prevalent.<sup>97</sup>

The plan for 2003-2006 asserts, without substantiation, that the province is the poorest in the country which, the Department claims, impacts on the need for housing, especially in urban areas. The plan also notes overall occupational categories in the province.<sup>98</sup> In addition, the plan for 2003-2006 states that 'it should be borne in mind that the department is not only operating in a rapid [sic] changing global and political environment but also in a region with huge and deep structural defects. This exerts a constant challenge on the department's management to re-organise and re-engineer the

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<sup>94</sup> Section 2 – 'Strategic Planning' of the Public Finance Management Act Implementation Guidelines, July 2000, (p. 8) states that accounting officers 'must have regard to the usefulness and appropriateness of planned outputs.' This clearly presupposes that for an accounting officer to judge whether an output is appropriate they must have a comprehensive knowledge of the environment within which a particular department operates. In addition, Treasury guidelines state that Departments should 'present broad information on the status quo as it is relevant to the Department.' In doing so, Departments should provide details of the service delivery environment and challenges within which they operate. This should include details of external factors which impact on the demand for a department's services and external factors which impact of a department's ability to deliver services. See, 'Generic Format for Strategic Plans for Provincial Departments,' National Treasury, 11 July 2002, Part A, Section 3.7, 3.7.1, p. 10 & Part C Section 3.16, p. 20.

<sup>95</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan MTEF 2002-2004, Section 1.7.1, p. 4, Department of Housing, Local Government and Traditional Affairs, Strategic Plan 2003-2006, Section 1.6.1, p. 5.

<sup>96</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan 2003-2006, Section 1.6.1, p. 5.

<sup>97</sup> Ibid.

<sup>98</sup> Ibid, p. 64.

department to meet its challenges.<sup>99</sup> Once again, this statement is too vague to offer any value to the strategic planning process. It is not at all clear what the department means by a changing global and political environment and why and how this affects the Department's ability to meet its mandate. Equally, while the Department can state that there are 'huge and deep structural defects' in the province, unless it quantifies exactly what and where these defects are, it cannot hope to be able to properly plan to address them.

In terms of the provision of housing itself, the strategic plan simply notes the self-evident fact that there is an 'infrastructure backlog' in the province. It would appear that as of the beginning of the 2003/04 financial year the Department did not know how many houses it had to build, and where it had to build them, to meet the growing demand for formal housing in the province. If the Department is to make the most efficient and effective use of available resources, as it is Constitutionally obligated to, it is incumbent on it to calculate, at the very least, how many houses it needs to build, and where it needs to build them.

### **Human Resource Planning**

In terms of assessing the Department's organisational environment and challenges, both strategic plans again list an identical set of 'challenges'.<sup>100</sup> Both note that there is 'low staff morale in regional offices', 'serious shortages of critical skills', 'poor planning and co-ordination' and 'low staff morale and poor motivation.'<sup>101</sup> However, both fail to detail how these 'challenges' are likely to effect service delivery or if they are endemic within the whole department or of particular concern in certain programmes and sub-programmes. For example, neither plan notes which programmes or sub-programmes experience 'serious shortages of critical staff' which prevents those engaged in planning for the department from developing policies to deal with, and compensate for, these shortages.

The 2003-2006 plan notes that the Department has an 'organizational culture' that has a negative impact on the Department' which, it argues, 'does not support the fulfilment of our strategic objectives.' The Department notes that it is in this area 'where we are the weakest.' The problem with this statement is that it lacks detail, there is no indication of what the Department's 'organizational culture' is and how this is a problem. In terms of addressing this issue, the Department simply notes its intention to work as a team and assert itself – quite what this means in terms of strategic planning is not articulated. The

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<sup>99</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan 2003-2006, Section 1.14.3, pp. 65-66.

<sup>100</sup> Section 2 – 'Strategic Planning' of the Public Finance Management Act Implementation Guidelines, July 2000, (p. 8) states that when drawing up strategic plans accounting officers must show due regard for the achievability of the plan. This means that they must have 'regard to the resources likely to be available and the vision, level of capacity and commitment of the people responsible for driving the process.' In addition, Treasury guidelines indicate that strategic plans should include a section which provides 'important background information on the capacity of the department' and illustrates 'internal factors which are impacting on its performance.' See, 'Generic Format for Strategic Plans for Provincial Departments,' National Treasury, 11 July 2002, Part A, Section 3.7, 3.7.2, p. 10 & Part C Section 3.17, p. 21.

<sup>101</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan MTEF 2002-2004, Section 1.7.2, p. 4, Department of Housing, Local Government and Traditional Affairs, Strategic Plan 2003-2006, Section 1.7.2 (should read, section 1.6.2), p. 5.

Department also cryptically notes that there are 'outside demands' which, it argues, 'disturb' its 'departmental programme.' Once again, however, it does not offer any more detail.<sup>102</sup>

The failure to properly account for the Department's organisational challenges must be considered within the context of the Department's chronic staff shortages. In the 2002/03 financial year, the Department experienced an overall vacancy rate of 35 percent, with a critical post vacancy rate of 83 percent.<sup>103</sup> In the following year, these figures were 54 and 67 percent respectively.<sup>104</sup> The magnitude of these shortages clearly demonstrate that if the Department does not properly take them into account when planning it cannot hope to function effectively and efficiently during the implementation of its plans.

In attempting to address staff shortages the Department has done little more than make vague references to this problem in its strategic plans. The plan for 2002-2004 includes the objective of advertising and filling vacant posts 'considering merit.' In terms of corresponding strategic objective it notes the unrelated desire of the Department to transfer 50 percent of its excess staff by financial year end. Also, under quantity measure it confusingly states 'weekly progress reports' which is clearly a monitoring mechanism. As a quality measure for the filling of critical posts the Department bizarrely states 'horses for courses' which clearly has no meaning in this context and appears to indicate a general lack of seriousness on the part of the drafters of the Department's plan.<sup>105</sup>

In the 2003-06 strategic plan the Department again asserts its intention to advertise and fill vacant posts. As a quantity measure the Department notes 30 percent, and as a quality measure it states 'skills shortage will be addressed.' The time-line is year end, and no official is nominated to oversee this objective.<sup>106</sup> However, it is not clear what the 30 percent figure refers to. It is unclear whether this 30 percent refers to vacant posts that will be filled? If so, this can hardly properly address the Department's chronic skills shortage. Alternatively, it could mean that after filling critical posts it will 'only' have an overall 30 percent vacancy rate?

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<sup>102</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2003-2006, p. 66.

<sup>103</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, Tables 3.1 and 3.3, pp. 76-77. The overall vacancy rate in the Department was 46.54 percent in the 1999/00 financial year. See, Department of Housing, Local Government and Traditional Affairs, Annual Report, 1999/00, Tables 1, p. 42. It is not possible to ascertain vacancy rates for the 2000/01 financial year because the Department does not include them in its annual report. For 2001/02 it is not possible to calculate the vacancy rate because the Department fails, in its annual report, to state the approved establishment for each programme. See, Department of Housing, Local Government and Traditional Affairs, Annual Reports, 2000/01, Part 2, pp. 6-16 and 2001/02, Part 2, pp.8-24.

<sup>104</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, Tables 2.1 and 2.3, pp. 102-103.

<sup>105</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2002-2004, Operational/Budget Achievability Plan, p. 31. The Department notes in its Service Delivery Plan for 2002/03 its intention of filling all vacant posts by the end of the third quarter in 2002/03. See, Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2002-2004, Service Delivery Plan 2002/03, p. 16.

<sup>106</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2003-2006, Table 1 Section 4.2 Human Resource Management, p. 22.

## **Consultation**

In an effort to fully appreciate the kind of constraints that departments are likely to face over the period of their strategic plan (and how to overcome them), departments are obliged to undertake meaningful negotiations with their own staff and with external stakeholders during the drawing up of their strategic plans.<sup>107</sup> While the department has demonstrated in both strategic plans that negotiations with internal staff took place during the creation of its plans, there is no evidence to suggest that it sought the expertise of external stakeholders. This is despite the fact that the province contains numerous non-governmental and community based organisations which have expertise in regard to the provision of housing and effective local government in the province.

## **Measurable Objectives and Activities**

For a strategic plan to be effective it must be in line with the core objectives of a department and must provide information which demonstrates that its objectives and activities are measurable, achievable, time-bound and coherently costed.<sup>108</sup> In addition, regulations note that strategic plans should nominate officials responsible 'for the delivery of specific programmes.'<sup>109</sup>

The Department's strategic plans for 2002-2004, and 2003-2006 generally fail to adequately meet with these requirements. A number of examples drawn from both plans will illustrate this contention:

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<sup>107</sup> This is in line with Constitutional principle that 'People's needs must be responded to, and the public must be encouraged to participate in policy making.' South African Constitution, Chapter 10 Public Administration, section 195(1)e. The need to involve both internal and external stakeholders in the strategic planning process is explicitly articulated by National Treasury guidelines which state that departments must ensure stakeholder and community input. This is in an effort to ensure that the public has an opportunity to evaluate the respective department's commitment to the strategic plan and the likelihood of it being implemented.' Generic Format for Strategic Plans for Provincial Departments,' National Treasury, 11 July 2002, Part A, Section 3.8, p. 10.

<sup>108</sup> The 'Baseline Implementation Guide' produced by the Department of Public Service and Administration in 1999 (to assist with the implementation of the new Public Service Management Framework) states that strategic plans must be monitored and evaluated against progress made in terms of targets and time frames. See, 'Baseline Implementation Guide', Department of Public Service and Administration, 22 June 1999, p. 16. Public Service Regulations governing the creation of strategic plans state that strategic plans must contain the 'core and support activities' necessary to achieve the plans core objectives. In addition, these regulations state that the plan should set out a programme for attaining the plan's goals and targets. Lastly, the regulations note that plans should contain information which would enable the executing authority 'to monitor the progress made towards achieving those goals, targets and core objectives.' See, Public Service Regulations, 2001, Part 3, B.1 (b), (d) and (f)i, p. 11. The 'Generic Format for Strategic Plans for Provincial Departments' introduced in 2002 by the National Treasury notes that departments should develop appropriate sets of measurable objectives for each programme and sub-programme. Such objectives 'must comply with the "SMART" principle, i.e. they must be specific, measurable, achievable, realistic and time-bound.' See, Generic Format for Strategic Plans for Provincial Departments,' National Treasury, 11 July 2002, Part A, Section 3.8, p. 10.

<sup>109</sup> 'Guide for Accounting Officers', Public Finance Management Act, National Treasury, Oct. 2000, Section 2, p. 8.



- In the Department's operational/budget achievability plan for the 2002/03 financial year, contained within the Department's strategic plan, it notes (under Programme 2: Housing) the Department's intention to assist municipalities in implementing and maintaining a 'management information system.' The plan states that this will result in 'improved monitoring of services provided and revenue collected.' The plan notes a budget of R200,000 for this objective, and states that 40 municipalities will be targeted. As a timeline measure the Department states a completion date of 31 March 2003. The plan notes a responsible official, and contends that there will be monthly reporting. Somewhat bizarrely the plan then states as a quality measure 'implementation of the free water policy in municipalities.' This is clearly incorrect and is a repetition of the quality measure for the next objective in the plan which is a 'reduction in losses on services through water loss analysis.'<sup>110</sup>

The plan fails, however, to indicate which municipalities are to be targeted, who is to implement the 'management information system' and how it concluded that R200,000 would be necessary to complete this objective. For this objective to be properly planned the Department would need to indicate if it intended undertaking the implementation and maintenance of the system, or if it was intending contracting out this duty. Either way, the Department would then need to illustrate how it arrived at a cost of R200,000. Given the probable complexity of 'implementing' and 'maintaining' a 'management information system' concerns must be raised over the costing of this objective. A total of R5000 per municipality would appear to be inadequate, especially if the Department is to contract out the establishment of these systems. In addition, the Department needs to illustrate which 40 municipalities were selected and why.

A year later the 2003-2006 strategic plan sets out the very same objective – 'to assist municipalities to implement and maintain a management information system.' The objective is also exactly the same, the timeframe also year end and, once again, 40 municipalities are to be targeted. The only change is that the budget has now increased to R250,000. Clearly this objective has all the same problems identified above. Also as before, the quality measure for this objective is stated as 'implementation of the free water policy in municipalities.'<sup>111</sup> This would seem to suggest that this objective has simply been cut and pasted from the year before, and with it has come the obvious error.

- The Department's Operational/Budget Plan for the 2002/03 2003/04 financial year notes its desire to 'eliminate fraud and corruption'. It states as an output for this objective 'clean administration' and 'reduced fraud and corruption.' The plan notes that a budget of R1 million had been allocated. It also states that 'small' municipalities that lacked 'financial muscle' would be targeted. The time frame for the objective was noted as the end of the 2002/03 financial year and

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<sup>110</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2002-2004, Operational/Budget Achievability Plan, p. 13.

<sup>111</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2003-2006, Section 2.6, p. 14.

monitoring of progress would be via monthly and quarterly reports and random visits to municipalities. An official was nominated to oversee the process.<sup>112</sup>

It is not at all clear how this objective is 'measurable', 'achievable' or 'coherently costed'. The Department has failed to indicate which municipalities will be targeted and why. It has failed to state how it intends reducing fraud and corruption as no actual activities are articulated. For example, it fails to indicate whether it would do so by ensuring that financial management systems are improved, asset management is improved, disciplinary procedures properly enforced etc. In addition, it is not clear how the Department estimated that this objective would cost R1 million – or the basis on which the Department arrived at this total. The Service Delivery Plan of the strategic plan restates the Department's desire to eliminate fraud and corruption. However, the plan simply states that over the four quarters of the financial year the Department will be 'planning.'<sup>113</sup> This is a completely meaningless statement and makes it impossible for oversight institutions and the public to hold the Department to account.

- The failure to properly articulate activities to be undertaken to meet with stated objectives is also a feature of the Department's 2003-2006 strategic plan. This plan notes, under Programme 1 (Executive), section 1.2.4, that there will be 'accountability (political and financial) for the overall performance of the department.' The plan notes the output of this objective as 'financial and social impact reports', for which R150,000 has been budgeted. The plan notes as a timeline measure 'ongoing-quarterly', which presumably means the production of quarterly reports. The plan then states that as a 'quantity measure' there will be a 'reduction in variance.' It is not at all clear what the Department means by this term – it fails to indicate what this reduction in variance refers to. In terms of 'quality measure' the Department simply states 'improved service delivery.' However, there is no explanation as to how the Department intends to judge, and by what standard, service delivery could be said to have improved or not.<sup>114</sup>

For such an objective to be measurable and achievable the plan needs to articulate exactly what is meant by 'financial and social impact reports.' What activities are to be undertaken to complete them, what areas of service delivery these reports are to focus on (where and why), who is to compile them, and lastly, how they are to be used. In addition, the quality measure 'improved service delivery' cannot be measured in any meaningful way in the absence of any specific targets. For example, the Department could have stated here that Programme 1 intends to reduce audit queries by half, ensure that a certain number of homes are built to applicable norms and standards over the period of the plan. However, it omits any mention of these vital targets.

- The Operational Budget Plan for 2002/03 also sets itself the objective of developing and work-shopping human resource policies by the end of the

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<sup>112</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2002-2004, Operational/Budget Achievability Plan, p. 20.

<sup>113</sup> Ibid, Service Delivery Plan, p. 9.

<sup>114</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2003-2006, Section 1.9 Table 1, 1.2.4, p. 9.

financial year. As a 'quality measure' the Department claims that this will result in 'understandable, user-friendly policy that have [sic] sufficiently consulted.' It is not at all clear what the Department means by this quality measure. As far as cost is concerned the plan notes that this will cost R140,000 and will involve two workshops. An official is nominated to oversee this objective. However, once again, this objective lacks the necessary detail and fails to include activities that will need to be undertaken to fulfil the objective. For example, it fails to indicate who will develop human resource policies, how many staff will attend the workshops, who will undertake the workshops, and how a cost of R140,000 was arrived at.<sup>115</sup>

A year later this exact same objective is included in the Department's strategic plan for the 2003-2006 period. The objective, the output, quality measure and timeline is exactly the same as in the previous year. The only changes are that no person is named as being responsible for completing this objective and the two workshops are now costed at R398,000.<sup>116</sup>

What this would seem to indicate is that the objective was not fulfilled in the previous year, despite being budgeted for, and no effective human resource policy was in effect. It also demonstrates that the costing of the two workshops had not been properly quantified, given that only a year later the estimated cost had more than doubled.

- The final example is drawn from the Department's strategic plan for 2003-2006. It states as an objective in table 1 under 3. Strategic Objective: Improve Housing Subsidy Management that it wants to ensure 'compliance with service delivery targets.' As an output it states. 'improved service delivery in terms of time and quality.' As a cost measure the Department notes that R4.2 million had been budgeted to outsource 'the project management function.' The quantity measure is then recorded as 'relocation of an additional 10,000 families in flood plains.' The quality measure is stated as '10,000 families successfully relocated to a safe environment', while the time-line is 'during MTEF period.'<sup>117</sup> This example clearly illustrates the disjointed nature of the objectives identified by the Department. There is no clear or obvious correlation between the outsourcing of the project management function and the re-location of families from flood plains. It would appear that the stated objective, cost measure and quantity output are not related to each other and have been inserted into the plan through some form of administrative mistake (which, due to a lack of editing, has not been corrected).

### **Reconciliation with previous budget allocations**

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<sup>115</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2002-2004, Operational/Budget Achievability Plan, p. 33.

<sup>116</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2003-2006, p. 24.

<sup>117</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2003-2006, Table 1, Section 3. Strategic Objective: Improve Housing Subsidy Management, p. 13.

In terms of the relevant legislation, strategic plans are also supposed to contain a reconciliation between budget allocations and actual expenditure by programme and, where appropriate, sub-programme.<sup>118</sup> This is to ensure that those drawing up the plan are aware of how effective the department has been in meeting its spending commitments, and in turn, delivery commitments in previous years enabling it to plan more realistically. It is self-evident that for departments to be able to plan effectively, it is vital that they are aware of their own limitations in terms of their spending ability, so as to avoid budgeting for outputs that cannot be met.

The Department's strategic plan for 2002-2004 only includes tables which demonstrate the audited spending figures for the 1999/00 and 2000/01 financial overall, and by programme, and estimates for the 2001/02 financial year and MTEF estimates for the two outer years. There is no attempt to reconcile these figures with past performance, and no evidence to suggest that previous spending patterns have informed the strategic planning process.<sup>119</sup>

In the 2003-2006 strategic plan spending is broken down by programme for two years before the start of the new MTEF period and for the three years of the MTEF. Once again, there is no attempt to reconcile these figures with past performance, and no evidence to suggest that previous spending patterns have informed the strategic planning process.<sup>120</sup>

### **Audit Queries**

In implementing strategic plans accounting officers are obliged to 'promote the efficient, economic and effective use of resources.'<sup>121</sup> To this end, departments are required to demonstrate in their strategic plans that they have identified and adopted strategies to address audit queries raised by the Auditor-General during the auditing process.<sup>122</sup>

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<sup>118</sup> National Treasury guidelines for the implementation of the Public Finance Management Act state that planning, budgeting, monitoring and reporting must be closely linked. The implementation guide notes that 'departments must be specific about what is intended to be, and has actually been delivered.' See, 'Guide for Accounting Officers', Public Finance Management Act, National Treasury, Oct. 2000, Section 2, pp. 7-8. The Treasury's 'Generic Format for Strategic Plans for Provincial Departments' states that strategic plans should give an account of 'how spending trends have transpired in previous years and how MTEF projections correspond to strategic plan objectives.' In addition, this template notes that departments must evaluate their performance in the current year (i.e. the year in which the strategic plan is being written up) and indicate how this is likely to effect its ability to meet its objectives in that year. In light of this performance, departments are also instructed to take into account what adjustments they have made, or need to make, to their performance targets for the upcoming strategic plan and upcoming year. See, 'Generic Format for Strategic Plans for Provincial Departments,' National Treasury, 11 July 2002, Part B, Sections 3.12, p. 16 and 3.16.3, p. 21.

<sup>119</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan MTEF 2002-2004, Annexure 2, Sections 7.11-7.19.

<sup>120</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2003-2006, Section 1.10, pp. 58-61.

<sup>121</sup> Public Service Regulations, 2001, Part 3: Planning, Work Organisation and Reporting, B.3 (a), pp. 11-12.

<sup>122</sup> 'Generic Format for Strategic Plans for Provincial Departments,' National Treasury, 11 July 2002, Part B, 3.15.1, p. 19.

In its plan for 2002-2004 the Department notes its intention to address 'broad' issues which were raised by the Auditor-General. According to the Department, these broad issues relate to 'audit scope restriction', 'financial matters' and 'internal control'. In terms of addressing audit scope restriction the plan notes the Department's intention to link the performance appraisal system of 'managers' with the 'objective of eliminating audit queries.' It also states that the provincial audit committee and the 'risk management component of the department' would pay particular attention to those areas where the Auditor-General has raised his concerns.<sup>123</sup> The problem with the first proposed solution is that it relies on the Department being able to properly implement a working performance management system. To date, as this submission will demonstrate in a forthcoming section, the Department has not properly implemented a performance management system.

In the Department's Operational/Budget Achievability Plan for 2002/03 a number of objectives are included to try and address audit queries. The first objective is to conduct an 'awareness campaign' among officials regarding the causes of audit queries. However, as before, there are no real activities listed for this objective. The plan fails to indicate which staff will be targeted, who will undertake the awareness campaign and at what cost. The cost measure indicated in the plan is 'down time', while the time-line measure is 'age of queries'. Neither of these appear to have any concrete meaning and cannot allow for proper monitoring of this objective. A second objective to address audit queries is to ensure that the internal audit unit conducts continuous audits of deficient areas – however, this would seem to simply state the mandate of the internal audit unit.<sup>124</sup> In addition, no mention is made of the staffing or current skills base within the unit. The Service Delivery Plan included in the plan also notes the intention to address audit queries. It states that in the first quarter of the 2002/03 financial year the Department will focus on personnel files, in the second quarter, procurement, in the third quarter, financial management and in the last quarter, readiness for year-end.<sup>125</sup> While these objectives are appropriate they are, once again, too general. The Department failed to indicate what activities it intended carrying out to meet these objectives. For example, would the Department engage in staff training? Would it seek outside help to assist in financial management? Would it recruit more staff to address these problems?

The 2003-2006 plan also includes a section on audit queries. However, all this section does is to list the audit opinions the Department received over the preceding three years.<sup>126</sup> In the Department's actual plans there is no mention of any objectives or activities to address audit queries. It is clear that the absence of any attempt to address audit queries contributed to the Department receiving an audit disclaimer in the 2003/04 financial year. It should be remembered that with the introduction of the PFMA in 2000 the National Treasury identified seven 'immediate steps' that departments should implement.<sup>127</sup> These steps were ranked in importance, and step two was 'clear up audit

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<sup>123</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2002-2004, Part C, p. 10.

<sup>124</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2002-2004, Operational/Budget Achievability Plan, p. 4.

<sup>125</sup> Ibid, Annexure 3, Service Delivery Plan, p. 3.

<sup>126</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2003-2006, Appendix 2, Section 1.15.18, p. 74.

<sup>127</sup> 'Guide for Accounting Officers', Public Finance Management Act, National Treasury, Oct. 2000, Section 3, pp. 15-18.

queries.<sup>128</sup> It seems inconceivable that despite this directive from the National Treasury the Department did not include a plan to address audit queries in its strategic plan. This is especially so, given that the National Treasury asserted that:

Accounting officers are expected to make significant progress in these areas [the seven immediate steps], which will have been included in their departmental implementation plans ... A failure to make any progress, for example not attempting to appoint a CFO, will constitute grounds for financial misconduct<sup>129</sup>

### **Infrastructure and Maintenance Plans**

In line with the requirements of the PFMA, strategic plans are also expected to include a section relating to departmental capital expenditure and maintenance. This is to ensure that departments make the most efficient and effective use of resources made available to them for capital and maintenance expenditure.<sup>130</sup> The strategic plan for 2002-2004 makes no mention of departmental capital expenditure or maintenance. The plan for 2003-2006 devotes a small section to this issue, which does no more than indicate how much money the Department transfers in terms of capital infrastructure expenditure. The section notes that the Department will be transferring some R1.49 billion in terms of capital expenditure in the 2003/04 and 2004/05 financial years. Despite this vast sum of money being transferred, the plan contains no capital investment or maintenance plans, or plans relating to management of capital assets.<sup>131</sup>

### **Recommendation**

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<sup>128</sup> The Guide noted that 'Accounting Officers must urgently address any outstanding queries raised by the Auditor-General.' *ibid*, Section 3(2), p. 16.

<sup>129</sup> *Ibid*, Section 3 - Summary, p. 18. The PFMA Implementation Guide notes that 'it is important that the implementation of the PFMA starts without the impediment of outstanding audit queries, some of which have been outstanding for periods in excess of one year. Departments are therefore urged to identify all outstanding audit queries and to set target dates for their finalisation.' See, Public Finance Management Act Implementation Guide, National Treasury, July 2000, Section 2 p. 5.

<sup>130</sup> Section 38(b) of the PFMA states that accounting officers are responsible for the 'effective, efficient, economical and transparent use of the resources of the department.' In fulfilling this objective, accounting officers are required to ensure that all capital projects are properly evaluated (section 38(a)(iv)) and all state assets are safeguarded and maintained (section 38(d)). The Generic Format for Strategic Plans for Provincial Departments, notes that strategic plans should include both long term capital investment and asset management plans. These plans should include, *inter alia*: what building projects are in progress and when they are expected to be completed; what new building projects are planned (when will they start and finish); what is the department's maintenance backlog; what plans are in place to deal with the backlog; and, how are the above developments expected to impact on current expenditures. In addition, departments are expected to include details which demonstrate, *inter alia*: what projects will be carried forward from previous years (will funding be rolled-over?), what projects will begin the current year; what expenditures are involved; and, has budgetary provision be made for future maintenance of projects. See, Generic Format for Strategic Plans for Provincial Departments,' National Treasury, 11 July 2002, Part C, 3.17.3, pp. 22-23.

<sup>131</sup> Department of Housing, Local Government and Traditional Affairs, Strategic Plan, MTEF 2003-2006, Appendix 2, Section 1.15.3, p. 70.

*The Department should ensure that it identifies its strategic objectives on the basis of a detailed 'needs analysis' each year. Its strategic objectives should then be broken down into coherent activities which should be properly costed and time bound. The Department should also ensure that in the process of compiling its strategic plans it undertakes a thorough process of consultation with internal stakeholders (including its own managers and trade unions) and external stakeholders (including housing-related NGOs, experts and service providers). In addition, the department should attach a list of Service Level Agreements (SLAs), or measurable performance indicators to be met by transfer recipients, to its annual strategic plan.*

## **2.2 Expenditure Management**

### **Summary**

*Expenditure management within the Department over the period under review has been wholly inadequate. Between the 2000/01 and 2003/04 financial years the Department managed to under spend a cumulative total of R928 million meant for the construction of homes in the province and R172 million allocated to develop the capacity of local government to manage their financial resources effectively. This under spending is the result of a number of interrelated problems. Staff shortages and staff incapacity, at both provincial and municipal levels, together with the Department's failure to address these human resource issues, resulted in the Department being functionally unable to properly spend allocated resources. This problem was significantly worsened by the Department's failure to produce adequate strategic plans to guide its expenditure.*

*In addition, a failure to properly monitor and account for funds transferred by the Department resulted in the construction of thousands of sub-standard homes throughout the province.*

*Over and above the Department's weak control over expenditure and human resources, it also failed to establish an effective and efficient internal control environment. Further evidence of poor expenditure management is found in the Department's failure to make payments within the prescribed 30-day period; its failure to report fully on transfers considered by the Auditor-General as irregular expenditure, and its poor asset management.*

### **Findings**

It is the intention of this section to evaluate the performance of the Department in terms of expenditure and financial management from the 2000/01 financial year to the 2003/04 financial year. This will be done by interrogating a number of significant issues which impact upon the quality of the Department's expenditure management.

### **Weak Expenditure Management**

In what follows a detailed account will be provided of a number of fundamental expenditure management problems which have characterised the performance of the provincial Department of Housing, Local Government and Traditional Affairs in the Eastern Cape. Section 26 (1) and (2) of the Constitution states that everyone has the

right to adequate housing within available resources.<sup>132</sup> Section 195(1)(b) of the Constitution notes that public administration must make 'effective use of resources.'<sup>133</sup> Given these Constitutional directives, the failure of a the provincial Department of Housing, Local Government and Traditional affairs to manage scarce allocated resources to ensure the progressive realisation of the right to housing runs contrary to the obligations imposed on it by the Constitution and supporting legislation.

All figures amounts in million (R' 000)

Programme	Total Budget	Actual Expenditure	Variance: (over) / under expenditure	Percentage of budget underspent
Executive	92 850	75 549	17 301	19 %
Housing	3 184 261	2 256 142	928 119	29 %
Local Government	979 274	807 115	172 159	18 %
Corporate Services & Traditional Affairs	287 690	317 540	(29 850)	-10 %
Total	4 544 075	3 456 346	1 087 729	24 %

(Source: Department of Housing, Local Government and Traditional Affairs, Annual Reports, 2000/01, p. 76, 2001/03, p. 104, 2002/03, p. 125 and 2003/04, p. 80).

Between the 2000/01 and 2003/04 financial years the Eastern Cape provincial Department of Housing, Local Government and Traditional Affairs under spent a cumulative total of R928 million allocated to Programme 2: Housing, for the construction of new homes in the province.<sup>134</sup> In reality the figure is actually more as the Department made advance payments in the 2003/04 financial year, which accelerated between January and March 2004 (the last quarter of the financial year), of R316 million to municipalities for house construction, which went entirely unspent.<sup>135</sup> This 'fiscal dumping', as defined by the National Department of Housing,<sup>136</sup> took place despite the provincial MEC asserting in November 2003 that the Department '...realised that this [early payments] would constitute a problem in the long term because the money was sitting with the local authorities and losing value. We decided to reorganise this protocol and tried to adjust the money according to demand and capacity and not just dump it.'<sup>137</sup>

If this R316 million is included, the cumulative total of housing funds unspent over the four financial years in question is R1.24 billion. Clearly, this under spending represents

<sup>132</sup> Constitution of the Republic of South Africa, Chapter 2, Section 26(1) and (2).

<sup>133</sup> Ibid, Chapter 10, Section 195(1)(b).

<sup>134</sup> See, Department of Housing, Local Government and Traditional Affairs, Annual Reports, 2001/02, p. 85, 2002/03, p. 110, and 2003/04, p. 80.

<sup>135</sup> The Auditor-General noted that this represented a breach of Treasury Regulation 15.10.1.2(b) which requires the Department to make payments no earlier than is necessary with due regard to efficiency. See, Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2004, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, p. 61.

<sup>136</sup> As defined by the National Department of Housing, Annual Report, 2003/04, p. 73.

<sup>137</sup> MEC G. Nkwinti, quoted in 'Housing Strategy Pays Off', *Daily Dispatch*, 28 Nov. 2003.



the denial of much needed services to citizens of the province and illustrates the failure of the Department to adequately fulfil its mandate in the Eastern Cape.

In addition, the Department under spent a cumulative total of R172 million allocated to Programme 3: Developmental Local Government. This programme has four sub-programmes which aim, inter alia, to:

- Monitor, promote and facilitate the administration of human resources at municipal level.
- Monitor and audit transferred funds
- Monitor and manage municipal finance systems
- Render support to municipal developmental planning, surveying and valuations
- Monitor and evaluate municipal performance and standards
- Monitor legislative compliance.<sup>138</sup>

There are numerous reasons why the Department failed to manage its expenditure effectively. The remainder of this section of this submission will examine broad financial and expenditure management problems which contribute to the Department's record of under spending.

### **Asset Management**

Section 38 of the PFMA notes that accounting officers must maintain 'effective, efficient and transparent systems of financial and risk management.' In addition, it notes that accounting officers are responsible for safeguarding and maintaining assets and preventing losses.<sup>139</sup> Despite these requirements the Auditor-General noted in his audit of the 2001/02 financial year that 'inventory, bank and cash, government vehicles and other fixed assets' were not properly controlled and managed 'to prevent thefts, losses and misuse thereof.'<sup>140</sup> A year later the Auditor-General noted that stock cards were not updated within stores, and the Department's fixed asset register was 'incomplete.'<sup>141</sup> Despite these clear breaches of the regulatory framework, it is encouraging to note that the Auditor-General did not draw attention to any issues in the 2003/04 audit relating to the management of fixed assets under the Department's care. However, the Department acknowledged in its management report that it still did not yet have a 'comprehensive

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<sup>138</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, p. 15. The Guide For Accounting Officers notes that 'fiscal dumping (the transfer of funds late in the financial year) to conceal a national department's under spending may constitute financial misconduct,' Guide for Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 3 Seven Immediate Steps, 4, p. 17.

<sup>139</sup> Public Finance Management Act, 1999, Chapter 5, Section 38(a)(i), (c)(ii) and (d), pp. 23-24.

<sup>140</sup> Report of the Auditor-General on the Financial Statements of the Department of Housing, Local Government and Traditional Affairs – Vote 7 for the year ended 31 March 2002, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, PR129/2002, p. 83.

<sup>141</sup> Report of the Auditor-General on the Financial Statements of the Department of Housing, Local Government and Traditional Affairs – Vote 7 for the year ended 31 March 2003, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, p. 108.

register of department assets.’ The report noted its intention to establish such a register during the 2004/05 financial year.<sup>142</sup>

### **Human Resource Management**

Regulations state that government departments must ensure that they affect reliable human resource management procedures.<sup>143</sup> A constituent part of such procedures is the implementation of effective performance management systems that govern the employment of all officials.<sup>144</sup> These requirements are set in place to ensure that employees of government departments represent value for taxpayers’ money. Government department’s must have effective human resource management systems in place to ensure that staff compliments are maintained at the necessary level, and problems associated with staff recruitment and retention are addressed. Performance management systems must be in place to ensure that departmental employees can be held accountable.

There is little doubt that one of the most debilitating problems that the provincial Department of Housing, Local Government and Traditional Affairs experienced over the financial years from 2000/01 to 2003/04 was its lack of suitably skilled and trained staff.

In the Department’s annual report for 2000/01 the MEC noted a number of challenges that the Department faces, one of which, the MEC claimed, was the existence of a ‘weak link’ in ‘administration and finance.’ This clearly suggests that the Department had

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<sup>142</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2003/04, Management Report, section 12, p. 59.

<sup>143</sup> Section 195(1)(h) of the Constitution states that public administration must exhibit ‘good human resource management.’ Public Service Regulations state that it is the responsibility of executing authorities within departments to assess the human resource needs of departments. This should be done in terms of total numbers of staff required to meet departmental objectives, and the necessary competencies and capacities staff will require to fulfil a department’s objectives. In addition, the regulations note that training needs should be assessed and all human resource planning should be undertaken with due cognizance of the available budget. See, Public Service Regulations, 2001, Section 3 D1, pp. 12-13. Lastly, section 38(b) of the PFMA states that accounting officers are responsible for the ‘effective, efficient, economical and transparent use of the resources of the department.’ This clearly presupposes that departments will implement efficient and effective human resource management processes and procedures.

<sup>144</sup> Resolution 13 of the Public Service Coordinating Bargaining Council, 1998, states that all senior management within the public service must sign performance agreements. Resolution 13 states that such agreements should define ‘a person’s work according to his/her key duties and responsibilities [and] methods of assessing his/her performance.’ It also stipulates that all senior managers should be assessed quarterly on the basis of their performance agreements. See, Public Service Coordinating Bargaining Council Resolution 13 Senior Management (Performance Agreements), 1998, section 3. In terms of the Public Service Regulations of 2001, performance management systems designed to ‘enhance organisational efficiency and effectiveness’ should have been ‘fully implemented by all departments with effect from 1 April 2001.’ These regulations state that a ‘performance cycle’ should have been introduced in each department to ensure that the performance of employees is monitored on a ‘continuous basis’. These regulations also state that employees should be assessed on an annual basis, but should meet with their assessment supervisors at least four times a year to address performance related issues. See, Public Service Regulations, 2001, part VIII, B.1, p. 28. Lastly, and as we have already seen, the section 38(1)(b) of the PFMA requires that accounting officers ensure the ‘effective, efficient, economical and transparent use of the resources of the department.’

capacity problems among its staff. However, the annual report lacks detail in regard to human resource related issues. There is no breakdown in the annual report indicating overall staff numbers, or staff numbers by occupational level. In addition, the report failed to indicate if the Department has any shortages of staff in key skilled areas, simply noting that four new staff members joined the Department during the course of the year.<sup>145</sup>

The Department blamed its 'critical shortage of management staff' for its under spending in the 2001/02 financial year. In particular it identified three areas where serious capacity constraints existed. These were in finance and accounting, generic management, and engineering and technical.<sup>146</sup>

In total the Department employed some 1665 people during the 2001/02 financial year, of whom 1075, or 65 percent, were additional to the establishment, 680 of whom were in grades 1 and 2 which the Department described as 'lower skilled' employees.<sup>147</sup> However, when it comes to critical posts, which the Department described as professionals and technicians, it noted that it had only 33 positions filled, with 114 vacancies (78 percent critical post vacancy rate). The effect that these critical staff shortages had on the ability of programmes and sub-programmes within the Department to deliver on their mandates was immense. The sub-programme, Land Administration and Housing Policy Development (within programme 2, Housing), had three vacant deputy director posts and six vacant assistant director posts during the 2001/02 financial-year. The Department's annual report noted that as no vacant posts were filled in this sub-directorate a newly created housing policy and research unit did not function during the financial-year. This was despite the fact that the sub-programme had been tasked with providing for 'the systematic elimination of housing backlogs.'<sup>148</sup> It is clear that during the 2001/02 financial-year the Department's human resources were 'bottom heavy,' in that there was an overabundance of unskilled labourers, mostly additional to the establishment, while there was a desperate shortage of skilled staff.<sup>149</sup>

As in the previous financial year, the Department's annual report for 2002/03 noted that one of the Department's key challenges was a shortage of financial management skills.<sup>150</sup> In total, the Department employed 1449 people in the 2002/03 financial-year, of whom 950, or 66 percent, were additional to the establishment and predominantly located within grades 1 to 2. Overall the Department recorded a vacancy rate of 26 percent.<sup>151</sup> In regard to critical posts the Department noted that it had only filled 11 of 64

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<sup>145</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2000/01, Part 2, pp. 6-11.

<sup>146</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2001/02, Part 5, section 5.1.3, p. 76.

<sup>147</sup> *Ibid*, Part 2, pp. 10 & 12. It should be noted that none of the annual reports from 2000/01 to 2003/04 provide reliable data in relation to exact employment numbers. Each report contains numerous tables which relate to human resources but none appear to tally with each other. This seems to suggest that the Department itself has not carried out a proper audit of its staff compliment and does not, in fact, know with any degree of reliability how many staff it actually employs.

<sup>148</sup> *Ibid*, Part 3, section 3.2.3.2, pp. 43-46.

<sup>149</sup> *Ibid*, Part 2, pp.10-12.

<sup>150</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2002/03, p. 4.

<sup>151</sup> *Ibid*, Part 3, section 3, table 3.1, p. 76.

critical posts (85 percent critical post vacancy rate). This meant that the Department had only two of four chief directors, and no chief engineers, deputy chief engineers, town and regulation planners or valuers.<sup>152</sup>

The effect that this failure to fill vacant posts had on programmes and sub-programmes can be gauged by examining the critical housing sub-programme 'infrastructure development and project management' which was supposed to appoint 51 officials in the year under review, but appointed none, noting that it only managed to complete two job evaluations during the year. The annual report did confidently state, however, that the posts had been advertised and 'will be filled during 2003/04'.<sup>153</sup>

The MEC noted in his policy speech for 2003/04 that the key challenge that the Department faced in regard to housing delivery remained 'the deficient capacity to implement at both the provincial and local spheres of government'.<sup>154</sup> In the 2003/04 annual report the Department noted that there were 1086 posts within the Department, of which 587 were vacant (46 percent vacancy rate). The report also notes that the Department was still employing some 460 staff, or 42 percent of its total staff complement, who were additional to the establishment figure.<sup>155</sup> As far as critical posts were concerned the Department noted that only 34 positions were filled, or 33 percent of 103 critical posts.<sup>156</sup> The Department's Management Report commented that the Department was 'constrained by [its] shortage of personnel, especially at management level.' It continued, 'this has impacted service delivery negatively since there are no managers to manage, drive and monitor critical projects.'<sup>157</sup> Despite the Department's assurance in the previous financial-year that posts would be filled in the critical sub-programme housing infrastructure development (under programme 2, Housing), no posts were filled in this sub-programme during 2003/04. This meant that this sub-programme still lacked the 51 staff that it lacked in the previous year.

As we have seen Public Service Regulations place an onus on accounting officers to ensure that their departments are properly staffed. In doing so, Public Service Regulations make it clear that accounting officers are responsible for filling vacant posts<sup>158</sup> either by the recruitment of new staff, or via training existing staff.

In terms of recruitment, however, the Department's performance has been consistently poor. In the 2000/01 financial year, the Department recruited only four new staff, despite the fact that 53 left the Department.<sup>159</sup> In the following financial year five new staff

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<sup>152</sup> *Ibid*, pp. 76-77.

<sup>153</sup> *Ibid*, table 5, p. 36.

<sup>154</sup> Department of Housing, Local Government, and Traditional Affairs, Policy Speech, 2003/04, p. 8.

<sup>155</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2003/04, table 2.1, p. 102.

<sup>156</sup> *Ibid*, table 2.3, p. 103.

<sup>157</sup> *Ibid*, pp. 56 & 58. Interestingly the annual report noted that there were so few managers in the Department that disciplinary hearings could not be chaired properly, p. 47.

<sup>158</sup> Public Service Regulations note that 'the executing authority shall ensure that vacant posts in the department are so advertised to reach, as efficiently and effectively as possible, the entire pool of potential applicants.' Part VII, Section C.2.1, p. 29.

<sup>159</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2000/01 Section 2.4, tables 2 and 3, pp. 9-10.

members began to work for the Department while 98 left the Department.<sup>160</sup> The situation was even worse in 2002/03 when only two employees were recruited, while 136 left the Department.<sup>161</sup> The Department states that it was unable to fill vacant posts because of 'the slow process of job evaluation' which it claimed delayed the advertising of the posts.<sup>162</sup> Finally, in 2003/04 the Department recruited 10 new employees, while it lost 115.<sup>163</sup>

Clearly, the Department's recruitment has been wholly inadequate over the period under review. In terms of staff that have 'left' the Department, it should be remembered that the Department shed some 615<sup>164</sup> excess employees between 1999/01 and 2003/04 in terms of Resolution 7. However, Resolution 7 states that Department's should apply measures to facilitate and enhance redeployment, one of which is to provide training to excess employees to meet the requirements of vacant posts.<sup>165</sup>

In terms of training more generally, Public Service Regulations note that employees should have 'ongoing and equitable access to training geared towards achieving an efficient, non-partisan and representative public service.' The Regulations also note that training should be 'driven by need'.<sup>166</sup> In terms of the PFMA, the Implementation Guide notes that training of all relevant personnel should take place to ensure the proper implementation of the Act. It notes that it is 'imperative that all personnel be empowered through training to be able to fulfill their generic financial responsibilities effectively.'<sup>167</sup>

Despite these requirements the Department's efforts to train its staff have been poor. In 2000/01 the Department stated that it trained some 309 employees.<sup>168</sup> However, the Department only spent 33 percent of its training budget, under spending a R1.65 million budget by R1.1 million, due to what it called 'a lack of institutional arrangements'.<sup>169</sup>

In the 2001/02 financial year 508 employees underwent some form of training according to the Department.<sup>170</sup> However, the human resource development sub-programme only spent R741 000, or 16 percent, out of a total budget of R4.54 million available for training. This was despite the fact that this sub-programme's mandate is to 'promote and coordinate institutional capacity building initiatives in the Department to ensure that

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<sup>160</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2001/02 Table 4.1, pp. 12-13.

<sup>161</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2002/03 Tables 6.3, p. 84 and 6.5, pp. 85-86.

<sup>162</sup> Ibid, p. 55. The Department has aimed to fill 55 critical posts and only filled two.

<sup>163</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2003/04 Tables 5.3, p. 108 and 5.5, p. 109. The Department noted that it had employed 10 Cubans at the 'professionally qualified level', 'in an attempt to close the gap of skills shortages,' p. 58.

<sup>164</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2001/02 Table 2.3, p. 10 and Annual Report, 2003/04, p. 102.

<sup>165</sup> See Public Service Co-ordinating Bargaining Council Resolution 7, 2002, section 8.1(f)(i), p. 6.

<sup>166</sup> Public Service Regulations, Part IX, Section A, p. 36.

<sup>167</sup> Public Finance Management Act Implementation Guide, National Treasury, July 2000, Section 2, p. 7.

<sup>168</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2000/01, Table 7, p. 13.

<sup>169</sup> Ibid, p. 14.

<sup>170</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2001/02 Table 10.3, p. 22.

personnel have the necessary skills to contribute towards service delivery.<sup>171</sup> The Department offered a number of explanations for why this budget was under spent. These ranged from 'officials could not attend due to operational requirements' and 'workplace skills plan not in place for approval and implementation' to 'non-existence of computer training centre.'<sup>172</sup> In terms of training, the Department noted in its 2002/03 annual report that 491 employees had undergone some form of training during the year. However, a closer reading of the annual report shows the limitations of this training. Given the capacity problems that the Department points to in respect of its financial management, it is surprising to note that only 11 staff from the financial management sub-programme attended courses on the PFMA, when it had targeted 50 staff. It is equally disturbing to note that only 18 out of 30 employees from the same sub-programme attended management courses, and no staff attended proposed computer training or report writing courses.<sup>173</sup> In terms of overall spending in the Human Resource Development sub-programme, the Department under spent this budget by ten percent. It also under spent its budget for Human Resource Management by 31 percent in the 2002/03 financial year.<sup>174</sup>

In terms of training, the Department noted its intention in the 2003/04 financial-year to train 70 management staff. According to the Department's annual report, 102 staff members were subject to some form of training during the year, ranging from PFMA courses to internet and e-mail courses.<sup>175</sup> The annual report also notes that during the course of the year 34 training courses were implemented, but fails to note how many staff were actually trained. Once again, the Department under spent its Human Resource Development budget, this time by nine percent. It is significant to note that the budget for this sub-programme for 2003/04 was some 35 percent less than in the 2002/03 financial year.<sup>176</sup>

In regard to human resource issues the Department has also failed to meet its obligation to create a performance management culture within the Department. In the Department's annual report for 2000/01 it notes that the Department had intended designing and implementing a performance management system to fulfill the requirements of the PFMA. However, the Department's annual report for 2000/01 indicates that all the Department had managed to do was develop a performance management system, which had not been implemented as planned.<sup>177</sup>

In the Department's strategic plan for 2003-06 it noted that only 5 percent of staff had signed performance agreements and stated that this was due to 'poor management support and apathy on the part of the officials in accepting the system.' The plan noted that 'resistance in accepting the change' was making the implementation of the performance management programme 'very slow.' It observed that 95 percent of employees had no performance contracts, or work plans for standard framework

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<sup>171</sup> *Ibid*, Section 3.4.4.2, p. 63-67.

<sup>172</sup> *Ibid*.

<sup>173</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2002/03 p. 30.

<sup>174</sup> *Ibid*, Table 10, p. 73.

<sup>175</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2003/04, Section 2.3, p. 16.

<sup>176</sup> *Ibid*, p. 74.

<sup>177</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2002/03, Section 3.6.3, p. 52

agreements. However, the plan noted the Department's intention to ensure the implementation of a performance management system by the end of the 2002/03 financial year.<sup>178</sup>

In the Department's annual report for 2002/03 it noted its intention to see all 1656 staff members sign performance agreements, attend quarterly performance reviews and have valid workplace plans. However, during the 2002/03 financial-year, no staff members attended performance reviews, no workplace plans were validated and only nine performance agreements were actually signed. The Department blamed this failure to meet its targets on 'service delivery priorities' but offered no explanation of what these priorities were.<sup>179</sup>

The Department's annual report for the following year (2003/04) noted that only six performance agreements had been signed, only 205 performance reviews completed and no staff had had their work plans validated.<sup>180</sup>

The MEC for Housing, Local Government and Traditional Affairs lamented in his policy speech for 2003/04 that a shortage of skilled personnel 'continued to plague and handicap the Department.'<sup>181</sup> These problems persist in the Department because it appears to have no long-term human resources strategy in place. Illustrations have already been provided of how the Department made vague assertions in its strategic plans about its intentions to address its staffing difficulties. Similar comments which lack any substance or suggest that the Department had any effective plans in place have also appeared in its annual reports. The Department's 2000/01 annual report noted that the Department had previously intended developing 'human resource planning and recruitment strategies' but offered no more detail other than to say that a 'departmental resource analysis' had been undertaken.<sup>182</sup> In the annual report for 2001/02 the Department confidently asserted that a strategy had been devised to address its 'serious shortage of critical management skills.' Once again, however, no detail is included to demonstrate what strategy the Department had developed.<sup>183</sup> A year later the Department noted that 'all avenues for recruiting staff and filling all vacancies will be vigorously pursued.'<sup>184</sup>

Another financial management problem relating to human resource management has been the Department's apparent inability to properly manage essential human resource

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<sup>178</sup> Department of Housing, Local Government, and Traditional Affairs, Strategic Plan 2003-2006, Appendix 2, Section, 1.15.6, p. 72. MEC Nkwinti promised the Legislature in February 2002 that the 'institutionalised laxity' of managers within his Department would be 'turned around.' See, 'Housing Dept lacks vital staff,' *Daily Dispatch*, 11 Feb. 2002.

<sup>179</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2002/03, p. 64.

<sup>180</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2003/04, p. 51.

<sup>181</sup> MEC for Housing, Local Government and Traditional Affairs, Policy Speech 2003/04, p. 7.

<sup>182</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2000/01, Section 3.6.3, p. 51.

<sup>183</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2001/02, Section 5.1.3, p. 76.

<sup>184</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2002/03, Section 2.1.5, p. 11.

functions such as the PERSAL system<sup>185</sup>, leave calculations and salary payments. In the 2000/01 annual report the Auditor-General noted, among other human resource expenditure issues, that he could find no documentation to substantiate R620 000 of severance package payments, R200 000 of overtime payments and R20 532 worth of back pay.<sup>186</sup> He also noted for 2000/01 that expenditure reflected on the PERSAL system was R6.8 million more than personnel expenditure as reflected on the Department's financial management system (FMS).<sup>187</sup> A year later the Auditor-General again noted an absence of controls in relation to personnel management. He reported weaknesses in regard to controls over leave, credit, application forms, leave accrual on the PERSAL system, payroll management, promotions and attendance registers.<sup>188</sup> At the end of the 2002/03 financial year the Auditor-General recorded, yet again, that leave records were inadequate (leave that not been taken was not captured on the PERSAL system), personnel files were incomplete, salary payments were made beyond staff termination dates, and salaries were overpaid.<sup>189</sup> Lastly, the Auditor-General noted during his audit of the 2003/04 financial year that; controls over leave were inadequate; payrolls were not certified by paypoint managers; the capturing and removing of traditional leaders from PERSAL was not completed timeously; and, personnel were incomplete.<sup>190</sup> The inability of the Department to properly manage these day-to-day human resource functions exposes the Department to the risk of financial loss because controls are not in place to ensure that erroneous payments to staff are not made, and staff do not take leave that they are not entitled to.

The Department's inability to manage its human resources effectively has also resulted in it having to make extensive and costly use of consultants. In the 2002/03 financial year the Department spent between R34.6 million and R75.4 million on consultants in the year. The precise figure is uncertain as the Department reports a different figure for consultant spending in its annual report when compared with the one that appears in the consolidated budget statements for the Eastern Cape Provincial Government, 2005/06.<sup>191</sup> In 2003/04 the Department declared in its annual report that it spent R51

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<sup>185</sup> The administration of the Department's salary bill is carried out on a computer database called PERSAL (Personnel Salary System).

<sup>186</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2001, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 2.2.1.1, a) v-vii, p. 62.

<sup>187</sup> Ibid, b) (i) (a), p. 62.

<sup>188</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2002, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, section 5.1 (a), p. 83.

<sup>189</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2003, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 5.1.1 f), p. 108 and 5.1.4, p. 109.

<sup>190</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2004, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, section 5.1.2 (c) (d) and (e), p. 62.

<sup>191</sup> See, for example, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, Notes to the Annual Financial Statements, Note 7, pp. 126-127 and Eastern Cape Provincial Government Budget Statement, PR NR:26/2005, Table 5.2, p. 406.



million on consultants, while the Treasury provided a figure of R90 million.<sup>192</sup> It is interesting to note that over the same period (2002/03 and 2003/04) the Department spent a mere R871 thousand and R698 thousand respectively on training, according to consolidated provincial budget statements.<sup>193</sup>

A further issue that the Department failed to adequately address when considering its human resource problems was the implementation of Public Service Co-ordinating Bargaining Council Resolution 7 of 2002. This resolution instructed government departments to redeploy, retrain or find alternative employment for 'excess employees': i.e. those employees not placed in defined posts within departments.<sup>194</sup> In the Department's annual report for 2000/01 it failed to note how many staff were additional to the establishment. It did note, however, that it had overspent its 'Operations' budget by R42 million 'because of staff additional to the establishment', which, the Department added, meant that 'the programme could not utilise its budget for other standard items.'<sup>195</sup> The Auditor-General noted at the end of the 2000/01 financial year that the Department had spent R46.9 million paying the wages of 893 staff who were additional to the establishment. He recorded this expenditure as 'fruitless' because the Department 'did not receive any economic benefit.'<sup>196</sup> At the end of the 2001/02 financial year, the Department noted that it had 1075 staff additional to the establishment (compared to either 511 or 448 posts it had successfully filled).<sup>197</sup> A year later the Department noted that it had 950 staff additional to the establishment (compared to the 499 posts that it had successfully filled).<sup>198</sup> By the end of the financial year in 2004 the figure had fallen to 460 staff additional to the establishment (compared to the 665 posts it had successfully filled).<sup>199</sup> These 'excess employees' are paid by the Department despite the fact that they do not have the requisite skills to populate the Department's organogram. In effect, these excess employees act as a financial drain on the Department because their wages have to be paid despite their making no meaningful contribution to the efforts of the Department to meet its mandate.

Persistent under spending within human resources, a failure to properly train staff, the Department's apparent inability, or unwillingness, to implement a performance

<sup>192</sup> See, for example, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, Notes to the Annual Financial Statements, Note 9, p. 82 and Eastern Cape Provincial Government Budget Statement, PR NR:26/2005, Table 5.2, p. 406.

<sup>193</sup> Eastern Cape Provincial Government Budget Statement, PR NR:26/2005, Table 7.2, p. 428.

<sup>194</sup> See Public Service Co-ordinating Bargaining Council Resolution 7, 2002, section 5. The Resolution came into effect on 6 March 2002, and was to be implemented within a maximum of 15 months, section 3.

<sup>195</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, Notes to the Income Statement, Note 4, p. 80.

<sup>196</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2001, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 2.2.1.1, b) (i) (b), p. 106.

<sup>197</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, Table 2.2, p. 10. The number of employees occupying approved posts that are not additional to the establishment cannot be stated with any certainty because the Department provides two different figures in tables 2.2 and 2.3 respectively. See, p. 10.

<sup>198</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, Table 3.1 p. 76.

<sup>199</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, Table 2.2 p. 102.

management system, together with its failure to properly manage human resource issues and fully implement Resolution 7, characterise the Department's response to its capacity problems. Overall, there is little to suggest that the Department has ever developed a coherent and comprehensive response to its critical lack of capacity that seriously undermines its ability to meet its mandate.

The Department's inability to properly capacitate its own staff, is matched by its inability to meet its mandate to capacitate the staff of municipalities.

In the Department's annual report for 2001/02 the HOD noted that under spending occurred within Programme 2: Housing because the institutionalisation of the housing function within municipalities remained a 'major challenge' and was the cause of the Department's 'slow delivery'.<sup>200</sup> In the same annual report the Management Report blamed a number of factors for the Department's inability to spend money allocated to housing:

- It blamed 'bottlenecks' at municipal level which slowed the housing process down.
- It indicated that the Department suffered from a critical shortage of management skills, arguing that capacity constraints led to much of the underspending.
- Lastly, it blamed what it described as the 'inflexible financial systems' that were in place.<sup>201</sup>

In the annual report for 2002/03 the HOD listed a number of key problems that he said the Department faced:

- Insufficient capacity to drive and manage housing development by developers and municipalities.
- Delays in the submission of business plans from municipalities
- Lack of impact assessment by the Department regarding its intervention measures within municipalities.
- Skills shortages within the Department, especially those relating to finance.
- The absence of any strategic planning unit within the Department to support integrated planning.<sup>202</sup>

As in previous annual reports, the Department's annual report for 2003/04 also listed a number of key challenges that it claimed hampered its ability to meet its mandate. These included:

- The failure to fill vacant posts at both provincial and municipal level.
- Lack of capacity at provincial level to properly engage with municipalities
- The failure of the Department to monitor its interventions at municipal level.
- Poor revenue and financial management at municipal level.
- The non-compliance with financial regulations by municipalities.
- Insufficient capacity within municipal housing units.

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<sup>200</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, pp. 4-5.

<sup>201</sup> *Ibid*, section 5.1.3, p. 76.

<sup>202</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, p. 4.

- Excess personnel in the provincial department.
- Political instability at municipalities.<sup>203</sup>

In essence the Department has primarily contended that it cannot adequately meet its stated objectives due to a range of human resource problems. This has led it to conclude that both the provincial Department itself, and municipalities throughout the province, lack the necessary capacity to effectively manage housing development. This position was confirmed in the MEC's policy speech for the 2003/04 financial year when he contended that the main challenge his department faced in regard to delivering on its mandate was the 'deficient capacity to implement at both the provincial and local spheres of government.'<sup>204</sup>

We have already seen that the Department failed to properly address its own human resource problems. Despite this, as previously noted, the Housing Act states that it is the responsibility of provincial government to 'take all reasonable and necessary steps to support and strengthen the capacity of municipalities to effectively exercise their powers and perform their duties in respect of housing development.'<sup>205</sup>

The Eastern Cape Department of Housing, Local Government and Traditional Affairs is required to capacitate local government via Programme 3: Developmental Local Government, which is tasked, among other things, with coordinating capacity building within municipalities. In addition, Programme 2: Housing, is responsible for training emerging contractors engaged by municipalities to build houses. To assist the provincial department in these endeavours it receives a local government capacity building conditional grant from the national Treasury. Training itself takes place at municipal level via two institutions – the Municipal Support Programme (MSP) and the Municipal Mentoring Project (MMP). Both are designed to provide technical assistance to municipalities in the areas of financial management, human resources management, organisational development, and community and development planning.

In the 2000/01 financial-year the provincial Department stated that municipalities should be empowered to take full responsibility for housing development and noted that several training courses had been 'earmarked' by Programme 2: Housing, for municipalities. However, it noted that training had been 'held back' because of municipal elections in the year under review.<sup>206</sup> It is not at all clear why municipal elections should have prevented any training course being completed throughout the course of the year. Under Programme 3: Developmental Local Government, the Department noted under Local Government Administration that one of its key outputs was the strengthening of capacity within municipalities. However, in terms of actual performance the Department states in its annual report that 45 new municipalities were created.<sup>207</sup> It is not clear how the creation of new municipalities has improved the capacity of municipalities in the province. On the contrary, these are more likely to have created an increased demand for capacity building and training.

<sup>203</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, pp. 3, 5, and section 4.5, p. 27.

<sup>204</sup> MEC for Housing, Local Government and Traditional Affairs, Policy Speech, 2003/04, p. 8.

<sup>205</sup> Housing Act, 1997, section (7)(2)f.

<sup>206</sup> Annual Report, Department of Housing, Local Government, and Traditional Affairs, 2000/01, p. 30.

<sup>207</sup> *Ibid*, section 3.5.2, p. 35.

The Department did report, however, that 563 municipal employees had attended at least one of 12 training courses during the year, ranging from cash flow management to meter reading. However, under financial management the Department's annual report notes that no training funds were used, but a training partnership with the South African Local Government Association (SALGA) had been established.<sup>208</sup> In fact the sub-programme, Local Government Municipal Support and Training, responsible for capacity building within municipalities, spent only R27.4 million of its R37.4 million budget, which translates into under spending of 27 percent.<sup>209</sup> In terms of the training of emerging contractors to build better quality homes, the Department noted that its Municipal Mentoring Project had established a database detailing all training that had been provided. It noted that management training for emerging contractors had been carried out in four regions, but failed to indicate how many persons attended the training.<sup>210</sup> It did note, however, that it was now encouraging all emerging contractors to register with the National Homebuilders Registration Council.

In the Department's annual report for 2001/02 it noted its intention to accelerate spending on housing by working more closely with municipalities.<sup>211</sup> In terms of training, Programme 2: Housing set out to train 102 housing officials in the year under review, but only managed to train 71 due to what the Department claimed was the municipalities' inability to budget for accommodation correctly. In fact, the Department only managed to spend R431 000 of R1.1 million budgeted for the training of housing officials.<sup>212</sup> Programme 2: Housing also only managed to spend R137 071 of R500 000 allocated to it for the training of municipal officials in land administration. The Department blamed the 'non-filling of vacant posts' and 'uncertainty regarding training recipients at local level.'<sup>213</sup> In terms of general training, the Department noted that 45 municipalities had been workshoped on the 'legislative framework' and capacity had been built up at 19 municipalities in regard to development finance.<sup>214</sup> In terms of spending, the Department noted that it had spent 100 percent of its Municipal Support Programme conditional grant.<sup>215</sup>

In the 2002/03 financial-year the housing programme was allocated a budget of R1.1 million to assist in the capacitation of 105 municipal officials. However, the Department only spent some R387 000, or 35 percent, because it claimed that municipal officials did not attend regularly or complete courses, which resulted in only 58 officials actually attending classes. The report noted that there were 'no capacitated and functional housing units in municipalities.'<sup>216</sup> The Department also failed to capacitate six municipalities in land administration as it had hoped, claiming that the trainers themselves had been 'transferred to other units.'<sup>217</sup> Under the Developmental Local

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<sup>208</sup> *Ibid*, section 3.5.2, pp. 40-41.

<sup>209</sup> *Ibid*, p. 79.

<sup>210</sup> *Ibid*, p. 29.

<sup>211</sup> Annual Report, Department of Housing, Local Government, and Traditional Affairs, 2001/02, section 5.1.3, p. 76.

<sup>212</sup> *Ibid*, section 3.2.3.1, p. 41.

<sup>213</sup> *Ibid*, section 3.2.3.2, p. 45.

<sup>214</sup> *Ibid*, section 3.3.4, pp. 52 and 55.

<sup>215</sup> *Ibid*, section 5.7, p. 94.

<sup>216</sup> Annual Report, Department of Housing, Local Government, and Traditional Affairs, 2002/03, table 5, p. 34.

<sup>217</sup> *Ibid*, p. 35.

Government sub-programme, Municipal Development Finance, the Department noted that it carried out training within 33 municipalities, but admitted that it had deviated from its plans by 29 percent. As the Department failed to indicate how many municipal employees it intended training it is not possible to establish how many were actually trained.<sup>218</sup> The Department noted that for the year under review it had overspent its Local Government Support Conditional Grant by some 53 percent.<sup>219</sup>

In the 2003/04 financial-year Programme 2: Housing, set out to train 100 housing practitioners, but only managed to train 90.<sup>220</sup> Although the annual report for 2003/04 does not clearly state its training targets for Programme 3: Developmental Local Government, it appears that it set out to train some 20 officials in human resources, and 20 more in finance and local economic development in 41 municipalities. Thus, it appears that it set out to train 1640 officials in 41 municipalities. However, the annual report appears to state that it only managed to train 77 officials in total during the year under review.<sup>221</sup> Under 'development finance' Programme 3 it was noted that the Department had hoped to produce 'competent' municipal managers by a mentoring programme within 14 municipalities. However, the annual report notes that while 17 mentors had been appointed in 14 municipalities, only one had managed to complete the mentoring task. The same sub-programme also noted that it had intended training municipal staff in 9 different municipalities, but only managed to do so in 2.<sup>222</sup> In terms of actual spending of the conditional grant for local government capacity building, the Department under spent this grant by five percent.<sup>223</sup>

### **Unauthorised, fruitless and wasteful expenditure**

The PFMA requires that departmental accounting officers must submit an annual report and financial statements within five months of the end of a financial year. The annual report and financial statements must include particulars of any material losses through unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure.<sup>224</sup> In addition, details must be included of any criminal or disciplinary action taken as a result of any unauthorised, irregular or wasteful expenditure.<sup>225</sup>

In the 2002/03 annual report the Department noted in its disclosure notes to its annual financial statements two instances of unauthorised, fruitless or wasteful expenditure. It noted that R807,000 had been paid to Buffalo City for a parking lot and R78,000 had been paid to 'The Homemakers' for rental of offices 'in the northern region.' In terms of accounting for this expenditure the Department noted in its annual report that efforts were being made to recover the money paid to Buffalo City, stating that 'action would be taken against the officials concerned.' The report failed to mention any action being

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<sup>218</sup> *Ibid*, pp. 43-48. It is interesting to note that the HOD noted that consultants had been employed to train municipal staff, p. 3.

<sup>219</sup> *Ibid*, p. 133.

<sup>220</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2003/04, section 3.4, p. 20.

<sup>221</sup> *Ibid*, section 4.7, p. 30.

<sup>222</sup> *Ibid*, section 2.9.2, pp. 36-37.

<sup>223</sup> *Ibid*, p. 90.

<sup>224</sup> Public Finance Management Act, No 1 of 1999, section 40(1)(d) and 40(3)(b)(i).

<sup>225</sup> *Ibid*, section 40(3)(b)(ii).

taken in respect of the R78,000 for the rental of offices to the 'Homemakers'.<sup>226</sup> As we have already seen, the Auditor-General could not quantify the amount of money that should be regarded as fruitless and wasteful in terms of Department's failure to properly monitor transfer payments.<sup>227</sup> The Department failed to report on this fruitless and wasteful expenditure in its annual financial statements.

In the following financial year the Department did not declare any unauthorised fruitless or wasteful expenditure. Despite this, the Auditor-General once again noted that he could not quantify the exact amount of fruitless and wasteful expenditure, out of a total of R642 million that the Department transferred to external bodies, due to its failure to properly monitor transfer payments.<sup>228</sup> The Report did note, however, that no disciplinary or criminal action had been taken by the Department in regard to the two instances of unauthorised, fruitless and wasteful expenditure that took place in the 2002/03 financial year outlined above.<sup>229</sup>

### **Procurement**

To maximise the utility of all available resources the PFMA states that it is the responsibility of an accounting officer to ensure that a department has an 'appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective'.<sup>230</sup>

In both 2000/01 and 2001/02 the Auditor-General drew attention to the fact that weaknesses in internal controls were leading to payments being made and changed without the relevant authority.<sup>231</sup> In terms of tendering, the Auditor-General noted in 1999/00, 2000/01 and 2002/03 that Treasury guidelines around tendering were not always being adhered to properly.<sup>232</sup> For example, in 2002/03 the Auditor-General noted

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<sup>226</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, Note 27, p. 132.

<sup>227</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2003, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 3.1.1, p. 106.

<sup>228</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2004, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, section 3.1.1, p. 60.

<sup>229</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, Notes to annual financial statement, note 31.2, p. 88.

<sup>230</sup> Public Finance Management Act, No 1 of 1999, section 38(1)(a)(iii). The PSAM's references to procurement issues are drawn from Auditor-General and audit committee reports.

<sup>231</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the years ended March 2001 and March 2002, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 3.1.4, p. 70 and Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, section 5.1, p. 83.

<sup>232</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2001, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 2.2.2.3, p. 66.

that the Tender Board had not approved 'numerous payments in excess of R75,000.' In total these payments were said to amount to at least R1.5 million.<sup>233</sup>

In 2002/03 and 2003/04 the audit committee noted that procurement requirements were 'not always adhered to' which led to 'doubts as to whether administrative expenditure budgeted for the year was utilised for the purposes for which it was intended.'<sup>234</sup>

### **Payment Processes**

In order to ensure a sound financial management environment, the PFMA makes it clear that accounting officers must ensure that their departments settle all outstanding debts timeously.<sup>235</sup> In this regard, Treasury Regulations issued in terms of the PFMA note that payments due to creditors must be settled within 30 days.<sup>236</sup>

In his report for the 2002/03 financial year the Auditor-General drew attention to the fact that weak internal controls lead to payments not being made 'timeously'.<sup>237</sup>

### **Transfers and monitoring**

In the course of housing delivery, the Department receives the majority of its housing budget in the form of a conditional grant from national government. It is the provincial Department's responsibility to then transfer these funds to municipalities in the form of housing subsidy payments. These transfer payments, from both national government to provincial government, and provincial on to municipal, are governed by the same tight set of regulatory provisions as outlined above which stipulates how they should be spent, and how such spending should be monitored and accounted for.

However, in addition to the spending and reporting framework previously outlined funds transferred in terms of housing subsidy are also governed by the Division of Revenue Act (DORA). This Act places an onus on receiving officers (both at provincial and municipal level) to account for resources transferred to them. Section 16 of DORA notes that receiving officers must report monthly (as part of an entities usual monthly reporting obligations<sup>238</sup>) to the relevant provincial Treasury, provincial executive authority and transferring national officer on matters relating to the use of transferred funds. Such reports should include:

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<sup>233</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2003, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 5.1.6, p. 110.

<sup>234</sup> Department of Housing, Local Government and Traditional Affairs, Annual Reports, 2002/03, Part IV, Report of the Audit Committee, p. 99 and 2003/04, Report of the Audit Committee, p. 56.

<sup>235</sup> Public Finance Management Act, 1999, section 38(1)(f), p. 24.

<sup>236</sup> Treasury Regulations for Departments, Constitutional Institutions and Trading Entities, Issued in Terms of the Public Finance Management Act, 1999, National Treasury, 31 May, 2000, Part 8, section 8.2.3, p. 22.

<sup>237</sup> Reports of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2003, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 5.1.1, p. 108 and 1999/00 see PR68/2001, section 3.4.

<sup>238</sup> See Public Finance Management Act, No. 1 of 1999, Section 40(4)(c) and Division of Revenue Act, 2003, Section 16(1)(a).

- Amount received by a province or municipality
- Amount of funds delayed or withheld from a province or municipality
- The actual expenditure by a province or municipality
- The extent of compliance with the conditions of the transfer and the DORA
- An explanation of any material problems or variations experienced by a province or municipality, to include a summary of steps taken to deal with such problems<sup>239</sup>

Section 21 of the DORA also states that should such payments be used in a way which is inconsistent with their intended use, or are significantly under spent by a province or municipality, such payments can be delayed for up to 30 days.<sup>240</sup> In addition, DORA states that transfer payments to provinces or municipalities can be withheld on a long-term basis if there is 'a serious or persistent material breach of the conditions to which the allocation is subject.'<sup>241</sup>

In addition, as has been indicated, the PFMA states that accounting officers are responsible for 'the effective, efficient, economical and transparent use of resources.' The Act also notes that accounting officers must take appropriate steps to prevent 'fruitless and wasteful expenditure', which is defined as 'expenditure which was made in vain and would have been avoided had reasonable care been exercised.'<sup>242</sup> Moreover, section 38(1)(j) of the PFMA states that before transferring any funds to an entity within or outside government an accounting officer 'must obtain a written assurance from the entity that that entity implements effective, efficient and transparent financial management and internal controls systems.'<sup>243</sup>

Lastly, funds expended on government housing development are also subject to provisions of the National Housing Act, 1997. This Act states that national, provincial and local government must ensure that housing development is 'economically, fiscally, socially and financially affordable and sustainable', and is 'administered in a transparent, accountable and equitable manner, and upholds the practice of good government.'<sup>244</sup>

In common with most other government policy initiatives, housing policy is formulated at a national level and implemented at provincial and municipal levels. The Housing Act makes it clear that both the national and provincial government must ensure that competency exists at all levels to ensure the effective utilisation of funds ring-fenced (via Conditional Grants) for housing. The Housing Act requires that the national Minister for Housing must:

- 'monitor the performance of the national government and, in co-operation with every MEC, the performance of provincial and local governments against housing delivery goals and budgetary goals.'<sup>245</sup>

<sup>239</sup> Division of Revenue Act, 2003, Section 16(2).

<sup>240</sup> Division of Revenue Act, 2003, section 21.

<sup>241</sup> *Ibid*, section 22(1)(b).

<sup>242</sup> Public Finance Management Act, sections 38(1)(b) and (cii), Chapter 1 Definitions.

<sup>243</sup> *Ibid*, section 38(1)(j).

<sup>244</sup> National Housing Act, No. 107 of 1997, Part 1, 1(c)(ii) and 1(c)(iv).

<sup>245</sup> *ibid*, section 3(2)c.



- 'assist provinces to develop the administrative capacity required for the effective exercise of their powers and performance of their duties in respect of housing development.'<sup>246</sup>
- 'support and strengthen the capacity of the municipalities to manage their own affairs, to exercise their powers and perform their duties in respect of housing development.'<sup>247</sup>

The Act notes that provincial government must:

- 'take all reasonable and necessary steps to support and strengthen the capacity of municipalities to effectively exercise their powers and perform their duties in respect of housing development.'<sup>248</sup>
- 'when a municipality cannot or does not perform a duty imposed by this Act, intervene by taking any appropriate steps in accordance with section 139 of the Constitution to ensure the performance of such duty.'<sup>249</sup>

Lastly, the Act notes that local government must:

- 'Set housing delivery goals in respect of its area of jurisdiction.'<sup>250</sup>
- 'initiate, plan, co-ordinate, facilitate, promote and enable appropriate housing development in its area of jurisdiction.'<sup>251</sup>

Given these conditions it is clear that it is incumbent on national, provincial and local government to ensure their capacitation, in terms of planning, monitoring, financial control and project management, to ensure the most effective use of available resources. In the words of the Auditor-General, these regulatory provisions place the 'onus of responsibility on the department to ensure that transfer payments are utilised effectively, efficiently and for their intended purpose.'<sup>252</sup>

It should be pointed out that despite the provincial Department's poor spending record, since the 2000/01 financial-year it has spent over R2.2 billion on housing in the province.<sup>253</sup> The question that now still needs to be addressed is whether Department spent this money in an efficient and effective manner in accordance with the regulatory provisions set out in this submission? This includes the question of whether the Department properly monitored and accounted for all transfer payments to ensure the efficient and effective use its resources.

In his audit of the 2000/01 financial year the Auditor-General noted that the Department failed to adhere to Treasury Regulations in terms of its transfer payments. The Auditor-

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<sup>246</sup> *ibid*, section 3(2)d.

<sup>247</sup> *ibid*, section 3(2)e.

<sup>248</sup> *Ibid*, section 7(2)c.

<sup>249</sup> *Ibid*, section 7(2)f.

<sup>250</sup> *Ibid*, section 9(1)b.

<sup>251</sup> *Ibid*, section 9(1)f.

<sup>252</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the years 2002/03, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, p. 106.

<sup>253</sup> See, Department of Housing, Local Government and Traditional Affairs, Annual Reports, 2000/01, p. 78, 2001/02, p. 94, 2002/03, p. 133, and 2003/04, p. 90.

General noted that the Department failed to adhere to Treasury Instruction K5.1 which requires institutions to submit, within six months of the end of the financial year, financial statements, treasurers report and an auditors report to the accounting officer of the Department. He argued that transfer payments to the value of R493.3 million should as a result be disclosed as irregular expenditure.<sup>254</sup> What this means is that the Department failed to properly account for money expended on housing development in the province.

The Department notes in its annual report that the bulk of its transfer expenditure relates to housing subsidies. It claims that these transfers are not subject to section 38(1)(j) because they are 'payment for value received.'<sup>255</sup> This argument was rejected by the Auditor-General<sup>256</sup>, but the Department's contention would seem to suggest that it made transfers to municipalities without first satisfying itself that the conditions of section 38(1)(j) had been met by municipalities it transferred money too.<sup>257</sup>

In terms of monitoring the delivery of houses in the province the Auditor-General noted that he had concluded an investigation into a Pilot Housing Programme<sup>258</sup> which had been requested by the Department. He noted that in the construction of homes for the project there had been a 'total lack of adherence to the approved guidelines.' He found, inter alia:

- 'Houses were built outside the proper specifications, which resulted in the beneficiary being provided with an inferior product.
- [there have been] Little or no involvement from certain responsible officials within the Department.'<sup>259</sup>

In the 2001/02 financial year the Auditor-General made no comment regarding the quality of homes being delivered by the Department but did note that transfer payments were not being made in line with the PFMA. The Auditor-General noted that section 38(1)(k) of the PFMA had been breached. This section notes that a transferring

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<sup>254</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2001, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, p. 63. Of this total R470 million related to transfers in terms of housing subsidy payments. See, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, p. 81.

<sup>255</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, p. 81.

<sup>256</sup> See, for example, Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2003, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, pp. 106-107.

<sup>257</sup> Curiously, the Department also notes in its 2000/01 annual report that 'for the next financial year procedures for complying with section 38(1)(j) have been communicated to all stakeholders.' This would seem to indicate that the Department knew that it was compelled to comply with this section of the PFMA, or was tacitly acknowledging that it had breached section 38(1)(j).

<sup>258</sup> The Pilot Housing Programme was a provincial initiative aimed at 'kick-starting' housing development in towns where no formal housing projects had been approved. See, Department of Housing, Local Government and Traditional Affairs, Annual Report, Section 2.4.4, 1998/99, p. 12.

<sup>259</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2001, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, p. 72.

accounting officer must enforce compliance with any prescribed conditions attached to the transfer of money to another entity.<sup>260</sup> This may suggest that conditions attached to the transfer of housing or developmental local government funds, in terms of monitoring and accountability, were not being properly met in all instances.

The Auditor-General also noted that Programme 2: Housing and Programme 3: Developmental Local Government had under spent their budgets by R436 million and R75 million respectively. He noted that this 'implies a service delivery problem' and observed that it indicated that 'various priority areas identified in the prior year had not been adequately addressed.'<sup>261</sup> What under spending of this magnitude clearly demonstrates is that either the Department's in-year reporting had been so poor that it had not detected such under spending, or the provincial Department had been unable or unwilling to take corrective action to alleviate the problem.

The Auditor-General undertook a performance audit of housing delivery by the Department during the 2002/03 financial-year. During this detailed audit site inspections were undertaken which revealed that at 90 percent of the housing projects inspected, houses did not conform to the norms and standards of the National Housing Code.<sup>262</sup> The Auditor-General identified 'significant deficiencies in the quality of houses delivered throughout the province.' In addition, the Auditor-General noted that 'monitoring and control systems and procedures, primarily in respect of the building of top structures'<sup>263</sup>, were inadequate.' He noted that site inspection reports were 'generally unavailable' and estimated that less than 10 percent of projects were being monitored. Because of these deficiencies the Auditor-General noted that a 'significant portion' of the top structure payments of R264 million made in the year under review 'should have been withheld had adequate monitoring and control procedures been implemented.' The Auditor-General noted that it was not possible to quantify the exact financial loss to the Department so he was unable to state how much of the R264 million should be considered fruitless and wasteful expenditure. He also noted that the Department would incur further costs if it was considered liable for repairs to the sub-standard houses.<sup>264</sup>

The Auditor-General also noted that business plans in support of transfer payments to municipalities were not obtained from municipalities, in addition to which there was

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<sup>260</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2002, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, p. 83.

<sup>261</sup> Ibid, p. 85.

<sup>262</sup> The National Housing Code, promulgated in 2000, in terms of the National Housing Act, 1997, includes a minimum set of standards that should be adhered too when building homes. These standards relate to the quality of material used, the competency of builders and the size and shape of homes to be constructed.

<sup>263</sup> Top structure refers to the actual house itself being placed upon a foundation which should already have necessary facilities, such as water and electricity.

<sup>264</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2003, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 3.1.1, pp. 106-107. It is interesting to note that the Department noted at the end of the financial year that it inspected only 40 percent of the houses that it built because it lacked 'resources such as personnel ... to do quality inspections.' See, Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2002/03, table 5, p. 36.

'ineffective monitoring and reporting.'<sup>265</sup> The Auditor-General also found that 'monitoring and control measures were inadequate' in respect of conditional grant transfers.<sup>266</sup> He also noted that there was 'inadequate monitoring mechanisms in place for transfer payments to municipalities as envisaged in the Division of Revenue Act, section 38(1)(j) and (k) of the PFMA and paragraph 8.1.4 of the Treasury Regulations.'<sup>267</sup> Lastly, the Auditor-General noted that the Department's budget had been under spent by R380 million. In particular he drew attention to under spending in Programme 2: Housing, which under spent by R355 million. As in the previous year, the Auditor-General noted that this was indicative of a 'service delivery problem.' He again noted that as this problem had been previously raised 'it would appear that it has not been adequately addressed.'<sup>268</sup>

In the following financial year, 2003/04, the Auditor-General reported almost exactly the same problems in regard to the effective use of the housing subsidy. In relation to the use of some R642 million budgeted for top structures the Auditor-General noted that:

- Monitoring and control procedures ... were 'inadequate.'
- Site visits to projects by departmental officials were 'infrequent.'
- Site inspection reports were inconsistent ... lacked specific comment on the quality of houses and were not submitted to the Department on time.

The Auditor-General noted that while project monitoring improved towards the end of the period under review 'for a substantial portion of the financial-year no proper structures were in place to coordinate and evaluate site inspection reports.' In addition, he noted that while the quality of houses improved in comparison to the previous year, 'numerous deficiencies' were apparent within the construction of new houses. Once again, the Auditor-General was not able to quantify how much fruitless and wasteful expenditure had taken place during the financial-year, or how much work the Department might have to undertake to repair defective houses.<sup>269</sup>

The Auditor-General noted that there had been 'inadequate monitoring, inspection and reporting on the quality of houses built.' In addition, he stated that monitoring and control of transfer payments to municipalities was 'ineffective.' Once again, he noted that business plans had not been sought from municipalities before funds had been transferred.<sup>270</sup> Also as before, the Auditor-General drew attention to the Department's under spending in regard to housing provision and once again noted that it was indicative of a service delivery problem, noting yet again that the problem had not been properly addressed.<sup>271</sup>

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<sup>265</sup> Ibid, section 5.1.1(e), p. 108.

<sup>266</sup> Ibid, section 5.1.3, p. 109.

<sup>267</sup> Ibid, section 5.1.6 (b), p. 110.

<sup>268</sup> Ibid, section 5.1.7, p. 110.

<sup>269</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2004, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, section 3.1.1, pp. 60-61.

<sup>270</sup> Ibid, section 5.1.2, p. 61.

<sup>271</sup> Ibid, section 5.1.7, pp. 61-62.

One of the reasons why these payments were not properly monitored was because the Department appears not to have entered into Service Level Agreements (SLAs) with the municipalities it had transferred money too. A SLA is a contract that states what is expected of each party when monies are transferred. It details service levels that must be met by the receiving body and lists penalties that can be imposed by the transferring body if service levels are not maintained. Secondly, the delivery of housing in the province was compromised due to the failure of the Department to properly spend funds allocated to Programme 3: Developmental Local Government, which, as we have seen, failed to spend a cumulative total of R172 million allocated to cover the four financial years under investigation. It should be remembered that one of the key objectives of this programme is to 'monitor and audit transferred funds'.<sup>272</sup>

The Department's persistent failure to spend all funds allocated to it, and its constant blaming of this on its own lack of capacity and the lack of capacity within municipalities should be considered in the light of the Guide for Accounting Officers to the PFMA. This guide states, under a section called 'Famous Excuses', that accounting officers cannot blame non-performance on provinces or municipalities. It notes that:

National accounting officers must consider the capacity of provincial or local governments when motivating programmes or conditional grants, and not blame them for implementation failures.

The Guide notes that the Standing Committee on Public Accounts (SCOPA) 'will almost certainly not accept' the above excuse for non-delivery. In addition, the Guide notes that accounting officers that assume their full responsibilities for planning and budgeting will 'probably not encounter these problems'.<sup>273</sup>

Given this position, questions must be asked as to why vast sums of money have continued to be disbursed by the national Housing Department to a provincial department that was manifestly incapable of spending this money, or ensuring that it was used in an effective and efficient manner. Equally, it is unclear why millions of rands have continued to be also been transferred by the provincial Department to municipalities which it knew did not have the capacity to spend this money efficiently and effectively.<sup>274</sup>

## **Recommendations**

*As a matter of the utmost urgency, the Department must improve its overall management of human resources and, as a priority, must develop a coherent staff recruitment and retention strategy. It must act upon the numerous recommendations of its Standing Committee and advertise and appoint staff to all fill critical posts.*

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<sup>272</sup> Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, p. 15.

<sup>273</sup> Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 2, p. 14.

<sup>274</sup> It should be noted that the Department received another audit disclaimer for the 2004/05 financial year because of its inability to monitor and properly account for transferred funds., See, Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2004/05, section 3.1.

*Throughout the course of this recruitment process it should send reports to its Standing Committee detailing the progress it is, or is not, making in this regard. In addition, the Department needs to ensure that municipalities are properly capacitated to manage their housing budgets. Only by doing so, will these funds be used effectively and efficiently. However, municipalities will only make effective use of housing funds if the Department properly utilises its developmental local government budget and greatly accelerates its efforts to capacitate municipalities. For this to take place, the Department needs to improve the quality of its strategic planning to enable it to focus its capacity building efforts where they are most needed.*

*In addition, the national and provincial treasuries must take steps to ensure that the Department complies with the DORA and the PFMA when making transfer payments. Effective monitoring mechanisms must be put in place to monitor and report back on the use of transferred funds. The Department should ensure that all institutions that it transfers funds to (including municipalities) sign Service Level Agreements (SLAs) with it. These SLAs should then be monitored rigorously so that agreed service standards are adhered to.*

*Finally, the Department must take urgent steps to ensure that it monitors the quality of homes being constructed throughout the province. It must make certain that each approved housing project is monitored throughout the course of its life by qualified housing professionals who ensure that each home is built in line with national norms and standards to ensure that it is delivering value to taxpayers.*

## **2.3 Internal Monitoring of Expenditure and Service Delivery**

### **Summary**

*The Department functioned for the four financial years under review without an effective internal audit unit or audit committee. This is despite regulations which state that the Department must have a fully functioning internal audit unit and audit committee throughout each financial year. In addition, the Department failed to comply with these regulations despite the fact that the Auditor-General criticised the Department's non-compliance in each financial year under review. Evidence also demonstrates that the Department has also failed to provide adequate monthly, quarterly and annual reports as required by the regulations governing financial reporting. These failures to adhere to regulations governing auditing and reporting have severely compromised the Department's ability to utilise taxpayers' money in an efficient and effective manner.*

### **Findings**

#### **Internal Audit Unit and Audit Committee**

As part of its objective to streamline financial management the PFMA requires departments to establish internal audit units and audit committees.<sup>275</sup> Internal audit units exist to evaluate the adequacy and effectiveness of internal controls within a department. They are supposed to 'assist management in carrying out its responsibilities effectively, by providing analyses, appraisals, recommendations and advice concerning the activities under review.' By doing so, it is hoped that internal audit units will highlight

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<sup>275</sup> Public Finance Management Act, No 1 of 1999, Section 38(1)(a)(ii).

problems during the year to allow management to carry out corrective action to ensure the efficient and effective use of allocated resources. The unit is required to have a three year strategic plan (informed by an annual performance plan) setting out its objectives based on its assessment of key areas of risk for the Department concerned.<sup>276</sup>

The Audit Committee is designed to improve communication between a department's internal audit unit and the department's management. It should, inter alia, examine the performance of the internal audit unit, review the effectiveness of a department's internal controls, monitor management's response to identified weaknesses, evaluate the performance of management, and consider the quality of financial information produced by the department. It should comprise of at least three people, should meet a minimum of two times a year and should be guided by an 'audit charter'.<sup>277</sup> Lastly, regulations require that accounting officers, in negotiation with internal audit units, should create a fraud prevention plan no later than the end of March 2001.<sup>278</sup>

The creation of 'appropriately capacitated and functional' internal audit units and audit committees was regarded as one of the seven immediate steps which departments were directed to take by the national Treasury to ensure the implementation of the PFMA.<sup>279</sup>

Despite these regulations coming into effect from 1 April 2000, there is no mention of the existence of an internal audit unit or an audit committee in the Department's annual report for the 2000/01 financial year.<sup>280</sup> In the following financial year, 2001/02, no audit committee report is attached to the department's annual report. The index simply notes that the report is 'outstanding'.<sup>281</sup> The management report does note, however, that the provincial shared internal audit unit and the provincial Treasury had been working with the Department to develop a risk management and fraud prevention strategy.<sup>282</sup> This is, of course, despite the fact that the legislation called for the implementation of a fraud prevention plan by the end of the previous financial year. There is no mention in the Auditor-General's report of an internal audit unit, or an audit committee.

The Auditor-General noted that for the year under review (2001/02) the internal audit unit 'did not perform any significant activities within the Department.' He also noted that no audit plan appeared to exist. These factors led him to conclude that 'no reliance was placed on the work performed or planned by the internal audit section'.<sup>283</sup>

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<sup>276</sup> Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 6 Corporate Management and Internal Controls, pp. 31-32.

<sup>277</sup> Ibid, pp. 32-34. See also Treasury Regulations, Government Notice R345 in Government Gazette No.22219 of 9 April 2001 at para.3.1 and Government Notice R740 in Government Gazette No. 23463 of 25 May 2002 at para.3.1.

<sup>278</sup> Treasury Regulations, Government Notice R345 in Government Gazette No.22219 of 9 April 2001 at para.3.2 and Government Notice R740 in Government Gazette No. 23463 of 25 May 2002 at para.3.2.

<sup>279</sup> Guide for Accounting Officers, Section 3: Seven Immediate Steps, p. 15. See also, Public Finance Management Act Implementation Guide, National Treasury, July 2000, Section 2 – Establishment of the Internal Audit Function, p. 5.

<sup>280</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2000/01.

<sup>281</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2001/02, Contents, p. 1.

<sup>282</sup> Ibid, Part 5 – Annual Financial Statements, section 5.1.9, p. 79.

<sup>283</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for

The Department's annual report for the 2002/03 financial year included a report from the shared audit committee in light of the work of a shared internal audit committee which resided in the Office of Premier. The report itself lists a number of improvements in internal controls and challenges that the Department is still to overcome.<sup>284</sup> However, the effectiveness of both the internal audit unit and the committee must be questioned in light of comments made by the Auditor-General at the end of the financial year. The Auditor-General noted that both the internal audit unit and the audit committee were established in 2000 but their respective charters were only approved in November 2002. Secondly, the Auditor-General noted that the annual performance plan of the internal audit unit was only approved in November 2002, meaning that the unit functioned for eight months of the year without an approved plan. Lastly, management within the Department was requested to provide the Auditor-General with information relating to internal work completed during the year and related reports from the internal audit unit. The Auditor-General noted that no such reports were forthcoming.<sup>285</sup>

In the following financial year (2003/04) the same problems arose. While the Department's annual report includes a report from the audit committee its effectiveness is cast into serious doubt by the Auditor-General's findings.<sup>286</sup> The Auditor-General noted that the shared internal audit unit operated for 11 months of the financial year with no approved plan. Secondly, the Auditor-General stated that no evidence could be found or provided to show that any audit reports for the 2003/04 financial year were produced by the internal audit unit for the audit committee.<sup>287</sup>

What this preceding section demonstrates is an apparent disregard for the vital financial management and monitoring function that both the internal audit and the audit committee are expected to play. It is deeply concerning that structures tasked with monitoring the activities of the Department fail themselves to adhere to legislation governing their own mandates. This is especially so given that one of the key responsibility that is placed on both the audit unit and committee is to ensure the efficient and effective use of public resources.

### **Departmental Reporting**

One of the key areas that the internal unit and the audit committee should interest themselves in, is the quality of reporting undertaken by the Department. To evaluate, monitor and optimise the use of resources, and correct any problems that may be

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the year ended 31 March 2002, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, p. 83.

<sup>284</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2002/03, Part IV: Report of the Audit Committee, pp. 99-101.

<sup>285</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2003, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, p. 109.

<sup>286</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2003/04, Report of the Audit Committee, pp. 56-57.

<sup>287</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2004, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/04, p. 62.



occurring in-year, departments are compelled by the PFMA to produce regular reports.<sup>288</sup> Departments are required to produce monthly, quarterly and annual reports which include not only performance against budget but also performance against service delivery improvement plans. These reports should primarily be used to alert managers when remedial action may be necessary to attempt to correct spending or delivery problems before they escalate. In addition, monthly reports enable executive authorities to monitor the performance of their accounting officers. Equally importantly, both quarterly and annual reports should be produced to enable both parliamentary oversight bodies and civil society to gauge the performance of a department.<sup>289</sup>

The PFMA 'Guide for Accounting Officers', distributed by the national Treasury to all HODs in October 2000, is unequivocal in regard to the production of in-year reports. It notes that the 'most important requirement of the PFMA is to expect accounting officers to act as managers with immediate effect, ensuring that mechanisms for the in-year management of resources are effective.' It notes that accounting officers must 'produce, consider and act on monthly and quarterly reports.' Of the seven 'immediate steps' to be taken by accounting officers, 'in-year management, monitoring and reporting' is step number one, meaning that it was to be prioritised above all other immediate steps.<sup>290</sup>

The Auditor-General noted in his report on the 2001/02 financial year that no quarterly reports were submitted by the HOD to the executive authority.<sup>291</sup> A year later in 2002/03 the Department's shared audit committee noted that both monthly and quarterly reports from the Department had a number of weaknesses:

- Staff figures did not always reconcile between PERSAL and figures reported in the reports.
- There were instances of a 'lack of synergy' between projected expenditure and anticipated activities.

<sup>288</sup> Section 40(4)(b) and (c) of the Public Finance Management Act, Act 1 of 1999 (as amended) requires monthly reporting. This section must be read with the applicable Treasury Regulations for the period in question. Treasury Regulation 18.2.1 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 covers the period 1 June 2000 to 9 April 2001. Regulation 18.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 18.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005. The Treasury Regulations also require quarterly reporting. See further in this regard: Regulation 5.3.1 and 5.3.2 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000, which cover the period 1 June 2000 to 9 April 2001. Regulation 5.3.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 5.3.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005. In addition, the Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 4 – Reporting and Accountability, at page 9 directs that departments must produce reports which can 'be used by managers to develop plans, evaluate alternative courses of action and, where necessary, institute corrective actions.'

<sup>289</sup> Ibid, pp. 19-21.

<sup>290</sup> Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 3 – Seven Immediate Steps, p. 15.

<sup>291</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2002, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, p. 84.

- The MEC did not always receive the necessary level of information in terms of quarterly performance reports
- There was 'a lack of synergy' between projected revenue and actual collections.
- Source documents relating to expenditure were sometimes incomplete.

The audit committee noted that it was 'not satisfied with the quality of monthly and quarterly reports prepared and issued by the accounting officer and the department.'<sup>292</sup>

At the end of the 2003/04 financial year the Audit Committee raised a number of similar concerns about monthly and quarterly reports. It noted, inter alia, that:

- Poor coordination had resulted in poor quality data being submitted to the provincial Treasury
- Monthly projections were sometimes not informed by activities in the Department's operational plan. This meant that explanations for variances were inadequate or not provided.
- Suspense accounts showed little sign of movement.
- There were incomplete records to support transfer payments
- There was a 'lack of synergy' between projected revenue and collections.

Once again, the committee noted that it was 'not satisfied' with the quality of monthly and quarterly reports prepared by the accounting officer.'<sup>293</sup>

In terms of producing annual financial statements to account for expenditure and performance over these four financial years, the Auditor-General has noted every single year that these financial statements had not been properly completed, and thus the Department had not complied with the regulations outlined above.<sup>294</sup> For example, in 2001/02 the Auditor-General drew attention to the fact that it had failed to report on lease agreements that the Department had entered into during the course of the financial year.<sup>295</sup> In 2003/04 the Auditor-General was not satisfied, inter alia, that the Department reported properly on reasons for under spending.<sup>296</sup>

Department's are also compelled to report on their spending of conditional grants.

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<sup>292</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2002/03, Part IV: Report of the Audit Committee, p. 100.

<sup>293</sup> Department of Housing, Local Government, and Traditional Affairs, Annual Report, 2003/04, Report of the Audit Committee, pp. 56-57.

<sup>294</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the years 2000/01 – 2003/04. See, Department of Housing, Local Government and Traditional Affairs, Annual Reports, 2000/01, pp. 68, 71-72, 2001/02, p. 85, 2002/03, pp. 109-110 and 2003/04, p. 62.

<sup>295</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the years 2001/02, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, section 5.2.4 (b), p. 85.

<sup>296</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 8 – The Department of Housing, Local Government and Traditional Affairs for the years 2003/04, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, section 5.1.4, (a), p. 62.

The Auditor-General noted in the 2003/04 financial year that the Department's reporting on under spending in Programme 2: Housing, which is funded almost entirely by a conditional grant (the Housing Subsidy Grant) was satisfactory.<sup>297</sup> In addition, the Auditor-General noted that Department also failed to include in its annual report, details of its conditional grant transfers to municipalities.<sup>298</sup>

The Department's consistent failure to properly report on its spending and performance achievements is one of the principle causes of its persistent under spending and subsequent inadequate performance in terms of it meeting its service delivery mandate. The failure of the Department to report properly on its performance means that problems, such as its slow rate of spending, or its failure to meet specific performance objectives, were not identified timeously. This resulted in the Department being unable to effect corrective action to rectify these problems as they occurred.

## **Recommendations**

*As a matter of urgency the Department needs to ensure that it has a fully functioning internal audit unit which supplies the Department's audit committee with regular (at least quarterly) updates on the performance of the Department. The utility of the internal audit function is dependent on the Department also ensuring that it has a properly constituted audit committee that meets at least twice a year and brings financial management problems to the regular attention of the Department's executing authority. The audit committee must monitor what action is taken by the executing authority in regard to these problems.*

*The Department also needs to improve the quality of its in-year and year-end financial reporting. This is to ensure that effective corrective action can take place and to ensure that the Department is fully accountable to both the Legislature and the public.*

## **2.4 Legislative Breaches and Financial Misconduct**

### **Summary**

*As already indicated, departments are required to fulfil their obligations to citizens in accordance with a multitude of regulations and peremptory pieces of legislation, with the Public Finance Management Act (PFMA) being arguably the most onerous statute in this regard.<sup>299</sup> The PFMA's object is to "secure transparency, accountability, and sound management of the revenue, expenditure, assets and liabilities of institutions" in order to:*

- *modernise the system of financial management in the public sector,*
- *enable public sector managers to manage, but at the same time be held more accountable;*
- *ensure the timely provision of quality information; and*
- *eliminate the waste and corruption in the use of public assets.*<sup>300</sup>

<sup>297</sup> Ibid, section 5.1.4, (a), p. 62.

<sup>298</sup> Ibid, section 5.1.4, (c), p. 62.

<sup>299</sup> The Public Finance Management Act, Act 1 of 1999, as amended from time to time.

<sup>300</sup> Introduction to the PFMA, as obtained from the National Treasury website through the following link: <http://www.treasury.gov.za/legislation/acts/pfma/default.htm> . Accessed on 9 February 2006 at 15h10.

*Despite these objectives, the information which is contained within this submission demonstrates a plethora of instances where there has been either an inability, ignorance of or non-adherence to legislation such as the PFMA. The disclaimers and often repetitive conclusions made by the provincial Auditor-General serve to further emphasize the recurrent obstacles that continue to negatively affect service delivery in this region.*

*The PFMA directs that certain action or inaction which falls short of the prescribed requirements is to be addressed by way of disciplinary action where necessary, and in some instances by way of criminal proceedings should the circumstances require.<sup>301</sup> Despite the lucid provisions of the PFMA and accompanying Treasury Regulations, there appears to be a dearth of disciplinary action flowing from overt contraventions of the aforesaid legislation, even when such contraventions are stated explicitly by the Auditor-General.*

## Findings

The table which appears below serves to illustrate breaches of the PFMA identified by the Auditor-General. This table does not represent an exhaustive list and we respectfully request that the Commission consider more thoroughly the conduct of public servants (as more fully documented in management letters, special forensic reports and other more detailed documentation which appears to fall outside the public domain) against the benchmark set by legislation such as the PFMA.

The table identifies in column 1, a conclusion made by the Provincial Auditor-General during the course of his audit of the department. This conclusion is a direct quote from the applicable audit report. Column 2 of the table notes the financial year in which the conclusion was made, whilst column 3 records the provincial department which was the subject of the conclusion.

Auditor-General's conclusion.	Financial year	Department
"The following remarks are indicative of serious deficiencies in the internal checking and control measures, with regard to the department's financially related activities. Furthermore, the possibility of monetary loss due to the lack of sound financial management cannot be excluded. In view of the foregoing, it must be emphasized that it is the Accounting Officer's responsibility to protect its financial interests and indirectly citizens interests, by watching over its finances with the utmost circumspection and within the provisions of the law"	2000/2001	Housing, Local Government & Traditional Affairs. <sup>302</sup>

<sup>301</sup> For comprehensive details in this regard, the reader is respectfully referred to Chapter 10 of the Public Finance Management Act, Act 1 of 1999 (as amended), in particular sections 81 though to 86 thereof.

<sup>302</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 7 – Department of Housing, Local Government and Traditional Affairs for the year ended

<p>"Assets – inventory, bank and cash, government vehicles and other fixed assets are not properly controlled and managed to prevent thefts, losses and the misuse thereof. This is in contravention with section 38(1)(d) of the PFMA and Treasury Regulation 10.1"</p> <p>"Transfer payments – payments were not always made by following the prescribed compliance policies and procedures. This is in contravention with section 38(1)(k) of the PFMA."</p>	<p>2001/2002</p>	<p>Housing, Local Government and Traditional Affairs.<sup>303</sup></p>
<p>"The Division of Revenue Act..., the PFMA, sections 38(1)(i) and (j), and the Housing Act..., place, inter alia, an onus of responsibility on the department to ensure that transfer payments are utilised effectively, efficiently and for their intended purposes...The monitoring and control systems and procedures primarily in respect of top structures...were inadequate."</p>	<p>2002/2003</p> <p>2003/2004</p>	<p>Housing, Local Government and Traditional Affairs.<sup>304</sup></p> <p>Housing, Local Government and Traditional Affairs.<sup>305</sup></p>
<p>"Section 40 of the PFMA requires the accounting officer to implement a system of internal control and protect the department's financial interests. A number of significant control weaknesses and deficiencies were identified during the course of the audit. The possibility of monetary losses due to the lack of sound financial managements cannot be excluded."</p>	<p>2002/2003</p>	<p>Housing, Local Government and TA<sup>306</sup></p>

31 March 2001, as contained in the Department of Housing, Local Government and Traditional Affairs Annual Report for 2000/01, at p.69, para.3.1.

<sup>303</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 7 – Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2002, as contained in the Department of Housing, Local Government and Traditional Affairs Annual Report for 2001/02, at p.83, para.5.1(b)&(c).

<sup>304</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 7 – Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2003, as contained in the Department of Housing, Local Government and Traditional Affairs Annual Report for 2002/03, at p.106-107, para.3.1.1.

<sup>305</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 7 – Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2004 as contained in the Department of Housing, Local Government and Traditional Affairs Annual Report for 2003/04, at p.60, para.3.1.1.

<sup>306</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 7 – Department of Housing, Local Government and Traditional Affairs for the year ended 31 March 2003, as contained in the Department of Housing, Local Government and Traditional Affairs Annual Report for 2002/03, at p.108, para.5.1.1.

The following two tables provide details of MEC's and HOD's that we believe were incumbent within the department between 1994 and 2004. In some instances we have been unable to confirm exact dates.

MEC	Period in Office	Source document
M. Mamase	1994/5	Newspaper Report, <i>Daily Dispatch</i> , 7 Mar. 2004 <sup>307</sup>
	1995/6	
	1996/7 Mamase until Mid-1997	
Smuts Ngonyama	1997/8 October 1997	Newspaper report, <i>Daily Dispatch</i> , 7 Oct. 1997 <sup>308</sup> and <i>Daily Dispatch</i> , 21 Apr. 1998 <sup>309</sup>
Sam Mazosiwe	1998/9 Appointed 1 Aug 1998 Still there Feb 1999	Newspaper reports: <i>Daily Dispatch</i> , 30 Jun. 1998 <sup>310</sup> and <i>Daily Dispatch</i> , 19 Feb. 1999. <sup>311</sup>
G.E. Nkwinti	1999/00 Appointed after 1999 election	Newspaper Report, <i>Herald</i> , 26 Nov. 2002. <sup>312</sup>
	2000/01	
	2001/02	Annual Report
	2002/03	Annual Report
	2003/04	Annual Report

HOD	Period in Office	Source document
Unknown	1994-1997	
Khanyisile Malgas,	4 Oct 1997 Malgas still there as perm secretary	Newspaper Reports: <i>Daily Dispatch</i> 4 Oct. 1997. <sup>313</sup>

<sup>307</sup> <http://www.dispatch.co.za/2004/05/07/Easterncape/gfocus.html>

<sup>308</sup> <http://www.dispatch.co.za/1997/10/07/page%201.htm>

<sup>309</sup> <http://www.dispatch.co.za/1998/04/21/>

<sup>310</sup> <http://www.dispatch.co.za/1998/06/30/easterncape/MEC.HTM>

<sup>311</sup> <http://www.dispatch.co.za/1999/02/19/easterncape/MAYOR.HTM>

<sup>312</sup> [http://www.theherald.co.za/herald/2002/11/26/news/n01\\_26112002.htm](http://www.theherald.co.za/herald/2002/11/26/news/n01_26112002.htm)

<sup>313</sup> <http://www.dispatch.co.za/1997/10/04/page%202.htm>

Khanyisile Malgas	Permanent secretary until December 1999	Newspaper Report: <i>Daily Dispatch</i> , 9 Mar. 2000. <sup>314</sup>
	2000/01	Annual Report
S. Maye	2001/02	Annual Report
S. Maye	2003/04 Until Oct. 2003	Newspaper Report, <i>Daily Dispatch</i> , 13 May 2004 <sup>315</sup>
M. Baza (Acting)	2003/04	Annual Report

## Recommendation

In light of the discussions above, the PSAM submits the following recommendation:

*The legislation and supporting regulations which are documented throughout this submission are peremptory and do not allow for selective adherence by public servants. If the provincial administration of the Eastern Cape is to address compliance deficiencies within its own staff, this automatically requires that Departments take steps to address non-compliance particularly where it is of a systemic nature. The Auditor-General's recurrent findings illustrate that there is inadequate adherence to such legislation.*

*Executing authorities and accounting officers within provincial departments need to enforce the provisions of the PFMA and other legislation without fear or favour. If accounting officers in particular fail to comply with their legislative duties in a wilful or negligent manner, such failure should result in disciplinary action being taken against them.*

## **2.5 Accountability to Oversight Bodies**

### Summary

*The Department has demonstrated a repeated inability or unwillingness to address audit queries and respond to recommendations made by its Standing Committee. For example, both oversight bodies have repeatedly noted with concern the Department's failure to properly monitor transfer payments. In addition, it would appear that the Eastern Cape Legislature has been incapable or unwilling to compel the Department to properly address audit queries and recommendations from the Department's Standing Committee.*

<sup>314</sup> <http://www.dispatch.co.za/2000/03/09/easterncape/FAREWELL.HTM>

<sup>315</sup> <http://www.dispatch.co.za/2004/05/13/Easterncape/dept.html>

## Findings

### Auditor-General

Year	Total Expenditure R'000	Audit Opinion
1996-1997	440 630 <sup>316</sup>	Disclaimer
1997-1998	760 703	Disclaimer
1998-1999	691 302	Disclaimer
1999-2000	655 007 <sup>317</sup>	Disclaimer
2000-2001	762 054	Disclaimer
2001-2002	606 385	Qualified
2002-2003	844 601	Disclaimer
2003-2004	1 241 630 <sup>318</sup>	Disclaimer

In terms of the Constitution the Auditor-General must audit and report on the 'accounts, financial statements and financial management' of all national and provincial departments. In addition, the Auditor-General must submit audit reports to any Legislature that has a direct interest in the audit and ensure that all reports are made public.<sup>319</sup> To give effect to these requirements the Auditor-General Act was passed in 1995. This Act notes that one of the key functions of the Auditor-General is to ensure that 'satisfactory management measures' have been taken by, inter alia, government departments, 'to ensure that resources are procured economically and utilised efficiently and effectively.'<sup>320</sup>

The PFMA Guide for Accounting Officers notes under a section titled 'accountability cycle' that Auditor-General's reports will need to 'focus the legislature on *significant* matters.' The Guide continues by noting that 'the emphasis of the audit will shift towards evaluating performance, rather than simply compliance with rules.'<sup>321</sup> The importance attached to the reports of the Auditor-General is articulated in section 3 of the Guide which notes that the clearing of audit queries is second out of the seven steps to be implemented immediately by accounting officers. The Guide notes that it is incumbent on accounting officers to 'urgently address any outstanding queries raised by the Auditor-General and audit committee.'<sup>322</sup>

The above legislation and guideline clearly establish the importance of the Auditor-General in the oversight and accountability framework that exists in South Africa. It is the

<sup>316</sup> Figure drawn from Intergovernmental Fiscal Review, 2000, Table C7.3, National Treasury, October 2000.

<sup>317</sup> Figures for 1997/98, 1998/99 and 1999/00 drawn from Intergovernmental Fiscal Review, 2001, Table C7.3, National Treasury, October 2001.

<sup>318</sup> Figures from 2000/01 to 2003/04 drawn from Department Annual reports, 2000/01, Income Statement, p. 76, 2001/02, Income Statement, p. 91, 2002/03, Notes to Annual Financial Statements, Note 1, p. 125, 2003/04, Income Statement, p. 77.

<sup>319</sup> Constitution of the Republic of South Africa, Act 108 of 1996, section 188 (1) and (3).

<sup>320</sup> The Auditor-General Act, Act 12 of 1995, at section 4(d). (This Act has subsequently been repealed and replaced by the Public Audit Act, Act No.25 of 2004 which took effect on 1 April 2004.)

<sup>321</sup> Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 2, p. 12.

<sup>322</sup> Ibid, section 3, p. 16.



job of the Auditor-General to identify problems (at least annually) and appraise executing authorities, departmental accounting officers and legislatures of these problems. It is then clearly incumbent on accounting officers to effect changes to ensure that problems which are identified in the form of audit queries are timeously and properly addressed so as to ensure the effective delivery of public services.

Over the four years covered by this submission it is clear that the Department has not been able to properly address queries raised by the Auditor-General. An examination of the Auditor-General's audit reports from 2000/01 to 2003/04 demonstrates that many audit queries have persisted from year to year despite the Auditor-General drawing attention to them on a repeated basis. This would seem to indicate that the Department was either unwilling or unable to act on the recommendations of the Auditor-General as it is compelled to do in terms of the Constitution and the PFMA.<sup>323</sup> The following section will present a number of examples which illustrate the Department's failure to tackle queries raised by the Auditor-General.

### **Internal Controls**

The weakness in the administration of leave identified by the Auditor-General is one of numerous internal control problems that have been identified by the Auditor-General over the last eight financial years. Among other internal control weaknesses the Auditor-General has observed a lack of internal controls in relation to:

- Goods and Services<sup>324</sup>
- Stores and equipment<sup>325</sup>
- Government vehicles<sup>326</sup>
- General personnel expenditure<sup>327</sup>

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<sup>323</sup> Section 38(1)(a)(i) of the Public Finance Management Act, Act 1 of 1999 stipulates that the accounting officer must ensure that the department maintains effective, efficient and transparent systems of financial and risk management and internal control. A failure to act on or address Auditor-General's recommendations and or findings which relate to these very issues, would be tantamount to flouting the very object of this provision.

<sup>324</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing and Local Government. For 1996/97 see PR60/1999, section 2.2.1.4. For 1997/98 and 1998/99 see PR113/1999, section 2.2.1.3(a). For 1999/00 see PR68/2001, section 3.1.4. For 2000/01, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 3.1.4. For 2001/02, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, section 5.1(d). For 2002/03, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 5.1.1(a).

<sup>325</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing and Local Government. For 1996/97 see PR60/1999, section 2.2.1.9. For 1997/98 and 1998/99 see PR113/1999, section 2.2.1.3(e). For 2000/01, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 2.2.2.7 and 3.5. For 2002/03, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 5.1.1(b).

<sup>326</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs. For 1996/97 see PR60/1999, section 2.2.1.10. For 1997/98 and 1998/99 see PR113/1999, section 2.2.1.3(f). For 1999/00 see PR68/2001, section 3.1.7 – 3.1.9. For 2000/01, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 2.2.2.4.

The Auditor-General has drawn the Department's attention to these internal control weaknesses on numerous occasions. In his audit of the 1999/99 financial year the Auditor-General noted that many of the internal control problems identified in previous years 'were not sufficiently addressed.'<sup>328</sup> In 2000/01 the Auditor-General noted that 'numerous of the issues' raised in his report had been reported in prior years.<sup>329</sup> In 2002/03 the Auditor-General noted in relation to internal control deficiencies that 'similar control weaknesses were reported in the prior year.'<sup>330</sup> The Auditor-General made exactly the same comment in the following financial year.<sup>331</sup>

In terms of implementing an effective internal control regime, the Auditor-General appears to have had to remind the Department's accounting officer on a number of occasions of his responsibilities in this regard. In his audits of the 1999/2000 and 2000/01 financial years the Auditor-General remarked 'it must be emphasised that it is the accounting officer's responsibility to protect its financial interests and indirectly, the citizens' interests, by watching over its [the Department] finances with the utmost circumspection and within the provisions of the law.' The Auditor-General contended that internal control deficiencies were so bad that 'the possibility of monetary loss due to the lack of sound financial management cannot be excluded.'<sup>332</sup> In his audits of the 2001/02

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<sup>327</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs. For 1996/97 see PR60/1999, section 2.2.1.7. For 1997/98 and 1998/99 see PR113/1999, section 2.2.1.3(c). For 1999/00 see PR68/2001, section 2.2.1.1(a), 2.2.2.5. For 2000/01, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 2.2.1.1(a)(i-vi), (b)(i), and 3.1.2. For 2001/02, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, section 5.1(a), 5.1.1. For 2002/03, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 5.1.1(f). For 2003/04 see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, section 5.1.2(c)(d)(e).

<sup>328</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing and Local Government, 1997/98 and 1998/99, PR113/1999, section 2.2.1.3.

<sup>329</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 2.2.1.1.

<sup>330</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 5.1.1.

<sup>331</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, section 5.1.2(d). It should be noted that the Auditor-General made exactly the same comment in his 2004/05 departmental audit. See, Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2004/05, section 5.3.3.

<sup>332</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2000, PR68/2001, section 3.1. For 2000/01 see Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The

and 2002/03 financial years, the Auditor-General remarked, in relation to inadequate internal controls, 'that the possibility of monetary loss due to the lack of sound financial management cannot be excluded.' In both instances he added that 'section 40 of the PFMA requires the accounting officer to implement a system of internal control and to protect the department's financial interests.'<sup>333</sup>

- Leave Records

As far back of 1996-97 the Auditor-General drew attention to the fact that personnel records within the Department were in a poor state, particularly those in relation to leave records. At the end of that particular financial year the Auditor-General noted that leave records were not properly updated and applications for leave had not been properly approved.<sup>334</sup> Every financial year since this audit query the Auditor-General has noted the exact same problems in relation to leave.<sup>335</sup> For example, in 1999/00, the Auditor-General noted, among other issues relating to leave, that leave files could not always be found, leave files were not regularly updated and leave was not always properly approved.<sup>336</sup> At the end of the period under review (2003/04) the Auditor-General noted that 'controls over leave administration were inadequate', noting that not all leave had been properly captured and leave claims had, yet again, not been properly authorised.<sup>337</sup>

## Transfer Payments

We have previously seen in this submission how the Department has not properly accounted for funds that it had transferred to external parties between the years 2000/01 and 2003/04. However, this problem has been a feature of the Department since 1996/97. In that financial year the Auditor-General noted that provincial Treasury

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Department of Housing, Local Government and Traditional Affairs, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 3.1.

<sup>333</sup> Reports of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 - The Department of Housing, Local Government and Traditional Affairs, Department of Housing, Local Government and Traditional Affairs, Annual Reports, 2000/01, section 3.1 and 2002/03, section 5.1.1.

<sup>334</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing and Local Government for the year ended March 1997, PR60/1999, section 2.2.1.7, p. 3.

<sup>335</sup> Reports of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs. For 1997/98 and 1998/99 see PR113/1999, section 2.2.1.3(c)(i-ii) and 2.2.1.4 (c)(i) and (vi). For 1999/00 see PR68/2001, section 3.1.3. For 2000/01, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2000/01, section 2.2.1.1(a)(i)(iii) and 3.1.3. For 2001/02, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2001/02, section 5.1(a). For 2002/03, see Department of Housing, Local Government and Traditional Affairs, Annual Report, 2002/03, section 5.1.1(f) and 5.1.4. For 2003/04 see, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, section 5.1.2.

<sup>336</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2000, PR68/2001, section 3.1.3, p. 10.

<sup>337</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2004, Department of Housing, Local Government and Traditional Affairs, Annual Report, 2003/04, section 5.1.2, p. 62.

Instruction K5.1<sup>338</sup> had not been adhered to as 'a detailed analysis or breakdown to confirm the total expenditure in respect of transfer payments could not be submitted.' The Auditor-General added that information that should be obtained from beneficiaries of financial aid was not generally forthcoming.<sup>339</sup> In 1997/98 and 1998/99 the Auditor-General again noted that Instruction K5.1 had been flouted. He observed that 'a number of local authorities appear to be unaware of the necessity of submitting financial statements.' He noted once again that there was no proper account to confirm the expenditure in respect of transfer payments.<sup>340</sup> A year later, Treasury instruction K5.1 was yet again not adhered to as a number of local governments did not submit the necessary financial reports and statements.<sup>341</sup>

What this account shows is that the Department has been unable to properly account for billions of rands that it has transferred to the local government level for at least the last eight financial years.

### **Standing Committee on Housing, Local Government and Traditional Affairs**<sup>342</sup>

According to the Constitution, a provincial Legislature must provide for mechanisms which ensure that every provincial organ of state in the province is accountable to it. Provincial Legislatures are therefore tasked 'to maintain oversight of the exercise of the provincial executive authority in the province [and] any organ of state.'<sup>343</sup> In carrying out this function a provincial Legislature or any of its committees may:

- a) Summon any person to appear before it to give evidence on oath or affirmation, or to produce documents.
- b) require any person or provincial institution to report to it;
- c) compel, in terms of provincial legislation or the rules and orders, any person or institution to comply with a summons or requirement in paragraph a) and b); and
- d) receive petitions, representations or submission from any interested person or institutions.

Much of the work of Legislatures is carried out by Portfolio or Standing Committees, which are made up of elected members of the Legislature. These standing committees are assigned to specific government departments and are tasked with ensuring the accountable, transparent and effective implementation of policies by each department.

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<sup>338</sup> Provincial Treasury Instruction K5.1 stipulates that institutions should submit financial statements, treasurer's report and an auditor's report to the accounting officer of the Department within six months of financial year end. This is designed to ensure that transferred funds are properly accounted for.

<sup>339</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing and Local Government for the year ended March 1997, PR60/1999, section 2.2.1.8, p. 4.

<sup>340</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing and Local Government for the 1997/98 and 1998/99 financial years, PR113/1999, section 2.2.1.3 (5)(i-ii), p. 3.

<sup>341</sup> Report of the Auditor-General to the Eastern Cape Provincial Legislature on the Financial Statements of Vote 7 – The Department of Housing, Local Government and Traditional Affairs for the year ended March 2000, PR68/2001, section 2.2.2.7, p. 8.

<sup>342</sup> The following section is based exclusively on the limited Standing Committee minutes that the PSAM has been able to obtain from the provincial Legislature.

<sup>343</sup> South African Constitution, Act 108 of 1996, section 114(1) and (2).

In terms of the standing rules of the Eastern Cape provincial Legislature the responsibilities of Standing Committees are extensive and exacting. The rules state that Standing Committees must:

- 'ensure that all provincial executive organs of state in the province are accountable to it'
- 'Maintain oversight of the exercise of provincial executive authority and any provincial organ of state in the province, including the implementation of legislation.'
- 'monitor, investigate, enquire into and make recommendations relating to the legislative programme, budget, rationalisation, restructuring, functioning, organisation, structure, personnel, policy formulation or any other matter it may consider relevant, of the provincial department, organs of state or Departments falling within the category of work assigned to the committee.'<sup>344</sup>

In terms of recommendations made by Standing Committees the rules of the Legislature state that if a resolution or recommendation from a Committee has not been implemented the relevant MEC must report in writing to the Speaker of the Legislature within 30 days stating:

- the reasons for not implementing the resolution or recommendation;
- the steps undertaken to implement the resolution or recommendation; and
- the planning to implement the resolution or recommendation.'<sup>345</sup>

This process exists to ensure that recommendations that are before the Legislature are effectively implemented. Further to this, Legislature rules note that 'in order to secure the integrity of the House and to comply with the Constitutional duties of the Legislature' the House may, on the recommendation of the relevant Portfolio Committee, instruct an MEC to implement resolutions and recommendations.<sup>346</sup>

It is clear that throughout the course of the past four years the Standing Committee for Housing, Local Government and Traditional Affairs has made numerous recommendations to the Department. These recommendations have almost exclusively been related to human resource issues and transfer payments. Namely, the Department's failure to fill vacant posts, properly monitor training to ensure the capacitation of staff within the Department and municipalities and adequately monitor transferred funds. Despite many of these recommendations being adopted by the Legislature, the Department has been either unwilling, or unable, to implement them adequately. The following examples will illustrate the Department's failure to respond properly to Standing Committee recommendations.

### **Staff Shortages**

In January 2003 the Standing Committee when considering the Department's annual report ordered the Department to ensure that critical posts were filled 'as a matter of

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<sup>344</sup> Standing Rules of Procedure of the Eastern Cape Provincial Legislature, sections 63.1.1. 63.1.2 and 63.1.5.

<sup>345</sup> Standing Rules of Procedure of the Eastern Cape Provincial Legislature, section 203.3.

<sup>346</sup> *Ibid*, section 204.

urgency' as this would assist with the monitoring and management of housing projects.<sup>347</sup> In terms of financial oversight the Committee called directly on the MEC to 'ensure that vacancies in the Department are filled immediately.'<sup>348</sup> Four months later in May 2003, the Committee called on the Department to report, by the end of June 2003, on steps it had taken to fill critical vacant posts within Programme 2: Housing.<sup>349</sup> The inability of the Department to comply with this recommendation is illustrated by the Committee's finding in August 2004 that the Department had not budgeted for critical posts.<sup>350</sup> Four months later the Committee ordered the Department to fill all vacant posts by the end of the financial year, after noting that the Department experienced a 50 percent vacancy rate.<sup>351</sup>

## Audit of Training

In July 2000 the Standing Committee ordered the Department to conduct an audit of funds allocated to 'district councils' for training purposes. This was a result of the Committee making a number of recommendations in relation to councillor attendance at training, and the overall effectiveness of the Department's efforts to capacitate municipalities.<sup>352</sup>

Over two years later, in January 2003, the Committee ordered the Department to 'assess the impact of training in municipalities.'<sup>353</sup> This was followed in May 2003 by a call from the Committee for the Department to submit an 'evaluation report on the impact of training on each municipality before the end of June 2003.'<sup>354</sup> Despite this call, the Committee reported in November 2003 that 'municipal officials, department officials and councillors have failed to complete courses.' The Committee recommended, once again, that the Department undertake an 'impact analysis' with a view to ensuring that trainees completed courses.<sup>355</sup> The Department's lack of progress in this regard is illustrated by the Committee's comments in December 2004 when it noted that the Department had no tool for monitoring and evaluating training given to municipal officials. It recommended, yet again, that the Department develop a tool for monitoring and evaluating the impact of training.<sup>356</sup>

<sup>347</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 21 Jan. 2003, Annual Report, section 5(d).

<sup>348</sup> Ibid, Financial Oversight, section 4(c).

<sup>349</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 21 May 2003, section 1(2)(2).

<sup>350</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government and Traditional Affairs, Eastern Cape Provincial Legislature, 20 August 2004, section 1(1)(1)(d).

<sup>351</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government and Traditional Affairs, Eastern Cape Provincial Legislature, 13 Dec. 2004, section 1(1)(a) and 2(a)(b).

<sup>352</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 25 July 2000, section 3.

<sup>353</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 21 Jan 2003, section 3(a).

<sup>354</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 21 May 2003, section 1(2)(1).

<sup>355</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 26 Nov. 2003, section 1, Programme 2: Housing, Finding 2 and Recommendation 2.

<sup>356</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 13 Dec. 2004, section 3 1(a) and 2(a).

It is interesting to note that the Guide for Accounting Officers noted in October 2000 that departments were 'spending large amounts on training their officials, but they often do not receive value for money.' The Guide argues that 'training frequently fails to meet the real priorities and is rarely coordinated.'<sup>357</sup> In light of this criticism, it is even more concerning that the Department had failed to audit training that it has carried out at municipal and departmental levels.

### **Monitoring of Transferred Funds**

In May 2003 the Standing Committee instructed the Department to meet the deadlines and 'measurable outputs' as outlined in the DORA. At the same time, it also informed the Department that when transferring funds to municipalities and other service providers 'adequate service level agreements must be in place.'<sup>358</sup> Despite this, the Committee noted in November 2003 that after transferring funds to municipalities the role of the Department in terms of 'accountability and monitoring' was 'not clear.' The Committee recommended that the Department develop strategies 'to monitor what the municipalities do.' Committee members argued that municipalities should sign declarations of assurance and ensure that they 'give reports.'<sup>359</sup> The Committee ordered the Department to make sure that it complies with section 38(J) of the PFMA which governs the transfer of funds to outside entities (for example, municipalities).<sup>360</sup> The Department's failure to implement these recommendations regarding transfer payments is illustrated by the Committee's observation in August 2004 that the Department had 'no mechanism of monitoring performance standards in respect of municipalities.'<sup>361</sup> The Committee continued by noting that houses being built were of 'poor quality.'<sup>362</sup> In December 2004 the Committee ordered the Department to ensure that 'when transfers are made there are proper guidelines on reporting mechanisms,' and noted once again that poor quality houses were being constructed.<sup>363</sup>

The Department's apparent inability to implement recommendations from its Standing Committee has not gone unnoticed. Phaki Hobongwana, who chaired the Standing Committee in May 2003, noted that that the Department had not responded to the Committee's recommendations. One member of the Committee is reported to have stated that 'it is not good to sit here year after year and make recommendations that are not implemented.'<sup>364</sup>

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<sup>357</sup> Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 13 – The Way Forward, p. 62.

<sup>358</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 21 May 2003, section 4(1) and (2).

<sup>359</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 26 Nov. 2003, Programme 1: Executive (1) and Programme 2: Housing (3).

<sup>360</sup> Ibid, Programme 2: Housing, recommendation (3).

<sup>361</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 20 Aug. 2004, section 4, Programme 3: Local Government (d).

<sup>362</sup> Ibid, section 3, Programme 2: Housing (1)(b).

<sup>363</sup> Resolutions/Recommendations affecting the Department of Housing and Local Government, Eastern Cape Provincial Legislature, 13 Dec. 2004, section 1, Programme 1: Administration, 2(j) and section 2, Programme 2: Housing, 1(e).

<sup>364</sup> 'Housing dept under fire from MPLs,' *Daily Dispatch*, 15 May 2003.

The disregard that the Department appears to have for its Constitutional obligations to account to the Legislature Housing Committee is also demonstrated by the poor quality of its reporting to the Legislature. In September 2000 the Standing Committee rejected a financial oversight report from the Department, noting that it had failed to include actual figures indicating the Department's expenditure.<sup>365</sup> In March 2001 the Department was condemned by the Standing Committee for providing it with an incomplete budget report. The then chair of the Committee, Gloria Barry, stated that the Department appeared to have a problem with reports, which appeared to be getting worse over time. The Committee meeting was abandoned and the Department was asked to re-submit the report.<sup>366</sup> In November 2003 another financial oversight report was rejected by the Committee. This time the Standing Committee was forced to wait 20 minutes while the report was printed up. Once in their hands, Committee members noted, however, that the report was not in the correct format and was incomplete, failing to show how much the Department had actually spent or was projected to spend for the remainder of the financial-year. Committee members called the report 'unacceptable and embarrassing.' The Committee Chair, Hobongwana, noted that the postponement of the meeting was unacceptable, stating that the Department could not 'continue doing this.' The Department reportedly admitted that the MEC had not even seen the report.<sup>367</sup>

It can also be argued, however, that the Standing Committee itself has not properly exercised its powers. In May 2003 Hobongwana noted that the MEC had not attended a single meeting of the Committee in the last year. Hobongwana was quoted as saying it was important for the MEC to attend Committee meetings so that the Department and Committee could 'work together.'<sup>368</sup> However, as has been noted, it is fully within the power of the Committee to compel the MEC to attend Portfolio Committee hearings. It is not clear why the Committee has chosen not to do so.<sup>369</sup>

## Recommendations

*As a starting point, the Department should create and implement effective steps, which it should detail in both its strategic plans and annual report, to address audit queries and standing committee recommendations. In addition, the Department should publish all previous oversight committee recommendations and audit queries in its annual report. It should provide a detailed account of its efforts to address these recommendations in its annual report. For its part the Department's Legislature oversight committees should be more assertive in its use of its Constitutional powers to call the MEC for Housing, Local Government and Traditional Affairs, and senior departmental officials, to account for their performance in implementing oversight resolutions.*

<sup>365</sup> 'Poor Housing Report slated,' *Daily Dispatch*, 15 Sept. 2000.

<sup>366</sup> 'Poor marks for housing report,' *Daily Dispatch*, 29 March 2001.

<sup>367</sup> 'MPLs slam "unacceptable report", call of meeting,' *Daily Dispatch*, 19 Nov. 2003.

<sup>368</sup> 'MEC fails to attend committee meetings,' *The Herald*, 29 May 2003.

<sup>369</sup> Standing Rules of Procedure of the Eastern Cape Provincial Legislature, section 63.2.3.



**Submission with regard to the  
Eastern Cape Department of Education.**

The following analysis focuses on the Department's performance between 2000/01 and 2003/04 in respect of the following areas:  
resource allocation and strategic planning; expenditure management; internal monitoring of expenditure and service delivery; legislative breaches and financial misconduct; and accountability to oversight bodies.

**Public Service Accountability Monitor**

### 3. Department of Education

#### **3.1 Resource allocation and strategic planning**

##### **Summary**

*Numerous deficiencies existed in the Eastern Cape Department of Education's 2002/03 and 2003/04 Strategic Plans. The Department failed to provide sufficient information on the service delivery environment and the needs of Eastern Cape citizens. Despite a slight improvement in 2003/04, the Department failed to provide sufficient and accurate information on the service delivery environment and challenges it faced in both the 2002/03 and 2003/04 Strategic Plans. It therefore failed to demonstrate that its strategic planning process was informed by a rigorous needs analysis. In addition, there is no indication in both the 2002/03 and 2003/04 Strategic Plans that the Department amended its strategic plans in order to accommodate its actual operational capacity or the effects of changes made to the organisational structure of the Department. This, despite high vacancy rates, numerous excess staff and major structural changes following Resolution 7 of 2002.<sup>370</sup>*

*The Department failed to provide an account of its past budget expenditure and programme performance in its Strategic Plans. In addition, the Department's Strategic Plans did not include a detailed analysis of Auditor-General queries, or a plan to address them. The latter is of particular concern because the Eastern Cape Department of Education has now received 9 consecutive audit disclaimers<sup>371</sup> since 1995.*

*While both the 2002/03 and the 2003/04 Strategic Plans discussed, at least to some degree, the strategic planning process, the plans did not, however, detail which stakeholders were consulted and how their inputs shaped the strategic planning process. Again, there was a lack of information regarding the Department's proposed activities and objectives. The 2002/03 and 2003/04 Strategic Plans were characterised by a lack of specificity regarding the activities the Department undertook in each upcoming year. Activities were often not measurable, did not have specific time-frames attached to them, and were not costed.*

*In addition, in both the 2002/03 and 2003/04 Strategic Plans, the Department failed to provide detailed information regarding its planned infrastructure and maintenance projects in the upcoming years. Of particular concern is the Department's failure to describe the activities of each infrastructure project, thus inhibiting accurate reporting*

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<sup>370</sup> Resolution 7 of 2002 was passed by the Public Service Co-ordinating Bargaining Council in order to develop a framework for the transformation and restructuring of the public service; to provide for redeployment, retraining and alternative employment of excess employees; and to develop sector strategies within sectoral councils for job creation. See Resolution No. 7 of 2002, p. 3, Section 4(a) – (c).

<sup>371</sup> An audit disclaimer is the most severe opinion the Auditor-General can issue, and is issued where a department's records and supporting documentation are either unavailable for audit purposes or are of such poor quality that no reasonable determination of the validity of financial transactions can be made.

*and adequate monitoring of the Department's infrastructure delivery and maintenance plans.*<sup>372</sup>

*While the focus of the PSAM's submission to the Commission of Inquiry into the Finances of the Eastern Cape Provincial Administration is on the period between 2000 and 2004, the following review of the Department of Education's Strategic Plans is limited to the 2002/03 and 2003/04 financial years due to a lack of available documentation.*

## **Regulatory Requirement**

The ability of provincial government departments to deliver services effectively begins with the strategic planning process. It is the responsibility of the provincial MEC in conjunction with the HOD to produce an effective Strategic Plan for their department. The process of drawing up this plan involves identifying the most pressing social needs of the population served by the department, identifying programmes and activities to practically address these needs, and then proposing a budget and identifying service delivery indicators for implementing programme activities. Only on this basis should departments' Strategic Plans be endorsed by the provincial Legislature, and a budget be allocated to the department by the provincial Treasury.

In terms of the new Public Service Management Framework introduced in June 1999, all provincial service delivery departments are required to begin their strategic planning process at least 12 months before the start of the financial year. By legislation, a department's Strategic Plan must meet the following minimum requirements:

- It should identify the department's core objectives.<sup>373</sup>
- It should describe the activities and programmes necessary to realise these core objectives.<sup>374</sup>
- It should include measurable outputs for all programmes.<sup>375</sup>
- It should include information necessary to define the posts required to undertake the proposed activities and to determine the department's organisational structure.<sup>376</sup>

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<sup>372</sup> For a more detailed analysis of the Eastern Cape Department of Education's infrastructure delivery, please refer to Section 3.2. Expenditure Management.

<sup>373</sup> Public Service Regulations, 1999, Part 3, Section B. Strategic Planning, pp. 7-8.

<sup>374</sup> Ibid.

<sup>375</sup> The National Treasury Guide for Accounting officers introduced in October 2000 states that departmental accounting officers 'should ensure that outputs are sufficiently quantified and appropriate service delivery indicators developed as soon as possible.' See Guide For Accounting officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 2 – Financial Planning, p. 10.

<sup>376</sup> Public Service Regulations, 1999, Part 3, Section B. Strategic Planning, pp. 7-8. Section B.2(a), (c) and (d) state that 'based on the strategic plan of the department, an executing authority shall (a) determine the department's organisational structure in terms of its core and support functions; (c) define the posts necessary to perform the relevant functions while remaining within the current budget and medium term expenditure framework of her or his department, which shall constitute the department's approved establishment; and (d) utilise the human resource plan described in regulation IIID to plan to meet the resulting human resource needs.'

- It should include a human resource plan indicating the human resources required to meet the department's functions, including the number of employees, their competencies and training needs. It should also include a strategy 'to recruit, retain, deploy and develop' staff within the department's available budgeted funds.<sup>377</sup>
- It should include a detailed service delivery improvement plan identifying the department's 'customers' and their needs, and evaluate the department's capacity to meet these needs. This requires a process of extensive consultation with internal and external stakeholders.<sup>378</sup>

## Findings

### Needs Analysis

The 2002/03 Strategic Plan failed to provide the number of learners, number of educators, or the learner:educator ratio. It also did not provide other important statistical information such as the number of classrooms or the learner:classroom ratio. In addition, it failed to provide this information against education norms and standards. Instead, the 2002/03 Strategic Plan stated that the Department experienced "serious classroom shortages" as well as learners who were not being catered for by the Department, without specifying numbers in either case. The Department also stated that it aimed to reduce the illiteracy rate in the province, but failed to provide the illiteracy rate.<sup>379</sup> In addition, while the Plan did contain some information on the Department's service delivery environment, this information was inadequate and based on 1996 data.<sup>380</sup>

The 2003/04 Strategic Plan was a minor improvement on the Plan of the previous financial year. It provided slightly more information, such as enrolment and population statistics, the number of institutions, and post provisioning norms.<sup>381</sup> In addition, the 2003/04 Strategic Plan set out in more detail the Department's infrastructure and

<sup>377</sup> Ibid, Part 3, Section D.1 (a), (b) and (c).

<sup>378</sup> The regulations required departments to produce a Service Delivery Improvement Programme (SDIP) in which they identified who their 'customers' are, what services they provided to them, and what barriers existed preventing their 'customers' from accessing these services. The SDIP was clearly premised on an extensive process of consultation given that it was required to develop strategies to remove barriers to service delivery, improve communication with 'customers' and lead to the development of service standards. See, Public Service Regulations, 1999, Part 3, Section C.1 Service Delivery Improvement Programme, p. 8. Such consultation is required to meet the Constitutional principle that 'People's needs must be responded to, and the public must be encouraged to participate in policy making.' South African Constitution, Chapter 10 Public Administration, section 195(1)e. The need to involve both internal and external stakeholders in the strategic planning process was subsequently made explicit by National Treasury guidelines which state that departments must ensure stakeholder and community input. See Generic Format for Strategic Plans for Provincial Departments, National Treasury, 11 July 2002, Part A, Section 3.8, p. 10

<sup>379</sup> Eastern Cape Department of Education, Strategic Plan, 2002/03, Part A, 1.7.1 "Summary of service delivery environment and challenges", p. 6.

<sup>380</sup> Ibid, Part D, Background Information, 1.22 Appendix 1, pp. 74-84.

<sup>381</sup> Eastern Cape Department of Education, Strategic Plan, 2003, Part C, 1.1 Situational analysis of the system as a whole, pp. 58 – 60.

maintenance plans.<sup>382</sup> However, again, the Department failed to set out learner:educator ratios, learner:classroom ratios, and education norms and standards for these. The limited statistical information did not set out trends, such as population shifts, increasing or decreasing enrolment numbers, or other important information which the Strategic Plan should take into account. There is no information given on what the Department needed to provide per learner, from classrooms to learner support material. Without a rigorous needs analysis, it is impossible for the Department to make plans that speak to the actual needs of its clients, i.e. learners in the province.

## **Human Resource Planning**

In 2001/02, the Eastern Cape Department of Education experienced a critical post vacancy rate of 3.29 percent, and employed 21 183 excess staff.<sup>383</sup> While this posed a considerable human resource challenge to the Department, it was not explicitly discussed in the Department's 2002/03 Strategic Plan and it was far from clear that the Department took its operational capacity into account at all, particularly with regard to excess staff. By the end of 2002/03, the Department's vacancy rate increased dramatically to 21.93 percent. Simultaneously, the number of excess staff was reduced to 14 723.<sup>384</sup> Yet again, the Department apparently failed to take into account its organisational structure or operational capacity in the 2003/04 Strategic Plan. The Department acknowledged that Resolution 7 of 2002 posed a challenge to its organisational structure in the Plan, but failed to show how the recently introduced person-to-post matching would effect the Department's ability to implement its Strategic Plan. Indeed, the Plan did not set out the Department's plan to implement Resolution 7. In addition, the 2003 Strategic Plan stated: "unfortunately, implementation of our new district-based service delivery model is still challenged by staffing requirements."<sup>385</sup> Yet the plan did not discuss the anticipated effect this would have on service delivery in the upcoming year.

## **Past Performance**

In the 2002/03 and 2003/04 Strategic Plans, there was no discussion of third quarter spending. The implications of the Department's performance in the current year, i.e. third quarter spending results, should significantly influence the Department's plans for the upcoming financial year. Both Strategic Plans provided a summary of expenditure by programme for the previous, current (estimate) and MTEF financial years.<sup>386</sup> However, neither provided this information against actual budget allocations for previous financial years, and therefore it was impossible to determine from the Strategic Plans the Department's past performance or whether this was taken into account in the Strategic Plan for the upcoming year. Finally, the Strategic Plans did not contain a detailed account of how the Department intended addressing Auditor-General queries. This is of

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<sup>382</sup> Ibid, 11.3.1 Physical Infrastructure, pp. 62 – 67.

<sup>383</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 11.

<sup>384</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 190.

<sup>385</sup> Eastern Cape Department of Education, Strategic Plan, 2003, p. 11.

<sup>386</sup> Eastern Cape Department of Education, Strategic Plan, 2002/03, p. 44, section 1.10.2 Expenditure summary by programme, and 2003, pp. 51-56, Summary of Expenditure by Programme.

particular concern, given that the Department received consecutive audit disclaimers for the nine financial years between 1995 and 2004.<sup>387</sup>

### **Consultation with Stakeholders**

According to the 2002/03 Strategic Plan, the Department consulted managers, and other key stakeholders, “including labour, management at provincial and district levels” in the strategic planning process. The Plan reported that further consultation at school level occurred through workshops. However, the influence of such consultation on the Strategic Plan was not evident in the Strategic Plan. In addition, there was no indication that teachers’ unions were consulted in the planning process.<sup>388</sup> According to the 2003 Strategic Plan, the Department consulted with management at provincial, district and school level. It also stated that the draft plan was informed by a stakeholder Education Summit.<sup>389</sup> The Department needed, however, to detail which stakeholders attended the Education Summit, and show how their inputs shaped the strategic planning process.

### **Measurable Objectives and Activities**

In the 2002/03 Operational Plan (1.11 Service Delivery Plan; pp 45-66), activities were broken down into target goals to be achieved each quarter, instead of having clear time-frames attached to them. In addition, activities were not always measurable and each activity was not costed. (Instead, the Strategic Plan provided the budget for each programme.) For example, one of the Department’s key objectives was to improve learner performance in Grades 10 – 12 through resourcing schools with Learner Support Material (LSM), including video cassettes, study guides and other teaching and learning material. The plan failed to detail how many video cassettes were needed, for example, or how much the LSM would cost.<sup>390</sup>

In the 2003/04 Strategic Plan, once again the Department did not provide cost estimates for each activity, and broke down each activity into quarters instead of allocating time-frames. It was also not possible to measure all activities. For example, in Programme 7, Early Childhood Development, the Department’s objective was the “management and coordination of the provision of Early Childhood Development in accordance with White Paper 5.” One of the proposed activities to achieve this objective was the “provision of furniture and basic kits.” The plan did not state what kind of furniture was required or how much was needed; nor does the plan state what a “basic kit” consisted of, how much it would cost, or how many should be provided in total.<sup>391</sup>

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<sup>387</sup> Report of the Auditor-General on the Financial Statements of Vote 6 – Education of the Eastern Cape Provincial Administration, for the years ended 31 March 1996, 1997, 1998 and 1999, pp. 4, 5; Report of the Auditor-General on the Financial Statements of Vote 6 – Education of the Eastern Cape Provincial Administration, for the year ended 31 March 2000, p. 5, 2.3; Eastern Cape Department of Education, Annual Reports, 2000/01, p. 43, 2.3; 2001/02, p. 101, 3.5; 2002/03, p. 143, 4; 2003/04, p. 126, 4.2.4.

<sup>388</sup> Eastern Cape Department of Education, Strategic Plan, 2002/03, pp. 6-7, 1.8 Description of strategic planning process.

<sup>389</sup> Eastern Cape Department of Education, Strategic Plan, 2003, p. 11.

<sup>390</sup> Eastern Cape Department of Education, Strategic Plan, 2002/03, p. 52, Programme 4 Secondary Schools.

<sup>391</sup> Eastern Cape Department of Education, Strategic Plan, 2003, p. 106.

## Capital Investment and Maintenance

Both Strategic Plans were characterised by a lack of information regarding capital investment and maintenance. While the 2002/03 Strategic Plan, for example, provided limited information as to the number of projects underway, it did not distinguish between repairs, major renovations or new infrastructure projects. It failed to provide detailed descriptions regarding each project, including time-frames, budget, or what the project entailed (i.e. whether the department planned to replace the roof of a classroom or replace the entire structure). The Plan also failed to provide a detailed description of schools' needs with regard to infrastructure in the province. It merely stated that "thousands of schools have poor physical fabric [sic] and many are dangerous and unfit for human habitation."<sup>392</sup> In the 2003/04 Strategic Plan, the Department again failed to provide accurate information on the service delivery environment with regard to school infrastructure, and again failed to provide detailed accounts of what it planned to do in the upcoming year. For example, one of the Department's planned objectives was the construction of 45 schools.<sup>393</sup> The plan did not further break this objective down into activities, such as what would be constructed, (for example, the number of classrooms, toilets, offices, etc.) nor did it provide information such as the estimated cost or time-frame for each activity.

For a more in-depth discussion of infrastructure delivery by the Eastern Cape Department of Education, please refer to section 3.2 of this document.

## Recommendations

*For current and future reference, the Department must ensure that its Strategic Plans are informed by a rigorous needs analysis. Any service delivery department's Strategic Plan should contain answers to the following questions:*

- *Who are the Department's clients?*
- *Where are they located?*
- *What are their exact service delivery needs?*
- *What is the quality of existing service delivery?*
- *What human, financial and material resources does the Department require to address these needs?*
- *What infrastructure is available/required to meet these needs?*

*Up-to-date information on the service delivery environment and the challenges faced by the Department should be clearly specified in the Strategic Plan. Information such as the learner:educator ratio, learner:classroom ratio, estimated number of learners infected and affected by HIV/Aids, demographic information (population shifts, poverty levels, etc) must be included in the Strategic Plan because such information should inform the Department's plans for each financial year.*

*The Department should take into account Public Service Regulation, 1999, Part 3, Section D.1(a), (b) and (c), which requires the department to conduct proper human resource planning. The Department cannot base its plans on a full staff compliment when it has consistently experienced high vacancy rates and staff additional to the fixed*

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<sup>392</sup> Eastern Cape Department of Education, Strategic Plan, 2002/03, p. 84.

<sup>393</sup> Eastern Cape Department of Education, Strategic Plan, 2003, p. 92.

*establishment. The Department must take its operational capacity into account during the Strategic Planning process if it is to produce realistic and achievable plans.*

*The Department must include a discussion of third quarter spending results in its Strategic Plan, and demonstrate how the Department's current and previous expenditure and service delivery effects the Strategic Plan for the upcoming year. This should include a narrative explanation of the Department's actual service delivery against previous strategic objectives. In addition, the Strategic Plan should not only list the audit queries raised by the Auditor-General in previous years that still need to be addressed, but should also demonstrate how the Department intends on addressing such queries in the upcoming financial year.*

*The Department should clearly set out which stakeholders were consulted during the strategic planning process, and demonstrate how their inputs shaped the objectives set within the Strategic Plan.*

*The Department should clearly set out in its Strategic Plans measurable and achievable activities and objectives. The Department must attach to each of these a realistic time-frame and cost estimates.*

*The Department should provide detailed information regarding its infrastructure and maintenance projects for the upcoming year in its Strategic Plans, including specified activities, time-frames and cost estimates for each project. The Department should also clearly distinguish between renovations, maintenance and new infrastructure projects in the Strategic Plan.*

## **3.2 Expenditure Management**

### **Summary**

*The Department has consistently overspent its personnel budget. Between 2000/01 and 2003/04, overspending on personnel amounted to R1.17 billion. The main cause of this overspending was the disproportionate amount spent on educators. The result was two-fold. Firstly, the Department significantly under spent on non-personnel, which in turn led to infrastructure backlogs. Between 2000/01 and 2003/04, despite an infrastructure backlog totalling R15.86 billion,<sup>394</sup> the Department spent only R190.73 million (or 37.39 percent) of an available infrastructure budget amount of R510.12 million.<sup>395</sup> Secondly, the Department under spent on non-educator personnel, causing high vacancy rates in the Department's administration division. Further evidence of the Department's poor human resource management was also evident in its failure to implement and maintain an adequate performance management system.*

*In addition to the Department's lack of control over expenditure and human resources, the Department also failed to establish an effective and efficient asset management system. The Auditor-General reported from 1995/6 – 2003/04 that there were significant*

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<sup>394</sup> Eastern Cape Department of Education, Infrastructure Plan, 2005-2014, Preliminary Draft, p. 12.

<sup>395</sup> Eastern Cape Department of Education, Annual Reports, 2000/01, p. 45, 2001/02, p. 125, 2002/03, p. 151, 2003/04, p. 138, and Eastern Cape Provincial Government, Budget Statements, 2005/06, p. 321.



*control deficiencies in the Department's asset management system. Further evidence of poor expenditure management was found in the Department's handling of transfer payments. Ongoing problems regarding financial transfers between 1999/00 and 2003/04 included the failure to make payments within the prescribed 30-day period; the failure to check monthly accounts and outstanding balances of suppliers; and transfers considered by the Auditor-General as irregular expenditure.*

## **Regulatory Requirement**

Public expenditure incurred by provincial departments is subject to strict regulation by the Public Finance Management Act (PFMA), supported by Treasury Regulations and a range of implementation Guidelines, and the Division of Revenue Act (DoRA), passed annually.

The PFMA makes the accounting officer (generally the HOD) within any government department responsible for 'the effective, efficient, economical and transparent use of resources' and requires her/him to take appropriate steps to prevent 'fruitless and wasteful expenditure', which is defined as 'expenditure which was made in vain and would have been avoided had reasonable care been exercised.'<sup>396</sup> Moreover, the PFMA states that before transferring any funds to an entity within or outside government, an accounting officer 'must obtain a written assurance from the entity that that entity implements effective, efficient and transparent financial management and internal controls systems.'<sup>397</sup>

DORA also states that all conditional grants can only be spent in a way which is consistent with their intended use. If provinces or municipalities underspend or make improper use of conditional grants the transferring national department can either delay further payments<sup>398</sup> or withhold these if there is 'a serious or persistent material breach of the conditions to which the allocation is subject.'<sup>399</sup>

In order to ensure effective public expenditure management by government departments the PFMA sets out the general requirement that accounting officers maintain 'effective, efficient and transparent systems of financial and risk management' within departments and that they take steps to safeguard departmental assets.<sup>400</sup> In addition, the PFMA and Public Service Regulations both oblige MECs to ensure that their departmental personnel are governed by 'efficient, effective and economical' human resource management procedures.<sup>401</sup> A vital part of such procedures is the implementation of

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<sup>396</sup> Public Finance Management Act, sections 38(1)(b) and (cii), Chapter 1 Definitions, p. 8.

<sup>397</sup> Ibid, section 38(1)(j), p. 24.

<sup>398</sup> Division of Revenue Act, 2003, section 21.

<sup>399</sup> Ibid, section 22(1)(b).

<sup>400</sup> Public Finance Management Act, 1999, Chapter 5, Section 38(a)(i), (c)(ii) and (d), pp. 23-24.

<sup>401</sup> Section 195(1)(h) of the Constitution states that public administration must exhibit 'good human resource management.' Public Service Regulations state that it is the responsibility of executing authorities within departments to assess the human resource needs of departments. This should be done by identifying the total numbers of staff required to meet departmental objectives, and the necessary competencies and capacities staff will require to fulfil these objectives. In addition, the regulations note that training needs should be assessed and all human resource planning should be undertaken with due cognizance of the available budget. See, Public Service Regulations, 2001, Section 3 D1, pp. 12-13. Lastly, section 38(b) of the PFMA states that accounting officers are responsible for the 'effective, efficient, economical and transparent use of

effective performance management systems to govern the employment of all officials.<sup>402</sup> Finally, the PFMA requires that accounting officers of departments ensure that they establish cost-effective procurement and provisioning systems.<sup>403</sup>

## Findings

In the 2002/03 and 2003/04 financial years, the Eastern Cape Department of Education cumulatively over spent its budget by over R580 million.<sup>404</sup> The main cause for overspending in these, and previous financial years, was overspending on personnel.<sup>405</sup> From 2000/01 to 2003/04, the Department overspent its personnel budget by R1.17 billion.<sup>406</sup> This is summarised in Table 1 below:

**Table 1: Eastern Cape Department of Education, Spending on Personnel**

Financial Year	Budget R'000	Expenditure R'000	Variance R'000	Variance as %
2000/01 <sup>407</sup>	6 662 466	6 771 827	109 361	1.64%
2001/02 <sup>408</sup>	6 910 242	7 166 357	256 115	3.71%
2002/03 <sup>409</sup>	7 454 653	8 037 091	582 438	7.81%
2003/04 <sup>410</sup>	8 537 040	8 757 596	220 556	2.58%
<b>Total</b>	<b>29 564 401</b>	<b>30 732 871</b>	<b>1 168 470</b>	<b>3.95%</b>

The Department acknowledged in 2005 that it had “been overspending on personnel for most of its short history.”<sup>411</sup> It has consistently failed to implement national guidelines for budget allocations for personnel and non-personnel. The final IMT report states that “according to the national guidelines the division of the education budget should be... 85% for personnel expenditure and 15 percent for non-personnel expenditure.”<sup>412</sup> From 1995 to 2000, the Department’s personnel expenditure accounted for around 95 percent

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the resources of the department.’ This clearly presupposes that departments will implement efficient and effective human resource management processes and procedures.

<sup>402</sup> Resolution 13 of the Public Service Coordinating Bargaining Council, 1998, states that all senior management within the public service must sign performance agreements. See, Public Service Coordinating Bargaining Council Resolution 13 Senior Management (Performance Agreements), 1998, section 3. The Public Service Regulations of 2001 require that performance management systems should have been ‘fully implemented by all departments with effect from 1 April 2001.’ See, Public Service Regulations, 2001, part VIII, B.1, p. 28. Section 38(1)(b) of the PFMA requires that accounting officers ensure the ‘effective, efficient, economical and transparent use of the resources of the department.’

<sup>403</sup> Public Finance Management Act, 1999, section 38(1)(a)(iii), p. 23. The PSAM’s references to procurement issues are drawn from Auditor-General and audit committee reports.

<sup>404</sup> Eastern Cape Department of Education, Annual Reports, 2002/03, p. 151, 4.4 Appropriation Statement; 2003/04, p. 138, 4.4.1 Appropriation Statement.

<sup>405</sup> Eastern Cape Department of Education, “A transformation Agenda for the Eastern Cape Department of Education 2005-2014,” p. 17, 3.2.5.

<sup>406</sup> Eastern Cape Department of Education, Annual Reports, 2000/01, p. 45, 2001/02, p. 125, 2002/03, p. 138, 2003/04, p. 151.

<sup>407</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 45.

<sup>408</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 125, 5.9 Appropriation Statement.

<sup>409</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 151.

<sup>410</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 138.

<sup>411</sup> Eastern Cape Department of Education, Budget and Policy Speech, 2005/06, p. 7.

<sup>412</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 62.

of the budget, leaving a mere 5 percent for non-personnel expenditure.<sup>413</sup> In 2000/01, this trend continued, with 94.17 percent of budgeted funds spent on personnel, and only 5.83 percent on non-personnel, such as administrative expenditure, inventory, equipment, land and buildings, professional and special services, and transfer payments.<sup>414</sup> In 2001/02, there was a slight improvement with regard to non-personnel spending. The Department spent 91.13 percent of its budget on personnel, and 8.87 percent on non-personnel.<sup>415</sup> Expenditure on non-personnel costs was brought progressively into line with national guidelines over the following two financial years. In 2002/03, 12.15 percent of the Department's budget was spent on non-personnel, and in 2003/04, non-personnel expenditure accounted for 13.76 percent of the Department's total expenditure.<sup>416</sup> In no financial year between 1995 and 2004 the Department failed to successfully implement national guidelines for the division of the education budget between personnel and non-personnel.

Each financial year, the majority of the Department's overspending on personnel occurred in Programme 2, Public Ordinary Schools. Overspending on personnel from 2000/01 to 2003/04 was offset by significant under spending in other programmes. In the 2000/01 financial year, the Department overspent its personnel budget by R109.36 million.<sup>417</sup> The Department did not, however, overspend its entire budget in that financial year because it failed to spend R140.86 million allocated to programme 1, Administration, and R400 000 in Programme 3, Private ordinary schools.<sup>418</sup> In 2001/02, the Department's overspending on personnel doubled to R256.12 million.<sup>419</sup>

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<sup>413</sup> Ibid, p. 56.

<sup>414</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 45.

<sup>415</sup> See Table 1.

<sup>416</sup> Ibid.

<sup>417</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 45.

<sup>418</sup> Ibid.

<sup>419</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 125, 5.9 Appropriation Statement.

**Table 2 Expenditure by programme for 2001/02<sup>420</sup>**

<b>Programmes</b>	<b>Budget (‘000)</b>	<b>Actual Expenditure (‘000)</b>	<b>Under/ (over) expenditure (‘000)</b>	<b>Percentage of (over) / under expenditure (‘000)</b>
1. Administration	549 986	389 058	160 928	29.26%
2. Public Ordinary Schools	6 486 717	6 759 388	(272 671)	(104.20%)
3. Private Ordinary Schools	11 257	10 971	286	2.54%
4. Special Needs in Education	165 241	147 218	18 023	10.90%
5. Teacher Training	161 295	110 065	51 230	31.76%
6. Technical Colleges	117 134	75 839	41 295	35.25%
7. Non-Formal Education	96 524	90 868	5 656	5.85%
8. Auxiliary and Associated Services	530 702	280 460	250 242	47.15%
<b>TOTAL</b>	<b>8 118 856<sup>421</sup></b>	<b>7 863 867</b>	<b>254 989</b>	<b>3.14%</b>

Once again, however, the Department did not overspend its entire budget because of significant under spending in every programme, save programme 2 (public ordinary schools). The Department's under spending with regard to the other programmes is summarised in Table 2 above. The most significant overspending occurred in Programmes 8, Auxiliary and associated services, and (once again) Programme 1, Administration.

In 2002/03, the Department overspent its personnel budget by R582.44 million.<sup>422</sup> This accounted for 88.32 percent of the Department's total overspending (R659.50 million) incurred in Programmes 1-3. That the Department reported in 2002/03 that it only over spent its budget by R337.34 million is due to the fact that it under spent in every other programme (Programmes 4 – 9) by R322.16 million. Significant under spending occurred in Further Education and Training, Assessment and Professional Development.<sup>423</sup>

<sup>420</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 125.

<sup>421</sup> This figure does not include revenue additional to the equitable share portion received by the Department. The additional revenue which is reflected in table 1 (p. 3) for the 2001/02 financial year consists of R9.152 million raised from the Department's own revenue and R4 million received in the form of local and foreign aid assistance. See, Eastern Cape Department of Education, Annual Report, 2001/02, p. 108.

<sup>422</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 151.

<sup>423</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 151.

Finally, in 2003/04, the Department's personnel budget was overspent by R220.56 million. As in the previous financial year, overspending on personnel was the main cause of the Department's overspending. The Department's total overspending amounted to R278.94 million, of which overspending on personnel accounted for 79.07 percent. However, the Department's overspending, as reflected in the annual financial statements, was R243.30 million because the Department under spent in programmes 4, Public Special Schools, 5, Further Education and Training, 6, Early Childhood Development and 8, Auxiliary and Associated Services by R35.64 million.<sup>424</sup>

In 2005, the Department acknowledged that over expenditure on personnel in previous financial years "effectively 'crowded out' non-personnel spending on vital teaching materials and school services."<sup>425</sup> However, one of the most serious consequences of consistent overspending on personnel has been the Department's failure to progressively address its infrastructure backlog. The Constitution of South Africa states that every South African citizen has a right to "basic education" and to "further education, which the state, through reasonable measures, must make progressively available and accessible."<sup>426</sup> This mandate is carried out by the National Department of Education, and nine provincial departments of Education. It is clear that a fundamental pre-requisite for the delivery of effective education is the existence of suitable and safe school infrastructure. The Eastern Cape Department of Education is mandated, in terms of the South African Schools Act, (Act No. 84 of 1996), to provide infrastructure that facilitates the provision of quality education. This Act states that provincial MECs must "ensure that there are enough school places so that every child who lives in his/her Province can attend school." In addition, provincial MECs "must provide public schools for [the] education of learners out of funds appropriated for this purpose by the provincial legislature."<sup>427</sup>

As early as February 2000, the National Education Portfolio Committee reported on the "shocking levels of degradation" in schools in the Eastern Cape.<sup>428</sup> After visiting schools in the Eastern Cape, the Committee said that in certain schools, "the building authorities maintain that a number of classrooms in several schools should in fact be condemned. All these schools," the report continued, "are government assets and it is clear that the lack of funding for emergency renovations has reached unacceptable proportions." The Committee recommended that to address the classroom backlog, the Department needed R450 million per annum over a period of ten years. It also estimated that the provincial Department needed R900 million per annum for non-personnel expenditure in order for the department "to function normally, i.e. for normal repairs to be carried out." However, it went on to note that in terms of non-personnel budget in 1998 "the department was allocated R500 million and in 1999 it was cut to R200 million. In 1999, the department requested R20 million [for school infrastructure maintenance and emergency repairs], but for the first time in three years, the department only managed to receive R5 million for 6 400 schools." According to this same report, in the 1998/99 and

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<sup>424</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 137.

<sup>425</sup> Eastern Cape Department of Education, "A transformation Agenda for the Eastern Cape Department of Education 2005-2014," p. 17, 3.2.5

<sup>426</sup> South African Bill of Rights, 29(1)(a) and (b).

<sup>427</sup> South African School's Act, Act No. 84 of 1996, Clause 3(1) and Clause 12(1).

<sup>428</sup> Education Portfolio Committee, Committee Report on visits to Eastern Cape and KwaZulu. Natal, 15 Feb. 2000.

1999/2000 budgets, no funding was set aside for any capital programmes.<sup>429</sup> In 2000/01, the Department spent a mere R6.52 million (6.03 percent) of its R108.10 million budget for infrastructure.<sup>430</sup> The Department's expenditure on infrastructure steadily increased over the following three financial years: in 2001/02 the Department spent R31.17 million; in 2002/03 the Department spent 68.13 million; and in 2003/04, the Department spent 84.91 million.<sup>431</sup> The Department's attempts to address critical classroom shortages and mud/temporary structured classrooms were hopelessly inadequate in light of the overall need. The following graph shows the infrastructure budget and expenditure of the Department from 2001/02 to 2003/04, as well as the total budget required to address backlogs, repairs and upgrades, the infrastructure budget and expenditure of the Department in 2004/05 and proposed infrastructure budget for the 2005/06 – 2007/08 MTEF period.<sup>432</sup>

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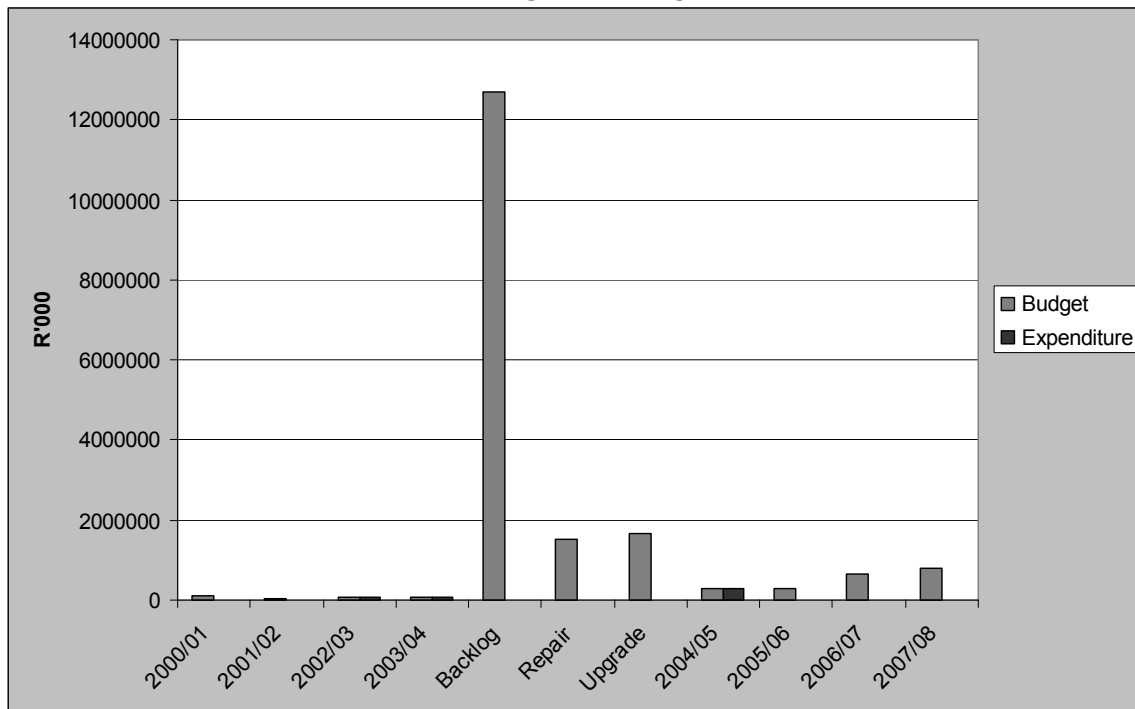
<sup>429</sup> Ibid.

<sup>430</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 45.

<sup>431</sup> Eastern Cape Provincial Government, Budget Statements, 2005/06, p. 321, 5.2.

<sup>432</sup> Eastern Cape Department of Education, Infrastructure Plan, 2005-2014, Preliminary Draft, p. 34.

**Graph 1: Infrastructure Expenditure against budget**



Overspending on personnel, which resulted in under spending on non-personnel, meant that not only did the Department fail to deliver key services, such as infrastructure, but it also violated the PFMA. According to the Department, “non-personnel funds were used to repay overdrafts and debt.”<sup>433</sup> This constitutes a violation of section 43(4)(c) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) which does not permit savings in an amount appropriated for capital expenditure to be reallocated to current expenditure.

There are at least two significant contributors to overspending on personnel. Firstly, the Department overspent on educator personnel. Secondly, the Department struggled to reduce the number of excess staff in its employ. The IMT reported that “the over-expenditure in the Department is due in part to the over-employment of educators.”<sup>434</sup> From 1994/5 to 1997/8, the Department employed 10 000 additional teachers who were not “recruited against vacant posts on a properly budgeted establishment.”<sup>435</sup> The recruitment of staff without previously securing adequate funding resulted in a strained relationship between the Department and the South African Democratic Teachers’ Union (SadtU). Since 1999, the Department has been at loggerheads with SadtU over outstanding payments to educators for pensions, cash bonuses and salary adjustments.<sup>436</sup>

<sup>433</sup> Eastern Cape Department of Education, “A transformation Agenda for the Eastern Cape Department of Education 2005-2014,” p. 18, 3.2.6.

<sup>434</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 60, 7.3.1.

<sup>435</sup> Eastern Cape Department of Education, “A transformation Agenda for the Eastern Cape Department of Education 2005-2014,” p. 17, 3.2.5.

<sup>436</sup> “SadtU threatens legal action over salaries,” *Daily Dispatch*, 24 Sep. 1999.

It was reported in 2003 that the Department required R190 million to make outstanding payments to 9 000 educators. However, the provincial Treasury was reported to have turned down the Department's request for this money because of the Department's poor financial management.<sup>437</sup> Treasury superintendent-general, Mr Monde Tom, was reported as saying that every year the Department had to pay more than 10 000 backlog claims to educators because of its "flawed" financial management system. Tom reportedly indicated that the Department did not even know the total number of its employees, making duplicate claims difficult to identify.<sup>438</sup> In addition, the Department did not know what backlogs it had to pay and had no systematic plan to deal with the problem. In this context, Sadtu called a strike which would place Grade 12 examinations in jeopardy, a tactic that would be repeatedly used in the ensuing financial years.<sup>439</sup> In a desperate bid to prevent a strike a week before matric examinations, the Department agreed to pay all backlogs.<sup>440</sup>

The IMT report appears to indicate a failure on the part of teacher unions to assist the Department's attempts to address its overspending on personnel. The report stated that "while unions admit that there are inefficiencies in the management of the Department they however are not supportive of the corrective measures." In addition, the IMT pointed to the "possible collusion" between managers in the Department and unions, citing the difficulty "experienced in completing the processes for the finalisation of post-provisioning and the implementation of the new organogram."<sup>441</sup>

In 2004/05, the amount needed by the Department for payment backlogs was reported as having increased from R190 million<sup>442</sup> to R500 million.<sup>443</sup> These reported figures differ from the IMT report which stated that during May 2003, "6785 backlog payments to the value of R58 million were made." In addition, the IMT report indicated that R186 million in backlogs were "being processed for payment."<sup>444</sup> Despite these commitments, the Department failed to budget for the backlogs in both instances. The Department's consistent overspending on educator personnel resulted in severe underspending on non-educator personnel which resulted in high vacancy rates in the Administrative arm of the Department. The Department acknowledged that attempts to curb over expenditure on (educator) personnel led to "crippling vacancies in financial administration, human resource administration, registry, EDOs [Education Development Officers] and the Subject Advisory service. The lack of non-educator personnel in these areas resulted in administrative chaos, payment backlogs, and poor records management."<sup>445</sup> This is confirmed in the IMT report, which states that "the portion of

<sup>437</sup> "Teacher's strike will go ahead says Sadtu," *Daily Dispatch*, 24 Sep. 2003.

<sup>438</sup> "Treasury won't bail Education," *Daily Dispatch*, 02 Oct. 2003.

<sup>439</sup> "Teacher Strike looms in dept financial mess," *City Press*, 05 Oct. 2003.

<sup>440</sup> "Teachers 'will get paid by Christmas,'" *Daily Dispatch*, 26 Nov. 2003.

<sup>441</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 60.

<sup>442</sup> "Teacher's strike will go ahead says Sadtu," *Daily Dispatch*, 24 Sep. 2003.

<sup>443</sup> "Teachers hit out over R180m pay shortage," *The Herald*, 15 Nov. 2004.

<sup>444</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 62.

<sup>445</sup> Eastern Cape Department of Education, "A transformation Agenda for the Eastern Cape Department of Education 2005-2014," p. 18, 3.2.6. The Department acknowledged that, by March 2005, educator costs absorbed 93 percent of the personnel budget, as opposed to administrative personnel which accounted for only 7 percent of total personnel expenditure. According to the Department, this "resulted in a vacancy rate of more than 60 percent for administration staff." Eastern Cape Department of Education, Annual Performance Plan, 2005/06, p. 14.



the salary budget allocated to educators prevents the funding of corporate service office vacancies that are essential to render satisfactory services.”<sup>446</sup>

Although the Department experienced ongoing high vacancy rates, it employed numerous excess personnel between 2001/02 to 2003/04. This was a second significant contributor to overspending on personnel. In 2001/02, the Department employed 21 183 staff additional to the establishment.<sup>447</sup> In 2002/03, the number of excess staff dropped to 14 723. By the 2003/04 financial year, the Department, despite a vacancy rate of 21 percent,<sup>448</sup> had 3 122 employees who could not be absorbed into the Department’s organogram.<sup>449</sup> In line with the norms and standards for personnel costs in the Education Sector, the Department should have allocated 85 percent of its total personnel budget to educators, and 15 percent to non-educator (administration) staff. In 1998/99, this ratio reached 97% to 3%, and, with a moratorium on further appointments, the Department remained “locked in this pattern until 2000/01.”<sup>450</sup>

Despite achieving limited success in addressing its bloated staff compliment, the IMT argued that the Department “missed the opportunity afforded by Resolution 7 to rationalise its personnel.” They added that “the backlogs with regard to human resources management and administration, especially the processing of appointments and other personnel related payments, are unacceptable.”<sup>451</sup> According to Resolution No. 7 of 2002, section 7.4, staff additional to the establishment are considered to be “excess employees.” However, excess employees “are not automatically [made] redundant in the public service.”<sup>452</sup> It was the Department’s responsibility to either redeploy excess staff, or grant severance packages or early retirement to excess staff. In addition, “employees who unreasonably refuse to be redeployed [are] deemed to have resigned.”<sup>453</sup> The Department’s repeated failure to address the issue of excess staff is in contravention of Resolution 7 which should have been implemented 15 months after 6 March 2002,<sup>454</sup> (i.e. by 6 June 2003).

## **Performance Management**

The lack of effective human resource management in the Department between 2000 – 2004 is further evidenced by the fact that the Department did not have an effective performance management system between 1995 and 2002/03. The IMT reported that an analysis of the status of performance management in the Department in February 2003 revealed that “senior managers in the Department have never been formally evaluated.” In addition, the IMT found that “no performance agreements had been entered into up to the 2001/02 financial year.” According to the IMT report, the

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<sup>446</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 58, (b).

<sup>447</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 11, Table 2.3.

<sup>448</sup> In 2003/04, the final IMT report cited a 21 percent personnel vacancy rate for Education, contradicting the Department’s reported 4 percent vacancy rate for the year under review. Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 26, Eastern Cape Department of Education, Annual Report, 2003/04, p. 172.

<sup>449</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 172.

<sup>450</sup> Eastern Cape Department of Education, “A transformation Agenda for the Eastern Cape Department of Education 2005-2014,” p. 18, 3.2.6.

<sup>451</sup> Report: Work of the Interim Management Team: Eastern Cape, Nov 2002 – Mar 2004, p. 59.

<sup>452</sup> Public Service Co-ordinating Bargaining Council, Resolution No. 7 of 2002, p. 6.

<sup>453</sup> Ibid, 8.1(j).

<sup>454</sup> Ibid, 3.

Department failed to implement at every level a performance management and development system developed by the Office of the Premier. Finally, no evaluation system was implemented for Office-based or Institution-based Educators.<sup>455</sup> Of the 14 managers evaluated during the implementation of the Turnaround Plan, the IMT found the performance of nine managers to be unsatisfactory in terms of the “nationally prescribed system for the senior management service.”<sup>456</sup>

In the 2002/03 Strategic Plan, the Department aimed to have “all lower levels up to school level” sign performance agreements on an annual basis. The Department failed to provide a measurable activity for this goal; the Strategic Plan simply stated that “all managers” were to sign performance agreements. The Department also set a target of having systems in place for performance evaluation. According to the Department’s 2002/03 Annual Report, 65 percent of its senior managers were trained on the development and management of business plans and performance agreements.<sup>457</sup> There was no indication, however, in the Annual Report that performance agreements were actually signed, or that personnel were evaluated against their performance agreements. The previous financial year’s Annual Report, 2001/02, presented a similar picture, with “all senior managers” trained in the development of Business plans and Performance Agreements,” yet no indication that performance agreements were drawn up, signed, or evaluated.<sup>458</sup> The IMT’s finding, already cited above, that “senior managers in the Department have never been formally evaluated” by February 2003, further casts doubt on the efficacy of the Department’s implementation of a performance management system. According to the 2003/04 Annual Report, 69 SMS members developed performance agreements in 2003/04.<sup>459</sup> There was, however, once again, no indication in the Annual Report that the performance of these members was evaluated against their performance agreements.

The Department’s poor human resource management, evidenced in overspending on educator personnel, and high vacancy rates in the administrative programme of the Department, was clearly evident in findings made by the Auditor-General from 2000/01 to 2003/04. The Auditor-General repeatedly reported on the Department’s poor human resource management. In 2000/01, the Auditor-General found that overpayments, amounting R519 545, had been made to officials who had left the service but who had not been removed from the payroll timeously. The Auditor-General reported that attempts to verify the existence of personnel were “hampered as paypoint information on the PERSAL system was found to be unreliable.”<sup>460</sup> The Auditor-General repeated this finding in the following year’s report.<sup>461</sup> In 2001/02, the Auditor-General reported that expenditure according to the Personnel and Salary System was not reconciled on a monthly basis with the financial information on the Basic Accounting System. The Department’s failure to do so resulted in an unreconciled difference of R14.50 million.<sup>462</sup> Once again, the Department failed to address this issue, and the Auditor-General

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<sup>455</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 69

<sup>456</sup> Ibid, p. 70.

<sup>457</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 22, 2.6.1.3.

<sup>458</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 45. It is of concern to note that senior managers were trained on performance agreements in both financial years without the result of signed performance agreements being achieved.

<sup>459</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 50.

<sup>460</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 2, 2.2.1.2.

<sup>461</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 38, 2.2.1.1.

<sup>462</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 143, 5.1.

repeated the finding the following financial year.<sup>463</sup> A review of reports of the Auditor-General between 2000/01 and 2003/04 reveals the Department's inability or unwillingness to address the long-standing issue of leave and personnel records. Year on year the Auditor-General found the personnel and leave records to be unsatisfactory. According to the Auditor-General, the Department had not taken "sufficient measures" to ensure that the Personnel and Salary System was accurate. The Auditor-General argued that the absence of reliable leave records made it impossible to verify amounts calculated for leave entitlement by the Department.<sup>464</sup> As early as 2000/01, the Auditor-General reported:

Of concern is that, notwithstanding this state of affairs having been reported repeatedly by this office since 1995 and despite clear directives in this regard (Part V of the Public Service Regulations), progress to correct these shortcomings has not been made by the department.<sup>465</sup>

In addition to the repeated failure to address its personnel records, the Auditor-General repeatedly reported from 2000/01 to 2003/04 on the Department's failure to update its Personnel and Salary System. The Auditor-General reported each year that the Personnel and Salary System was not sufficiently updated to reflect certain staff movements. He noted that "officials that have left the service were not always removed from the system timeously" and that paypoint managers "did not always certify the payrolls to confirm that officials listed thereon were employed at the relevant pay points or return certified payrolls to the district office to effect changes identified and safeguard payrolls."<sup>466</sup>

In April 2005, the Education Department admitted it was "in a mess." According to the report, "MEC Mkhangelisi Matomela and superintendent-general Dave Edley painted a picture of an "unstable" department plagued by poor administration."<sup>467</sup>

## **Use of Consultants**

The Department's inability to manage its human resources effectively resulted in it having to make extensive and costly use of consultants. In the 2002/03 financial year, the Department spent between R44.98 million and R149.02 million on consultants.<sup>468</sup> The Department reports its consultant expenditure as the former amount. However, according to the Department of Public Service and Administration (DPSA) definition of a consultant,<sup>469</sup> the Department should have reported the latter figure (R149.02 million) as its total expenditure on consultants in the 2002/03 financial year. In 2003/04, the

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<sup>463</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 100, 3.4.

<sup>464</sup> Eastern Cape Department of Education, Annual Reports, 2000/01, p. 40, 2.2.2.3; 2001/02, p. 102, 5.4(b); 2002/03, p. 145, 5.5(b); 2003/04, pp. 122-3, 4.2.3.4.

<sup>465</sup> Eastern Cape Department of Education, Annual Reports, 2000/01, p. 40, 2.2.2.3.

<sup>466</sup> Eastern Cape Department of Education, Annual Reports, 2000/01, p. 40, 2.2.2.5; 2001/02, p. 102, 5.4 (a); 2002/03, p. 144, 5.5 (a); 2003/04, p. 127, 4.2.5.5(a).

<sup>467</sup> "Educ Dept admits it is in a mess", *Daily Dispatch*, 27 Apr. 2005.

<sup>468</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 172, section 9.

<sup>469</sup> The DPSA provides the following definition of a consultant: A professional person appointed by the public service to provide technical and specialist advice or to assist with the design and implementation of projects/programmes. The legal status of this person can be an individual, a partnership or a corporation. *Use of Consultants in the Public Service*, Department of Public Service and Administration, June 2001, section 1.3.

Department declared in its Annual Report that it spent R68.69 million on consultants, when in fact, according to the DPSA definition of a consultant, the Department spent R195.18 million on consultants in that financial year.<sup>470</sup> Furthermore, the Department's reported expenditure on consultants for 2003/04 (R68.69 million) was inconsistent with figures provided by the provincial Treasury in its consolidated provincial budget statements. According to this document, the Department spent R101.51 million on consultants in the 2003/04 financial year.<sup>471</sup>

## **Asset Management**

The Auditor-General reported year on year, from 1995/6 until 2003/04, on control deficiencies regarding the Department's asset management system.<sup>472</sup> The Auditor-General found that control over assets and asset records was inadequate and asset registers were not always properly maintained. An asset register was not provided for audit purposes. In addition, the Auditor-General noted that the Department did not implement its asset management policy adequately: it failed to maintain ledger and tally card systems, did not always mark assets with a unique asset number or the state ownership mark, and did not dispose of obsolete or unserviceable equipment. The Department also failed, in many instances, to provide the Auditor-General with records of furniture, equipment, computers and cellular telephones. Where the Department could produce such records, these were incomplete or not properly maintained. The Auditor-General repeated this finding each financial year in the period under review.<sup>473</sup> It is clear that, from 1995/96 until 2003/04, the Department did not have a satisfactory asset control system, nor did it successfully implement one.

According to Section 38(1)(d) of the PFMA, the Accounting officer of a Department "is responsible for the management, including the safeguarding and the maintenance of the assets... of the department." Treasury Regulation 10.1.1. states that it is the responsibility of the accounting officer to ensure that proper asset control systems are in place. In addition, Treasury Regulation 10.1.2 state that the accounting officer "must ensure that processes (whether manual or electronic) and procedures are in place for the effective, efficient, economical and transparent use of the institution's assets." It is clear from the above findings that the Department consistently failed to address the long-standing issue of inadequate asset management, despite this being repeatedly raised by the Auditor-General, and despite this being a violation of Treasury Regulations and Section 38(1)(d) of the PFMA. According to Section 81(1)(a) of the PFMA, wilful or negligent breaches of this nature constitute financial misconduct.

## **Transfer Payments**

Between 1999/00 and 2003/04, the Department of Education experienced several significant, and ongoing problems regarding financial transfers, including the failure to

<sup>470</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 156, 9.

<sup>471</sup> Eastern Cape Provincial Government, Budget Statements, 2005/06, p. 349, Table B.2.1, p. 351, Table B.2.2, p. 355, Table B.2.4, p. 357, Table B.2.5, p. 359, Table B.2.6, p. 361, Table B.2.7, p. 363, Table B.2.8.

<sup>472</sup> Eastern Cape Department of Education, Annual Reports, 2000/01, p. 41, 2.2.2.13; 2001/02, p. 102, 5.4(e); 2002/03, p. 145, 5.5(e); 2003/04, p. 127, 4.2.5.5(d). In 2003/04, the Auditor-General noted that this control deficiency had been "repeatedly reported by this office since 1995."

Eastern Cape Department of Education, Annual Report, 2003/04, p. 127, 4.2.5.5(d).

<sup>473</sup> Ibid.

make payments within the prescribed 30-day period; the failure to check monthly accounts and outstanding balances of suppliers; and transfers considered by the Auditor-General as irregular expenditure and therefore potential financial misconduct.

The Auditor-General reported from 1999/00 to 2003/04 on the Department's failure to make payments within the prescribed 30-day period. The Department's repeated failure to address this problem constitutes a violation of section 38(1)(f) of the PFMA read with Treasury Regulation 8.2.3, which requires obligations to be settled within a prescribed 30-day period.<sup>474</sup> The wilful or negligent violation of section 38(1)(f) by an accounting officer constitutes financial misconduct in terms of Section 81(1)(a) of the PFMA.

In 1999/00, delays of up to 8 months lapsed between the date on which invoices were received and the date on which payments were made.<sup>475</sup> In the following financial year, 2000/01, the Auditor-General again reported an 8 month delay in the settling of claims by the Department. According to the Auditor-General, audit testing on a sample basis "revealed payments amounting to R13 146 754 which were thus delayed." In addition, the Auditor-General noted that over R3.7 million that should have been paid during 2000/01 had not been settled at the time of the audit, July 2001.<sup>476</sup> In 2001/02, the Auditor-General found that payments amounting to over R12.5 million were not made within the prescribed 30-day period. In addition, the Auditor-General reported that payments relating to the previous two financial years were only paid in the 2001/02 financial year.<sup>477</sup> In 2002/03, the Auditor-General again reported the Department's failure to settle outstanding payments, amounting to R26.68 million, within the prescribed 30-day period.<sup>478</sup> In 2003/04, this increased to over R32.82 million.<sup>479</sup>

In 2000/01, the Auditor-General found that monthly accounts and statements of outstanding balances rendered by suppliers to the Department "were not checked with the records of the department to identify any discrepancies or outstanding amounts."<sup>480</sup> This was found to constitute non-compliance with Provincial Treasury Instruction K2.2.4.<sup>481</sup> The Auditor-General repeated this finding the following financial year (2001/02)<sup>482</sup> and again in 2002/03<sup>483</sup> and 2003/04.<sup>484</sup>

In 2003/04, the Auditor-General reported an amount of R10 million, transferred to the Rapid Infrastructure Development Agency (Proprietary) Limited (RIDA), for the implementation of a sanitation programme at schools as irregular expenditure. He found

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<sup>474</sup> See further in this regard Treasury Regulation 8.2.3 of the following Government Gazettes which cover the respective periods: Government Notice R.556 of Government Gazette 21249 dated 31 May 2000 (covers the period 1 June 2000 – 9 April 2001), Government Notice R. 345 of Government Gazette 22219 dated 9 April 2001 (covers the period from 9 April 2001 to 27 May 2002), Government Notice R.740 of Government Gazette dated 25 May 2002 (covers the period 27 May 2002 to 15 March 2005).

<sup>475</sup> Eastern Cape Department of Education, Annual Report, 1999/00, p. 3. 2.2.2.5.

<sup>476</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 41, 2.2.2.9.

<sup>477</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 102, 5.4(c).

<sup>478</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 5.5(c).

<sup>479</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 127, 4.2.5.5(b).

<sup>480</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 41, 2.2.2.12.

<sup>481</sup> Ibid.

<sup>482</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 102, 5.4(d).

<sup>483</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 145, 5.5(d).

<sup>484</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 127, 4.2.5.5(c).

that there “was neither appropriate legislation to enable this transfer payment to take place nor was there specific provision in the budget of the Department.” In effect, RIDA was a “dormant company” with neither personnel nor premises. The transfer of funds by the Eastern Cape Department of Education to RIDA was considered by the Auditor-General to be irregular expenditure.<sup>485</sup>

In addition, in 2003/04, the Auditor General reported that in the absence of enabling legislation, R5.5 million transferred to the Eastern Cape Education Development Trust by the Department was deemed to be irregular expenditure.<sup>486</sup> In terms of Section 81(1)(b) of the PFMA, the wilful or negligent incurring of instances of irregular expenditure constitutes financial misconduct.

In 2003/04, the Auditor-General reported that an investigation conducted into the payment made with funds provided for the Early Childhood Development conditional grant revealed that “controls in respect of the payment process were inadequate and resulted in double payments which were not detected by the Department.”<sup>487</sup>

The Department’s performance with regard to the management of conditional grants in general has been woeful. Between 2000 and 2004, the Department failed to spend nearly R79.70 million, or 30.33 percent of its total conditional grant allocation.<sup>488</sup> The Department’s failure to spend its conditional grant allocations was again reported by the Auditor-General under emphasis of matter in the 2002/03 financial year. According to the Auditor-General, the Department utilised only R40.1 million, or 52 percent, of conditional grant funds made available for Financial Management and Quality Enhancement, HIV/AIDS (Lifeskills Education) and Early Childhood Development.<sup>489</sup> The following financial year, 2003/04, the Department spent R47.1million (90 percent) of the conditional grant funding made available to the Department by the National Department of Education. The Auditor-General reported that this was despite the fact that only 64 percent, or R52.2 million, of the total conditional grant allocation was made available to the Department by the National Department of Education because the latter “was not satisfied that, based on performance, the Department had sufficient capacity to effectively utilize the full conditional grant.”<sup>490</sup> The Department’s consistent failure to significantly improve conditional grant spending meant that, between 2000 and 2004, it failed to provide R79.70 million worth of services. This is of particular concern given that conditional grants are allocated to address specific, high priority needs.

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<sup>485</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 128, 4.2.5.7.

<sup>486</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 129, 4.2.5.8.

<sup>487</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 130, 4.2.5.10(b).

<sup>488</sup> See Table 2.

<sup>489</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 146, 5.9.

<sup>490</sup> Eastern Cape Department of Education, Annual Report, 2003/04, pp. 129-30, 4.2.5.10(a)

**Table 2 Conditional Grant Expenditure by Grant and Financial Year.**

Conditional Grant	Financial Year	Voted Amount R'000	Actual Expenditure R'000	Variance R'000 (over)/under expenditure	Variance as Percentage of total
Financial Management and Quality Enhancement	2000/01 <sup>491</sup>	43 854	43 854	0	0%
	2001/02 <sup>492</sup>	39 405	39 405	0	0%
	2002/03 <sup>493</sup>	41 500	19 723	21 777	52.47%
	2003/04 <sup>494</sup>	43 367	22 013	21 354	49.24%
	<b>Total</b>	<b>168 126</b>	<b>124 995</b>	<b>43 131</b>	<b>25.65%</b>
Early Childhood Development	2001/02 <sup>495</sup>	3 885	3 885	0	0%
	2002/03 <sup>496</sup>	9 620	9 218	402	4.18%
	2003/04 <sup>497</sup>	16 280	7 820	8 460	51.90%
	<b>Total</b>	<b>29 785</b>	<b>20 923</b>	<b>8 862</b>	<b>29.75%</b>
HIV/Aids	2000/01 <sup>498</sup>	4 572	4 572	0	0%
	2001/02 <sup>499</sup>	11 747	11 149	598	5.09%
	2002/03 <sup>500</sup>	26 270	11 163	15 107	57.51%
	2003/04 <sup>501</sup>	22 288	10 290	11 998	53.83%
	<b>Total</b>	<b>64 877</b>	<b>37 174</b>	<b>27 703</b>	<b>42.70%</b>
<b>Total</b>		<b>262 788</b>	<b>183 092</b>	<b>79 696</b>	<b>30.33%</b>

The final IMT report states that “problems continue to be experienced with the quality and management of the processes of procurement, specification of goods and services to be procured, evaluation and administration of contracts.”<sup>502</sup> The IMT found that: “the procurement of goods and services and the interaction between the Provincial Tender Board and the Department leaves much to be desired.”<sup>503</sup> Further evidence of problems encountered by the Department regarding procurement process is found in Auditor-General reports.

In 1999/00, the Auditor-General noted (during an audit of its expenditure ‘on a test basis’) that the Department purchased “40 videocassette recorders, 40 monitors, 8 photocopier machines and 17 laptop computers without obtaining Tender Board Approval.” The Auditor-General was unable to determine the value of the costs incurred.<sup>504</sup> In addition, the Auditor-General reported with regard to procurement that in

<sup>491</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 46.

<sup>492</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 112.

<sup>493</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 125.

<sup>494</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 163.

<sup>495</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 112.

<sup>496</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 125.

<sup>497</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 163.

<sup>498</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 46.

<sup>499</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 112.

<sup>500</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 125.

<sup>501</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 163.

<sup>502</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 58, 7.2.3 a).

<sup>503</sup> Ibid, p. 60, 7.2.6.

<sup>504</sup> Eastern Cape Department of Education, Annual Report, 1999/00, p. 4, 2.2.2.7.

general it was “not always possible to confirm that proper tender procedures had been correctly applied.” In many cases, the Department failed to attach tenders or quotes to payment vouchers, and could not produce such documentation on request.<sup>505</sup>

In 2003/04, the Auditor-General reported that “specifications for a Nutritional Program tender were not adhered to by certain of the tenderers.” The Department failed to detect these errors and went ahead with the tendering process. In addition, the Department failed to detect errors relating to the determining of the allocations of the tender. Only once the tenders had been awarded, did the Department detect and rectify the errors. According to the Auditor-General, no feeding took place between 22 April and 30 May 2004. The Auditor-General reported that on 29 April 2004, “the Provincial Tender Board approved, as a temporary arrangement, the waiving of tender procedures to engage the service providers that had initially been used by the Department of Health (Eastern Cape) before this function was handed over to the Department.”<sup>506</sup>

### **Unauthorised, Irregular, Fruitless and Wasteful Expenditure**

In issuing the Department with an audit disclaimer in 2001/02, the Auditor-General raised, *inter alia*, the Department’s over expenditure in programme 2 – Public Ordinary Schools by R272.67 million. This over spending was deemed by the Auditor-General to be unauthorised expenditure in terms of section 1 of the PFMA. The Auditor-General noted that the Department failed to adequately disclose this amount in its financial statements or notes thereto.<sup>507</sup> In 2002/03, the Auditor-General again noted the Department’s over expenditure of R659.50 million as unauthorised expenditure in terms of section 1 of the PFMA. The Department over spent in programme 1, Management, programme 2, General Education and Training, and programme 3, Special Schools.<sup>508</sup> In the 2003/04 financial year, the Auditor-General reported that the Department incurred unauthorised expenditure of R289.18 million. However, according to the Auditor-General, only 278.95 million of this unauthorised expenditure was disclosed as such in the Department’s annual financial statements. The Department therefore understated its unauthorised expenditure by R10.24 million in 2003/04.<sup>509</sup> Section 40(3)(b)(i) of the PFMA requires accounting officers to include particulars of any unauthorised expenditure that occurred during the financial year to be reported in the Department’s Annual Report and audited financial statements. A wilful or negligent failure to do so constitutes financial misconduct in terms of section 81(1)(a) of the PFMA. In total, between 2001/02 and 2003/04, R1.22 billion was considered by the Auditor-General to be unauthorised expenditure.<sup>510</sup>

In 2001/02, the Auditor-General noted that the Department incurred fruitless expenditure through legal costs and interest charges arising mainly from delays in settling creditors claims. According to the Auditor-General, these costs could have been avoided had reasonable care been exercised. The amount of R4.15 million was deemed to constitute fruitless expenditure in terms of section 1 of the PFMA.<sup>511</sup> In the following financial year,

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<sup>505</sup> Eastern Cape Department of Education, Annual Report, 1999/00, p. 4, 2.2.2.8.

<sup>506</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 129, 4.2.5.9.

<sup>507</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 101, 3.5.

<sup>508</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 144, 5.2.

<sup>509</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 126, 4.2.5.1.

<sup>510</sup> See Table 3.

<sup>511</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 101, 5.2.



2002/03, the Department's fruitless expenditure, again incurred through legal costs and interest charges, decreased to R2.98 million.<sup>512</sup> In 2003/04, the Department reported that it incurred R1.07 million in fruitless and wasteful expenditure. However, the Auditor-General established through its financial audit (conducted on a 'test basis') that fruitless expenditure of an additional amount of R280 003 was incurred which the Department did not disclose in the annual financial statements.<sup>513</sup> The total amount of fruitless and wasteful expenditure in 2003/04 was, therefore, R1.35 million. In total, the R8.48 million of the Department's expenditure between 2001 and 2004 was considered to be fruitless and wasteful expenditure by the Auditor-General.<sup>514</sup>

**Table 3 Unauthorised, Irregular and Fruitless Expenditure, 2001- 2004.**

Financial Year	Unauthorised Expenditure (R million)	Fruitless and Wasteful Expenditure (R million)	Irregular Expenditure (R million)	TOTAL (R million)
2001/02	272.67 <sup>515</sup>	4.15 <sup>516</sup>		276.82
2002/03	659.50 <sup>517</sup>	2.98 <sup>518</sup>		662.48
2003/04	289.18 <sup>519</sup>	1.35 <sup>520</sup>	15.5 <sup>521</sup>	306.03
Total	1 221.35	8.48	15.5	

According to section 38(1)(c)(ii) of the PFMA, it is the responsibility of the accounting officer to take effective and appropriate steps to "prevent unauthorised, irregular and fruitless expenditure." It is also the responsibility of the accounting officer to take effective and appropriate disciplinary steps against any official in the service of the department who "makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure."<sup>522</sup> The PFMA also clearly states that an accounting officer for a department commits an act of financial misconduct if that accounting officer wilfully or negligently makes or permits an unauthorised expenditure, an irregular expenditure or fruitless and wasteful expenditure.<sup>523</sup> In light of this, it is respectfully submitted that this honourable Commission should establish whether the accounting officers and or officials (to the accounting officer delegated functions) in the 2001/02, 2002/03, and 2003/04 financial years took effective and appropriate steps to prevent unauthorised, irregular and fruitless expenditure, amounting to R276.82 million in 2001/02, R662.48 million in 2002/03, and R306.03 million in 2003/04.<sup>524</sup>

<sup>512</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 144, 5.3.

<sup>513</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 126, 4.2.5.2.

<sup>514</sup> See Table 3.

<sup>515</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 101, 3.5.

<sup>516</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 101, 5.2.

<sup>517</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 144, 5.2.

<sup>518</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 144, 5.3.

<sup>519</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 126, 4.2.5.1.

<sup>520</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 126, 4.2.5.2.

<sup>521</sup> Ibid, p. 128, 4.2.5.7 and p. 129, 4.2.5.8.

<sup>522</sup> Section 38(1)(f)(iii) of the PFMA.

<sup>523</sup> Section 81(1)(b) of the PFMA.

<sup>524</sup> See Table 3 above.

## **Recommendations**

*It is imperative that the Department address overspending on educator personnel. The Department must reach an agreement with teachers' unions over the number of funded educator posts, and ensure that adequate funding is secured to address salary arrears, etc. Appropriate steps should be taken, in consultation with trade unions, to eliminate all staff additional to the fixed establishment.*

*The Department must secure adequate funding to meet its personnel and non-personnel costs and ensure that non-personnel funding is, in fact, used to ensure that service delivery commitments are fulfilled. With regard to infrastructure in particular, the Department must take steps to ensure that it does not violate section 43(4)(c) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) which prohibits the reallocation of savings in an amount appropriated for capital expenditure to current expenditure.*

*The Department must bring its personnel budget in line with the Norms and Standards for Personnel Costs in the Education sector, and ensure that 15 percent of its total personnel budget is allocated, and spent, on non-educator personnel.*

*The Department must ensure that person-to-post matching is completed, and that all staff additional to the establishment are either trained to be absorbed into vacant posts, transferred to other departments, or issued with severance packages. This process should be undertaken in consultation with relevant trade unions.*

*The Department should ensure that staff are not only trained on performance management systems, but that staff sign performance agreements and are consistently evaluated on the implementation of these agreements. The Department must also ensure that an effective staff recruitment plan is implemented in order to fill all vacant critical posts, particularly those involving vital financial management functions.*

*When consultants are appointed, contracts or service level agreements between themselves and the Department should include explicit skills transfer provisions. Such provisions should be monitored and enforced by the Department. In addition, the Department must be made aware of the DPSA's definition of what consultant use constitutes and should declare consultant use accordingly in its Annual Reports. This will provide a far more accurate portrayal of current consultant use in the province.*

*The Department must address long-standing problems regarding its asset management system. It must properly implement its asset management policy, and ensure adequate control is exercised over state assets under its control. In addition, asset registers must be properly maintained, and made available to the Auditor-General for audit purposes in order to ensure accountability with regard to asset management.*

*The Department must take steps to address ongoing problems regarding financial transfers, (including the failure to make payments within the prescribed 30-day period; the failure to check monthly accounts and outstanding balances of suppliers; and transfers considered by the Auditor-General as irregular expenditure).*

*The Department must improve the management and monitoring of procurement processes. The Department should take effective steps to implement the Supply Chain*

*Management Framework, and unavoidable delays in the tender process should be factored into the Department's Strategic Plans. Finally, the Department must ensure that proper tender procedures are followed for all procurement processes.*

*The Accounting officer of the Department must accurately report on all instances of unauthorised, fruitless and wasteful expenditure in its annual financial statements. The Department should also address the long-standing problem of fruitless expenditure incurred through legal costs and interest charges from delayed payments by settling all creditors' claims timeously. In addition, the Department should take steps to avoid irregular expenditure by establishing effective monitoring mechanisms and improving internal risk management.*

### **3.3 Internal monitoring of expenditure and service delivery**

#### **Summary**

*According to reports of the Auditor-General, the Department failed to establish an effective internal audit function between 1999 and 2004. This meant that there was little or no internal risk management and inadequate monitoring during this time. The effect of the Department's lack of internal monitoring and risk management was evident in the Auditor-General's reports between 1995 and 2004, which repeatedly referred to the same internal control weaknesses, including the Department's failure to update the Personnel and Salary System, the Department's unsatisfactory personnel and leave records and the failure to settle obligations within the prescribed 30-day period, as well as inadequate control over assets. In addition, the IMT report indicated that, in addition to the Department's failure to monitor its service delivery, it failed to monitor the performances of personnel.<sup>525</sup>*

#### **Regulatory Requirement**

##### **Requirements**

In terms of the legislative framework, the accounting officers of all government departments need to provide ongoing reports on their progress in implementing their strategic plans and their expenditure of budgeted funds to their executive authorities and relevant treasuries. This reporting system provides the basis for a monitoring framework which enables the department's internal audit unit to identify potential risks in the expenditure of funds and management of departmental resources.<sup>526</sup> This, in turn, allows the department's audit committee to advise departmental managers on the effective running of its programmes and activities.<sup>527</sup> In order to ensure that this system works

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<sup>525</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, pp. 59, 76, 88.

<sup>526</sup> Public Finance Management Act, 1999, Section 38(1)(a)(ii). Internal audit units are required to have a three-year strategic plan and their objectives should be based on an assessment of key areas of risk for the Department concerned. See: Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 6 Corporate Management and Internal Controls, pp. 31-32.

<sup>527</sup> Ibid, pp. 32-34. The Audit Committee is required to ensure effective communication between a department's internal audit unit and its management. It should, *inter alia*, examine the performance of the internal audit unit, review the effectiveness of a department's internal controls, monitor management's response to identified weaknesses, evaluate the performance of management, and consider the quality of financial information produced by the department. See Treasury Regulations, 2001, Section 3.2.

effectively departments are required by legislation to produce monthly financial reports and quarterly performance reports. They are also required to produce comprehensive annual reports and reports on their use of conditional grants. The strictures contained in these various reporting requirements can be summarised as follows:

### *Monthly Financial Reports*

The accounting officers of provincial departments should submit a report to their MEC within 15 days of the end of each month.<sup>528</sup> A copy should also be sent to the provincial treasury concerned. These monthly reports then form the basis of a statement of revenue and expenditure for the Revenue Fund for which the provincial treasury is responsible. This statement is then published in the Government Gazette on a quarterly basis.<sup>529</sup> All monthly reports should contain the following information:

- Actual revenue and expenditure (by programme)<sup>530</sup>
- Performance in implementing service delivery plans<sup>531</sup>
- Projections of revenue and expenditure until the end of the year<sup>532</sup>

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<sup>528</sup> Section 40(4)(b) and (c) of the Public Finance Management Act, Act 1 of 1999 (as amended) requires monthly financial reports. This section must be read with the applicable Treasury Regulations. The following Treasury Regulations apply for the applicable periods: Treasury Regulation 18.2.1 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 covers the period 1 June 2000 to 9 April 2001. Regulation 18.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 18.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005.

<sup>529</sup> The National Treasury, Best Practice Guideline, on In Year Management, Monitoring and Reporting states that these monthly reports should be made public on a quarterly basis through publication in the Government Gazette. It reads 'The reports will focus attention on performance against budget *and* against service delivery plans, and will alert managers where remedial action is required. In addition, reports will be consolidated and published monthly for National Departments and quarterly for Provinces in the national Government Gazette, in line with international best practice.', Introduction, p.4, July 2000. Treasury Regulation 18.1.2 directs that: 'A provincial treasury must submit a statement to the National Treasury on actual revenue and expenditure with regard to its revenue fund before the 22nd day of each month in the format determined by the National Treasury. Such a statement must include a certificate to the effect that the information supplied has been verified by the head official of the provincial treasury. The information supplied must be based on information submitted to the provincial treasury by provincial accounting officers in terms of section 40(4)(c) of the Act'. Section 32(2) of the PFMA then determines that: 'After the end of a prescribed period, but at least quarterly, every provincial treasury must submit to the National Treasury a statement of revenue and expenditure with regard to the Revenue Fund for which that treasury is responsible, for publication in the national Government Gazette within 30 days after the end of each prescribed period.'

<sup>530</sup> Section 40(4)(b) and (c) of the Public Finance Management Act, Act 1 of 1999, read in conjunction with Treasury Regulation 18.2.1(a) of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 for the applicable period; alternatively Treasury Regulation 18.1.1 of Government Notice R.345 of Government Gazette 22219 of 9 April 2001 which directs that the accounting officer must also comply with the reporting requirements of the annual Division of Revenue Act; alternatively Treasury Regulation 18.1.1 of Government Notice R.740 of Government Gazette 23463 of 25 May 2002 which also requires that the accounting officer comply with the reporting requirements of the annual Division of Revenue Act.

<sup>531</sup> National Treasury, Best Practice Guideline, on In Year Management, Monitoring and Reporting, Introduction, p.4.

- Information on the spending on conditional grants and the extent of compliance with the conditions imposed<sup>533</sup>
- Information on all transfers<sup>534</sup>
- An explanation of any material variances and a summary of steps that are taken to ensure that the projected expenditure and revenue remain within the budget<sup>535</sup>

#### *Quarterly Performance Reports*

Provincial departments should submit a report to their MEC within 15 days of the end of each quarter.<sup>536</sup> These reports should contain the following information:

- Performance against budget and service delivery programme, including programme specific performance indicators.<sup>537</sup>
- Quarterly financial information
- An explanation of underspending/overspending and proposed corrective actions<sup>538</sup>

#### *Annual Reports*

The Accounting Officer for provincial departments should submit an annual report to their MEC by 31 August each year. The MEC should table this report in the provincial Legislature by 31 August. The annual report should contain the following information:

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<sup>532</sup> Sect 40(4)(c)(ii) of the Public Finance Management Act, Act 1 of 1999 (as amended) as read with Treasury Regulation 18.2.1(b) of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 for the applicable period;

<sup>533</sup> Division of Revenue Act, 2002, Section 16(1)(a) and (d). Section 16(1)(a) states that 'the relevant receiving officer must, in respect of an allocation transferred to - (a) a province, and as part of the report contemplated in section 40(4)(c) of the Public Finance Management Act, within 15 days after the end of each month, submit a report to the relevant provincial treasury, the relevant provincial executive authority and the transferring national officer.'

<sup>534</sup> National Treasury, Best Practice Guideline, In Year Management, Monitoring and Reporting, Monthly Reports, p. 9, July 2000.

<sup>535</sup> Public Finance Management Act, 1999, Sect 40(4)(c)(iii).

<sup>536</sup> See further in this regard: Regulation 5.3.1 and 5.3.2 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000, which cover the period 1 June 2000 to 9 April 2001. Regulation 5.3.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 5.3.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005. In addition, the Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 4 – Reporting and Accountability, at page 9 directs that departments must produce reports which can 'be used by managers to develop plans, evaluate alternative courses of action and, where necessary, institute corrective actions.'

<sup>537</sup> Ibid. See also the Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000. This Guide states that 'While the Act focuses on financial reporting, as financial data are leading indicators of performance, the accounting officer must also include non-financial indicators, which are produced quarterly. These non-financial indicators are often department or programme specific, and should be stipulated in the performance agreement between the accounting officer and executive authority, and endorsed by the portfolio committee in the relevant Legislature. The monthly monitoring reports will be consolidated and published in the National Government Gazette, in line with international best practice.' See Section 2 – Accountability Cycle, p. 7.

<sup>538</sup> Treasury Regulations, 2001, Sect 5 (3)(1).

- An account of the activities of the department for the year against the measurable objectives set out for each of the department's programmes<sup>539</sup>
- An account of the department's performance against predetermined objectives<sup>540</sup>
- A copy of the departments audited financial statements<sup>541</sup>
- A copy of the Auditor-General's comments on these financial statements<sup>542</sup>
- A report by the department's Audit Committee<sup>543</sup>
- A report on misconduct and corrective action within the department<sup>544</sup>

### *Reports on Conditional Grants*

The Accounting Officer for a provincial department that has received a conditional grant should submit a report to the provincial Treasury, the department's MEC, and the Director-General of the national department which transferred the grant, within 15 days of the end of each month. This report should contain the following information:

- The amount of the conditional grant
- Expenditure for the month (and until the end of the year)
- An account of the department's compliance with the conditions of the grant
- An account of problems encountered and steps taken to deal with these problems<sup>545</sup>

## **Findings**

### **Internal Audit**

Critical to effective monitoring within the Department is the establishment of an effective internal audit function. The role of an internal audit section within the financial division of the Department is to identify potential risks in the management of departmental funds. By timeously identifying such issues, the potential for instances of over- or under expenditure, fraud and corruption are minimised. However, it is clear from the reports of the Auditor-General that between 1999 and 2004, the Department did not have a visible and effective internal audit function. In addition, the Auditor-General could not find any evidence that internal audit reports were issued between 2000/01 and 2002/03.

According to the Auditor-General's reports, there was no evidence of an effective internal audit function in the Department for three financial years, from 1999/00 – 2001/02. The Auditor-General reported that during the 1999/00 financial year, "no internal audit function was visible at the department during the financial year under review."<sup>546</sup> The following financial year, in 2000, the Auditor-General repeated this

<sup>539</sup> Public Finance Management Act, 1999, Sect 40(1)(d) in conjunction with Sect 27(4). Sect 5 (2)(3) of the Treasury Regulations, 2001, state that 'The strategic plan must form the basis for the annual reports of accounting officers as required by sections 40(1)(d) and (e) of the Act.'

<sup>540</sup> Ibid, Sect 40(3)(a)

<sup>541</sup> Ibid, Sect 40(1)(d)(ii)

<sup>542</sup> Ibid, Sect 40(1)(d)(iii)

<sup>543</sup> Treasury Regulations, 2001, Sect 3.1.10.

<sup>544</sup> Public Finance Management Act, 1999, Sect 40 (3) (b)(i) and (ii)

<sup>545</sup> The specific conditions applying to the use of conditional grants vary from year to year. The above conditions are drawn from Sect 16.1 of the Division of Revenue Act, No.5, 2002.

<sup>546</sup> Report of the Auditor-General on the Financial Statements of Vote 6 – Education for the year ended 31 March 2000, p. 5

finding, and added that “no evidence could be found that internal audit reports were issued during the financial year under review.”<sup>547</sup> The Auditor-General reported in 2001/02 that, once again, “no evidence could be found that internal audit reports were issued during the financial year under review.”<sup>548</sup> According to the 2001/02 Annual Report, the Audit Committee claimed that “the issuing of a report of the Audit Committee is outside our competence.”<sup>549</sup>

In 2002/03, the Auditor-General noted that, while a shared internal audit unit (administered by the Office of the Premier) and an audit committee were appointed in 2000, the charters for both were only approved in November 2002. National Treasury Regulations 3.1.8, effective from 9 April 2001,<sup>550</sup> states that an audit committee must “establish an audit charter to guide the audit approach, as well as its operating procedures, which must spell out the rules that govern the audit relationship.” The Auditor-General also noted that an Annual Internal Audit Plan was only approved in November 2002. The Internal Audit functioned for eight months, therefore, without an annual plan approved by the Audit Committee, as required by National Treasury Regulations 3.2.7. Finally, the Auditor-General noted that, despite management’s indication that internal audit work was being performed during the 2002/03 financial year, no internal audit reports had been received by the Auditor-general.<sup>551</sup> Once again, the Audit Committee claimed that the issuing of a report in the 2002/03 financial year was outside their competence.<sup>552</sup>

In 2003/04, the internal audit function of the Department was changed from a shared internal audit service of the Office of the Premier (up until 31 July 2003) to a consortium of consultants on 1 August 2003. The Auditor-General noted that, while the latter “did perform work for the Department, this was performed in areas where risks were identified and was not based on the annual internal audit work plan.”<sup>553</sup> According to the report of the Audit Committee, “The committee was informed that no quarterly reports were compiled during the year under review.”<sup>554</sup> The report of the audit committee was heavily dependent on the Auditor-General’s report, stating that “The Audit Committee concurs and accepts the conclusions of the Auditor-General on the annual financial statements and is of the opinion that the annual financial statements be accepted and read together with the report of the Auditor-General.”<sup>555</sup>

It is clear that the lack of an effective internal audit function in the Department between 1999 and 2004 resulted in the absence of effective risk management in the Department. According to Treasury Regulations 3.1.10 (a) and (b), the audit committee is responsible for reviewing the effectiveness of the Department’s internal control systems and the effectiveness of the internal audit function. The main responsibility of the audit committee is risk management, through evaluating the effectiveness of internal controls and monitoring the quality of in-year reporting.

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<sup>547</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 43, 3.1.

<sup>548</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 101, 5.3.

<sup>549</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 91, Part 4.

<sup>550</sup> National Treasury Regulations, April 2001, p. 3, 1.3.1.

<sup>551</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 144, 5.4.

<sup>552</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 134, Part 3.

<sup>553</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p.127, 4.2.5.3.

<sup>554</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 115, Part 3.

<sup>555</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 116, 3.1.3.

## Auditor-General

The effect of the Department's lack of internal monitoring and risk management is evidenced in the Auditor-General's reports between 1995 and 2004, which repeatedly refer to the same internal control weaknesses. In 2001/02, the Auditor-General reported that control deficiencies "that have been repeatedly reported by this office since 1995, were still evident in the financial year under review." The Auditor-General reported that, according to audit findings, "actions to address these deficiencies have either not been planned or adequately implemented."<sup>556</sup> Between 2001/02 and 2003/04, the Auditor-General repeated his findings regarding control deficiencies in the Department, in some instances verbatim. Ongoing internal control weaknesses included:

- **Failure to update the Personnel and Salary System**  
The Auditor-General reported that officials who had left the service were not always timeously removed from the system. In addition, paymasters failed to certify the payrolls in all instances to confirm that officials listed thereon were employed at the relevant paypoints.<sup>557</sup>
- **Unsatisfactory personnel and leave records**  
The Auditor-General pointed out that a significant information backlog existed in the Department's Personnel and Salary system (Persal). This meant that Persal was inaccurate and not, in all instances, reliable. The Auditor-General argued that significant data errors indicated that sufficient measures were not taken to ensure that the Personnel and Salary System was accurate. Leave records were also found to be unsatisfactory with records not updated regularly and files not filed timeously.<sup>558</sup> In 2003/04, the Auditor-General reported, amongst other things, the unsatisfactory personnel and leave records as a qualification contributing to the Department's eighth consecutive audit disclaimer.<sup>559</sup>
- **Failure to settle obligations within the prescribed 30-day period**  
According to Section 38(1)(f) of the PFMA read with Treasury Regulation 8.2.3, obligations must be settled within the required 30-day period. According to the Auditor-General, the Department failed to settle all payments within the prescribed period, and thus contravened section 38 of the PFMA.<sup>560</sup> According to Section 81(1)(a) of the PFMA, the wilful or negligent breach of section 38 constitutes financial misconduct.
- **Monthly accounts and statements of outstanding balances rendered by suppliers to the Department were not always checked with the records of the Department to identify discrepancies or outstanding amounts.**<sup>561</sup>

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<sup>556</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 102, 5.4.

<sup>557</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 102, 5.4(a); 2002/03, p. 144, 5.5(a); 2003/04, p. 127, 4.2.5.5(a).

<sup>558</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 102, 5.4(b); 2002/03, p. 145, (b).

<sup>559</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p.122, 4.2.3.4.

<sup>560</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 102, 5.4(c); 2002/03, p. 145, 5.5(c); 2003/04, p. 127, 4.2.5.5(b).

<sup>561</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 102, 5.4(d); 2002/03, p. 145, 5.5(d); 2003/04, p. 127, 4.2.5.5(c).



- **Inadequate Asset Control**  
Adequate control was not exercised over assets and asset records were not always properly maintained; an asset register was not made available for audit purposes.<sup>562</sup>
- Sufficient evidence could not be obtained to ensure that the accounting officer had satisfied himself, in rendering financial assistance to other entities (e.g. Schools and NGOs), that conditions of the previous year's assistance had been complied with, that continued assistance was still necessary and meritorious and that set objectives of the previous year's assistance were achieved.<sup>563</sup>
- Revenue collected was not deposited daily; alterations were made to receipts; revenue was not always deposited into the Paymaster General Account; delays in processing receipts and revenue documents were identified, and monitoring controls over revenue were poor.<sup>564</sup>

In 2002/03 and 2003/04, the Auditor-General reported that the loss control function was not adequate. According to the Auditor-General, loss control registers were incomplete, losses were not followed up, documentation to support the validity of transactions was often missing and losses approved and recorded in the register were not written off in the accounting records.<sup>565</sup> The Department's failure to monitor its losses was evident from 1999/00, when the Department failed to disclose any authorised losses in the appropriation statement. The Auditor-General argued that, "taking into account the nature and extent of the activities of the department, it is considered to be unlikely that losses resulting from theft or damage to property were not incurred during the financial year under review."<sup>566</sup> This finding was repeated, verbatim, by the Auditor-General in the 2000/01 and 2001/02 financial years.<sup>567</sup>

Another clear example of the Department's failure to monitor service delivery can be found in 2003/04 regarding the delivery of school furniture. The Auditor-General noted that an investigation into a contract awarded to two companies for the supply and delivery of school furniture revealed that "differences between the value of furniture delivered according to invoices of the suppliers and the goods that had been delivered according to a physical verification was R2 693 960." In addition, a comparison between the actual furniture delivered and the supplier's invoices revealed that "short deliveries of R2 210 270 could have taken place." According to the Auditor-General, these matters were not investigated further by the Department.<sup>568</sup>

<sup>562</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 102, 5.4(e); 2002/03, p. 145, 5.5(e); 2003/04, p. 127, 4.2.5.5(d).

<sup>563</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 103, 5.4(f); 2002/03, p. 145, 5.5(f); 2003/04, p. 127, 4.2.5.5(e).

<sup>564</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 103, 5.4(g); 2002/03, p. 145, 5.5(g); 2003/04, p. 128, 4.2.5.5(f).

<sup>565</sup> Eastern Cape Department of Education, Annual Reports, 2002/03, p. 145, 5.5(h); 2002/03, p. 128, 4.2.5.5(g).

<sup>566</sup> Report of the Auditor-General on the Financial Statements of Vote 6 – Education for the year ended 31 March 2000, p. 2, 2.2.1.1.

<sup>567</sup> Eastern Cape Department of Education, Annual Reports, 2000/01, p. 42, 2.2.1.17.; 2001/02, p. 103, 5.7.

<sup>568</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 130, 4.2.5.12.

In addition to poor monitoring of service delivery, the IMT report revealed that the Department failed to monitor the performance of personnel from school level to head office. According to the Final IMT report, some managers did not follow the “prescribed procedures for monitoring and supervising the work of their subordinates.”<sup>569</sup> In addition, the IMT noted the high level of absenteeism in education institutions, “and lack of supervision by District managers.”<sup>570</sup> According to the IMT report, an analysis performed by the Department of Education showed that almost a quarter of educators did not attend school during the audit. The IMT argued that this was “not surprising considering that there was very little or no supervision at schools.”<sup>571</sup> In addition to this, performance management in the Department was nearly non-existent. Finally, the IMT found that “the performance of staff at Head office is not monitored.”<sup>572</sup> It can safely be assumed that the Department’s failure to monitor the performance of personnel created an environment with little, if any, accountability, and no means of reporting accurately on the performance of personnel or of determining capacity constraints in the Department. This is extremely disturbing, given that R29.56 billion was allocated to personnel between 2000 and 2004.<sup>573</sup>

In its 2003/04 Strategic Plan, the Department stated that one of its aims was to “develop and maintain successful implementation of educational monitoring and evaluation mechanisms.”<sup>574</sup> In order to achieve this, the Department planned to recruit 20 officers for training in the implementation of the Whole School Evaluation (WSE) policy. The Department also targeted the development of training programmes for principals, site stewards and School Governing Body Chairpersons and the establishment of an operational WSE Monitoring Committee. A sample of schools (82 schools in total<sup>575</sup>) was to be evaluated using evaluation instruments, and reports compiled and present.<sup>576</sup> The poor quality of reporting in the 2003/04 Annual Report makes it impossible to determine whether the Department in fact achieved these goals. Under quality assurance, the Department simply reported that a Chief Education Speciality for Quality Management Systems was “not yet appointed” and that staff were also not trained in the processes of the Quality Management Systems and the South African Excellence Foundation model. There was no reporting on WSE, the development of training programmes, or the establishment of a WSE monitoring committee.<sup>577</sup> This is of particular concern, given that the Department’s 2003 plan was very similar to its quality assurance target in 2002/03.<sup>578</sup> This indicated that the Department not only failed to implement WSE in 2002/03, but also failed to report adequately on its success or failure to implement WSE the following financial year.

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<sup>569</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 59, 7.2.5.

<sup>570</sup> Ibid.

<sup>571</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 76.

<sup>572</sup> Ibid, p. 88.

<sup>573</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 125, 2002/03, p. 151, 2003/04, p. 138.

<sup>574</sup> Eastern Cape Department of Education, Strategic Plan, 2003, p. 22 of 115, 1.3.4.

<sup>575</sup> Eastern Cape Department of Education, Strategic Plan, 2003, p. 90 of 115.

<sup>576</sup> Ibid.

<sup>577</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 37.

<sup>578</sup> Eastern Cape Department of Education, Strategic Plan, 2002/03, p. 61 of 89.

## Recommendations

*The Department needs to establish an effective internal audit function in order to address its consistently poor internal monitoring and risk management. The Audit Committee also needs to prove its efficacy by demonstrating its independent monitoring of the Department in its Annual Report, instead of relying almost entirely on the Auditor-General's findings. These findings are arrived at post hoc as opposed to proactively influencing the Department's risk management strategy.*

*The Department must take urgent steps to address its ongoing internal control deficiencies, particularly with regard to updating the Personnel and Salary System, maintaining personnel and leave records, and exercising adequate control of State assets. In addition, the Department should take steps to monitor monthly accounts and statements of outstanding balances rendered by suppliers, and ensure that all payments are made timeously. The Department must also implement an effective and efficient revenue collection plan in order to improve the monitoring and control of all revenue collected by the Department.*

*The Department needs to take steps to ensure that an adequate loss control function is established and maintained in the Department.*

*The Department must improve the monitoring of the performance of its personnel from the school level to head office. In addition to the implementation of a performance management system, the Department should also ensure that it has the necessary human resource capacity, particularly at district level, to conduct regular monitoring of personnel at all levels.*

## **3. 4 Legislative Breaches and Financial misconduct**

### **Regulatory Requirements**

The PFMA states that an accounting officer for a government department commits an act of financial misconduct if she/he willfully or negligently makes or permits unauthorised, irregular, fruitless or wasteful expenditure or if she/he fails to comply with one of the following provisions:<sup>579</sup>

- If she/he fails to ensure that her/his department has an efficient and effective system of financial and risk management and internal control,<sup>580</sup> a system of internal audit under the direction of an audit committee,<sup>581</sup> and an appropriate procurement and provisioning system.<sup>582</sup>
- If she/he fails to take effective steps to collect all money due to the department,<sup>583</sup> or to prevent unauthorised, irregular, fruitless or wasteful expenditure.<sup>584</sup>

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<sup>579</sup> Public Finance Management Act, 1999, section 81(1)(a). Section 86(1) states that the accounting officer's non compliance with one of the provisions listed in this section must be committed wilfully or 'in a grossly negligent way' in order to constitute a potential criminal offence.

<sup>580</sup> *ibid* section 38(1)(a)(i)

<sup>581</sup> *ibid* section 38(1)(a)(ii)

<sup>582</sup> *ibid* section 38(1)(a)(iii)

<sup>583</sup> *ibid* section 38(1)(c)(i)

- If she/he fails to take effective disciplinary steps against any departmental official who commits an act which undermines the financial management or internal control systems of the department or who makes or permits an unauthorized, irregular, or fruitless and wasteful expenditure.<sup>585</sup>
- If she/he fails to ensure that the provisions of DoRA are complied with when transferring funds, or if she/he fails to ensure that entities outside of government to whom it intends transferring funds have effective, efficient and transparent financial management and internal control systems.<sup>586</sup>
- If she/he fails to take effective steps to prevent overspending by the department or within one of its main programmes.<sup>587</sup>
- If she/he fails to keep full and proper records of the financial affairs of the department or if she/he fails to submit all reports, returns, notices and other information to the provincial Legislature, her/his MEC, the provincial treasury or the Auditor-General.<sup>588</sup>
- If her/his Annual Report and audited financial statements do not fairly present the state of affairs of the department, its financial results and its performance against its predetermined objectives or its financial position at the end of the financial year.<sup>589</sup>

## Findings

As already indicated, departments are required to fulfil their obligations to citizens in accordance with a multitude of regulations and peremptory pieces of legislation, with the PFMA being arguably the most onerous statute in this regard.<sup>590</sup> The PFMA's object is to "secure transparency, accountability, and sound management of the revenue, expenditure, assets and liabilities of institutions" in order to:

- modernise the system of financial management in the public sector,
- enable public sector managers to manage, but at the same time be held more accountable;
- ensure the timely provision of quality information; and
- eliminate the waste and corruption in the use of public assets.<sup>591</sup>

Despite these objectives, the information contained within this submission demonstrates a plethora of instances where there has been either an inability, ignorance of or non-adherence to legislation such as the PFMA. The disclaimers and often repetitive conclusions made by the provincial Auditor-General serve to further emphasize the recurrent obstacles that continue to negatively affect service delivery in this region.

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<sup>584</sup> *ibid* section 38(1)(c)(ii)

<sup>585</sup> *ibid* section 38(1)(h)(i) and (ii)

<sup>586</sup> *ibid* section 38(1)(i) and (j)

<sup>587</sup> *ibid* section 39(2)(a)

<sup>588</sup> *ibid* section 40(1)(a) and (f)

<sup>589</sup> *ibid* section 40(3)(a)

<sup>590</sup> The Public Finance Management Act, Act 1 of 1999, as amended from time to time.

<sup>591</sup> Introduction to the PFMA, as obtained from the National Treasury website through the following link: <http://www.treasury.gov.za/legislation/acts/pfma/default.htm> . Accessed on 9 February 2006 at 15h10.

The PFMA directs that certain action or inaction which falls short of the prescribed requirements is to be addressed by way of disciplinary action where necessary, and in some instances by way of criminal proceedings should the circumstances require.<sup>592</sup> Despite the lucid provisions of the PFMA and accompanying Treasury Regulations, there appears to be a dearth of disciplinary action flowing from overt contraventions of the aforesaid legislation, even when such contraventions are stated explicitly by the Auditor-General.

The table which appears below serves to illustrate breaches of the PFMA identified by the Auditor-General. This table does not represent an exhaustive list and we respectfully request that the Commission consider more thoroughly the conduct of public servants (as more fully documented in management letters, special forensic reports and other more detailed documentation which appears to fall outside the public domain) against the benchmark set by legislation such as the PFMA.

The table identifies in column 1 a conclusion made by the Provincial Auditor-General during the course of his audit of the department. This conclusion is in most instances a direct quote from the applicable audit report. There are of course stylistic or grammatical variances in these conclusions when a comparison is made between various audit reports which draw the same conclusion, albeit stated somewhat differently. The following Auditor-General's conclusions assist in illustrating this variance, despite the words nevertheless having the same effect or import:

The following remarks are indicative of serious deficiencies in the internal checking and control measures, with regard to the department's financially related activities. Furthermore, the possibility of monetary losses due to the lack of sound financial management cannot be excluded. In view of the foregoing, it must be emphasized that it is the Accounting officer's responsibility in terms of section 38 of the PFMA, to ensure that the department has and maintains, effective, efficient and transparent systems of financial and risk management and internal control.<sup>593</sup>

Whilst in another audit report it is stated as follows<sup>594</sup>:

The following remarks are indicative of serious deficiencies in the internal checking and control measures, with regard to the department's financially related activities. Furthermore, the possibility of monetary loss due to the lack of sound financial management cannot be excluded. In view of the foregoing, it must be emphasized that it is the accounting officer's responsibility **to protect its financial interests and indirectly the citizens interests, by watching over its finances with the utmost circumspection and within the provisions of the law.**<sup>595</sup>

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<sup>592</sup> For comprehensive details in this regard, the reader is respectfully referred to Chapter 10 of the PFMA, in particular sections 81 through to 86, as amended from time to time.

<sup>593</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2001, as contained in the Department of Welfare Annual Report for 2000/01, at page 54, paragraph 3.2.

<sup>594</sup> Bold text is used purely to highlight the variance.

<sup>595</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial

Where there are variations of a particular conclusion made by the Auditor-General, we have indicated as much in the corresponding footnote by using the abbreviation “WTTSE” which means “*words to that similar effect*”. Column 2 of the table notes the financial year in which the conclusion was made, whilst column 3 records the provincial department which was the subject of the conclusion.

Auditor-General's conclusion.	Financial year	Department
“The observations made in paragraph 2.2.2 are in terms of section 81 of the PFMA, financial misconduct and are therefore reported as such.”	2000/2001	Education <sup>596</sup>
“The failure to provide this office with documentation, records and information that was required is...considered to be financial misconduct in terms of section 81 of the PFMA and is reported as such.”	2001/2002	Education <sup>597</sup>
	2002/2003	Education <sup>598</sup>
	2003/2004	Education <sup>599</sup>
“A significant number of payment vouchers, personnel files, revenue vouchers, reconciliations ...and other documents, in support of transactions and the financial statements of the Department could not be produced during the audit. This placed a limitation on the extent of the audit work that could be performed to establish the validity, accuracy and completeness of transactions in the ledger, expenditure and revenue accounts. The inability of the department to produce records, supporting documentation, personnel and other files, vouchers and other documentation have been reported by this office in audit reports since 1995 and is of the utmost concern.”	2001/2002 2002/2003 2003/2004	Education <sup>600</sup> Education <sup>601</sup> Education <sup>602</sup>

Statements of Vote 5 – Department of Roads and Public Works for the year ended 31 March 2001, as

contained in the Department of Roads and Public Works Annual Report for 2000/01, at page 38, para.3.1.

<sup>596</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2001, as contained in the Department of Education Annual Report for 2000/01, at p.43, para.3.4.

<sup>597</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2002, as contained in the Department of Education Annual Report for 2001/02, at p.100.

<sup>598</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2003, as contained in the Department of Education Annual Report for 2002/03, at p.143. (WTTSE)

<sup>599</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2004, as contained in the Department of Education Annual Report for 2003/04, at p.122. (WTTSE)

<sup>600</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2002, as contained in the Department of Education Annual Report for 2001/2002, at p.99. (WTTSE)

The inability of the department to produce the records supporting documentation, personnel and other files, vouchers and other documentation have been reported by this office in audit reports since 1995. During the audit of the financial year under review, the audit team again repeatedly brought the unsatisfactory state of affairs to the attention of the accounting officer...Notwithstanding these steps, the department has again failed to satisfy the requirements of section 41 of the PFMA... Again as in previous financial years, the scope of the audit was restricted resulting in it not being possible for this office to carry out a complete and proper audit."	2000/2001	Education <sup>603</sup>
"Section 38(a)(i) of the PFMA requires the accounting officer to ensure that his/her department has and maintains effective and efficient systems of financial management and internal control. Significant backlogs of information that have not been captured on PERSAL as well as errors of data within this system are an indication that sufficient measures have not been taken to ensure that PERSAL is effective and efficient as a system"	2000/2001	Education <sup>604</sup>
"...the department did not report on written assurances obtained from entities regarding the implementation of effective, efficient and transparent financial management and internal control systems in terms of section 38(1)(j) of the PFMA..."	2000/2001	Education <sup>605</sup>

The following two tables provide details of MEC's and HOD's that we believe were incumbent within the department between 1994 and 2004. In some instances we have been unable to confirm exact dates.

<sup>601</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2003, as contained in the Department of Education Annual Report for 2002/2003, at p.142. (WTTSE)

<sup>602</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2004, as contained in the Department of Education Annual Report for 2003/04, at p.121. (WTTSE)

<sup>603</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2001, as contained in the Department of Education Annual Report for 2000/01, at p.38, para.2.2.1.2.

<sup>604</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2001, as contained in the Department of Education Annual Report for 2000/01, at p.40, para.2.2.2.5.

<sup>605</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 6 – Department of Education for the year ended 31 March 2001, as contained in the Department of Education Annual Report for 2000/01, at p.42, para.2.2.2.16.

MEC	Period in Office	Source Document
Nosimo Balindlela	1994 – 28 Jan 1998	Government website <sup>606</sup> Newspaper Report, <i>Daily Dispatch</i> , 29 Jan. 1998. <sup>607</sup>
Professor Shepherd Mayatula	January 1998 – June 1999	Newspaper Reports, <i>Daily Dispatch</i> , 29 Jan. 1998 <sup>608</sup> and <i>Daily Dispatch</i> , 11 Jun. 1999. <sup>609</sup>
Stone Sizani	19 Jun 1999 – 20 November 2002	Newspaper Reports: <i>Daily Dispatch</i> , 19 Jun. 1999 <sup>610</sup> and <i>The Herald</i> , 21 Nov. 2002. <sup>611</sup>
Nomsa Jajula	November 2002 – April 2004	Newspaper Reports: <i>Daily Dispatch</i> , 10 Dec. 2002. <sup>612</sup> and <i>Sunday Times</i> , 15 Aug. 2004. <sup>613</sup>

<sup>606</sup> <http://www.info.gov.za/leaders/provgovt/ecape.htm>

<sup>607</sup> <http://www.dispatch.co.za/1998/01/29/>

<sup>608</sup> <http://www.dispatch.co.za/1998/01/29/>

<sup>609</sup> <http://www.dispatch.co.za/1999/06/11/easterncape/BISHO.HTM>

<sup>610</sup> <http://www.dispatch.co.za/1999/06/19/easterncape/CAB.HTM>

<sup>611</sup> [http://www.theherald.co.za/herald/2002/11/21/news/n02\\_21112002.htm](http://www.theherald.co.za/herald/2002/11/21/news/n02_21112002.htm)

<sup>612</sup> <http://www.dispatch.co.za/2002/12/10/easterncape/EDUC2.HTM>

<sup>613</sup> <http://www.suntimes.co.za/2004/08/15/politics/politics07.asp>



HOD	Period in Office	Source document
Unknown	1994 - 1997	
Dr Ronnie Van Wyk	Unknown start date, resigned Nov. 1997, left early 1998.	Newspaper reports, <i>Daily Dispatch</i> , 7 Nov. 1997. <sup>614</sup>
Jonathan Godden (Acting Permanent Secretary)	Feb/March 1998 – July 1998	Newspaper Reports, <i>Daily Dispatch</i> , 1 May 1998 <sup>615</sup> and <i>Daily Dispatch</i> , 30 Jul. 1998. <sup>616</sup>
Madandla Tsengiwe	July 1998 – September 1999.	Newspaper Reports: <i>Daily Dispatch</i> , 30 Jul. 1998 <sup>617</sup> Unclear when he left.
Jonathan Godden (Acting permanent secretary)	September 1999 – July 2000.	Newspaper Reports: <i>Daily Dispatch</i> , 4 Sep. 1999, <sup>618</sup> and <i>Daily Dispatch</i> 28 Jul. 2000 <sup>619</sup>
Modidima Mannya HOD	October 2000 – January 2001	Newspaper Reports: <i>Daily Dispatch</i> , 20 Oct. 2000 <sup>620</sup> and <i>The Herald</i> , 21 Nov. 2002 <sup>621</sup>
Phillip Qokweni (Appointed acting SG as an interim measure)	January 2001 – February 2003	Newspaper Reports: <i>Daily Dispatch</i> , 24 Jan 2001 <sup>622</sup> and <i>Herald</i> , 9 Jan. 2004 <sup>623</sup>
Reverend Lulamile Mbete	March 2003 – December 2003	Newspaper Reports: <i>Herald</i> , 9 Jan. 2004 <sup>624</sup>
Bea Hackula	January 2004 – March 2004	Newspaper Reports: <i>Herald</i> , 9 Jan. 2004 <sup>625</sup>

<sup>614</sup> <http://www.dispatch.co.za/1997/11/07/page%201.htm>

<sup>615</sup> <http://www.dispatch.co.za/1998/05/01/>

<sup>616</sup> <http://www.dispatch.co.za/1998/07/30/easterncape/LIGHTS.HTM>

<sup>617</sup> <http://www.dispatch.co.za/1998/07/30/easterncape/LIGHTS.HTM>

<sup>618</sup> <http://www.dispatch.co.za/1999/09/04/easterncape/EDUC.HTM>

<sup>619</sup> <http://www.dispatch.co.za/2000/07/28/easterncape/AACAPE.HTM>

<sup>620</sup> <http://www.dispatch.co.za/2000/10/20/easterncape/AAEDU.HTM>

<sup>621</sup> [http://www.theherald.co.za/herald/2002/11/21/news/n03\\_21112002.htm](http://www.theherald.co.za/herald/2002/11/21/news/n03_21112002.htm)

<sup>622</sup> <http://www.dispatch.co.za/2001/01/24/easterncape/AACHIEF.HTM>

<sup>623</sup> [http://www.theherald.co.za/herald/2004/01/09/news/n07\\_09012004.htm](http://www.theherald.co.za/herald/2004/01/09/news/n07_09012004.htm)

<sup>624</sup> [http://www.theherald.co.za/herald/2004/01/09/news/n07\\_09012004.htm](http://www.theherald.co.za/herald/2004/01/09/news/n07_09012004.htm)

<sup>625</sup> [http://www.theherald.co.za/herald/2004/01/09/news/n07\\_09012004.htm](http://www.theherald.co.za/herald/2004/01/09/news/n07_09012004.htm)

## **Recommendation**

In light of the discussions above, the PSAM submits the following recommendation:

*The legislation and supporting regulations which are documented throughout this submission are peremptory and do not allow for selective adherence by public servants. If the provincial administration of the Eastern Cape is to address compliance deficiencies within its own staff, this automatically requires that Departments take steps to address non-compliance particularly where it is of a systemic nature. The Auditor-General's recurrent findings illustrate that there is inadequate adherence to such legislation.*

*Executing authorities and accounting officers within provincial departments need to enforce the provisions of the PFMA and other legislation without fear or favour. If accounting officers in particular fail to comply with their legislative duties in a wilful or negligent manner, such failure should result in disciplinary action being taken against them.*

## **3.5 Accountability to Oversight Bodies**

### **Summary**

*The Eastern Cape Department of Education received nine consecutive audit disclaimers between 1996 and 2004. Each year, the Auditor-General raised the following issues: failure to submit documentation, irreconcilable treasury balances, and the failure to reconcile and clear suspense accounts. In receiving audit disclaimers from 1996 – 2004, the Department failed to adequately account for over R64.78 billion. (See Table 4 below.) In addition to the Department's unwillingness or inability to address Auditor-General queries, the Department has also failed to implement numerous recommendations made by the Standing Committee on Education.*

**Table 4: Audit Opinion by Financial Year**

Eastern Cape Department of Education		
Financial Year	Total Expenditure	Audit Opinion
1995/96	4 516 846 <sup>626</sup>	Disclaimer <sup>627</sup>
1996/97	6 183 229 <sup>628</sup>	Disclaimer <sup>629</sup>
1997/98	6 749 556 <sup>630</sup>	Disclaimer <sup>631</sup>
1998/99	6 584 959 <sup>632</sup>	Disclaimer <sup>633</sup>
1999/00	6 636 945 <sup>634</sup>	Disclaimer <sup>635</sup>
2000/01	7 191 331 <sup>636</sup>	Disclaimer <sup>637</sup>
2001/02	7 863 493 <sup>638</sup>	Disclaimer <sup>639</sup>
2002/03	9 148 768 <sup>640</sup>	Disclaimer <sup>641</sup>
2003/04	9 912 190 <sup>642</sup>	Disclaimer <sup>643</sup>
<b>Total</b>	<b>64 787 317</b>	<b>Nine Audit Disclaimers</b>

### Regulatory Requirement

In terms of the Constitution, the Office of the Auditor-General must annual audit and report on the 'accounts, financial statements and financial management' of all government departments. These reports must then be submitted to the provincial Legislature.<sup>644</sup> One of the key functions of the Auditor-General is to ensure that

<sup>626</sup> Table B7.4: Education Actual and Budgeted Expenditure by Programme, provided by National Treasury, accessible by the PSAM.

<sup>627</sup> Report of the Auditor-General on the Financial Statements of Vote 6 – Education of the Eastern Cape Provincial Administration, for the years ended 31 March 1996, 1997, 1998 and 1999, p.5.

<sup>628</sup> Table B7.4: Education Actual and Budgeted Expenditure by Programme, provided by National Treasury, accessible by the PSAM.

<sup>629</sup> Report of the Auditor-General on the Financial Statements of Vote 6 – Education of the Eastern Cape Provincial Administration, for the years ended 31 March 1996, 1997, 1998 and 1999, p.4.

<sup>630</sup> Table B7.4: Education Actual and Budgeted Expenditure by Programme, provided by National Treasury, accessible by the PSAM.

<sup>631</sup> Report of the Auditor-General on the Financial Statements of Vote 6 – Education of the Eastern Cape Provincial Administration, for the years ended 31 March 1996, 1997, 1998 and 1999, p.4.

<sup>632</sup> Province of the Eastern Cape, Budget Statement, 2001/02, p. 160.

<sup>633</sup> Report of the Auditor-General on the Financial Statements of Vote 6 – Education of the Eastern Cape Provincial Administration, for the years ended 31 March 1996, 1997, 1998 and 1999, p. 4.

<sup>634</sup> Province of the Eastern Cape, Budget Statement, 2001/02, p. 160.

<sup>635</sup> Report of the Auditor-General on the Financial Statements of Vote 6 – Education of the Eastern Cape Provincial Administration, for the year ended 31 March 2000, p. 5, 2.3.

<sup>636</sup> Province of the Eastern Cape, Budget Statement, 2004/05, Feb. 2004, p. 116.

<sup>637</sup> Eastern Cape Department of Education, Annual Report, 2000/01, p. 43, 2.3.

<sup>638</sup> Province of the Eastern Cape, Budget Statement, 2004/05, Feb. 2004, p. 116.

<sup>639</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 101, 3.5.

<sup>640</sup> Province of the Eastern Cape, Budget Statement, 2004/05, Feb. 2004, p. 116.

<sup>641</sup> Eastern Cape Department of Education, Annual Report, 2002/03, p. 143, 4.

<sup>642</sup> Province of the Eastern Cape, Budget Statement, 2004/05, Feb. 2004, p. 116.

<sup>643</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 126, 4.2.4.

<sup>644</sup> Constitution of the Republic of South Africa, section 188(1) and (3).

government departments are properly managed and that their resources 'are procured economically and utilised efficiently and effectively.'<sup>645</sup>

The various portfolio committees of the Provincial Legislature are then tasked with scrutinising the content of department's Annual Reports and investigating queries raised in the Auditor-General's report. According to the Constitution, the Legislature and its committees are tasked with exercising oversight of executive authorities in the province and their corresponding government departments.<sup>646</sup> In carrying out this function, a provincial Legislature or any of its committees may 'summon any person to appear before it' and 'require any person or government institution to report to it.'<sup>647</sup>

## Findings

### Auditor-General

In 2003/04, the Financial Statements submitted by the Department for auditing were of such poor quality, with "a significant number of material errors", that the Auditor-General requested the accounting officer to consider withdrawing the annual financial statements and resubmit acceptable ones. The accounting officer twice refused to resubmit the annual financial statements.<sup>648</sup> It was not clear from the Annual Report why the Department chose to disregard this opportunity to amend the financial statements. The accounting officer also made no mention of this issue in his management report. Sections 40 and 41 of the PFMA oblige departmental HODs to report accurately on the financial affairs of the Department. The Department's failure to report accurately on its financial management and performance undermines the accountability cycle and the constitutional role of oversight bodies such as the Auditor-General. As a result of its unreliable and inaccurate financial statements, in 2003/04, the Eastern Cape Department of Education received yet another audit disclaimer.<sup>649</sup>

From 1995/6 – 1998/9, the quality of the Department's reporting was extremely poor. The Auditor-General noted that the financial statements submitted by the Department for auditing were "significantly incomplete as they were compiled before all financial transactions had been properly recorded in the financial records, and year-end closing journals had been passed as prescribed by the Provincial Treasury Instructions."<sup>650</sup> The Auditor-General reports between 2001/02 and 2003/04 illustrated the poor quality of the Department's Annual Financial Statements. Year on year the Auditor-General reported that the "financial statements for the financial year under review were not, in all respects, complete." In addition, each year the Auditor-General found a number of inconsistencies and errors in the financial statements submitted by the Department for auditing.<sup>651</sup>

For each audit disclaimer from 2001/02 to 2003/04, the Auditor-General highlighted three areas (amongst others) in qualifying his opinion:

<sup>645</sup> Auditor-General Act, 1995, section 4(d).

<sup>646</sup> Constitution of the Republic of South Africa, section 114(1) and (2).

<sup>647</sup> Ibid, section 115(a) and (b).

<sup>648</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 123, 4.2.3.5.

<sup>649</sup> Eastern Cape Department of Education, Annual Report, 2003/04, p. 126, 4.2.4.

<sup>650</sup> Report of the Auditor-General on the Financial Statements of Vote 6 – Education for the years ended 31 March 1996, 1997, 1998 and 1999, p.1, 1.

<sup>651</sup> Eastern Cape Department of Education, Annual Reports, 2000/01, p. 38, 2.2.1.3, 2001/02, p. 103, 5.5, 2002/03, p. 146, 5.8, and 2003/04, p. 123, 4.2.3.5.

- **Failure to Submit Documentation**  
Section 41 of the PFMA requires the Department to submit all information, records and documentation, as is required by the Auditor-General to perform an audit of the Department's financial statements and its compliance with relevant legislation. As in the previous eight financial years, a significant number of payment vouchers, personnel files, payrolls, revenue vouchers, reconciliations, journals and other documents, in support of transactions disclosed in the annual financial statements of the Department, could not be produced during the audit. This placed a limitation on the extent of audit work that could be performed to establish the validity, accuracy and completeness of transactions in ledger, expenditure and revenue accounts. This issue was reported by the Auditor-General as financial misconduct in terms of section 81 of the Public Finance Management Act (PFMA), 1999 (act No.1 of 1999) in 2001/02, 2002/03 and 2003/04.<sup>652</sup> Similarly, the IMT reported that the lack of an acceptable document management system negatively impacted on all functions of the Department.<sup>653</sup>

In terms of Section 40 of the PFMA, the accounting officer of a department is required to keep full and proper records of the financial affairs of the Department in accordance with prescribed norms and standards. The failure to properly maintain these records, which are needed to substantiate financial transactions entered into by departments, results in departments being unable to properly account for their budgets. This has the effect of defeating the purpose of financial oversight because an absence of documentation makes it difficult to hold public officials accountable for their decisions in regard to spending.

- **Irreconcilable treasury balances**  
No proper records were kept for major departmental accounts which were maintained on the Financial Management System. Consequently, treasury balances disclosed in the Department's balance sheet could not be verified by the Auditor-General. This constituted a limitation on the scope of the audit.<sup>654</sup>

This issue represents a sustained failure by the Department to efficiently manage its funds in terms of Sections 40 and 41 of the PFMA.

- **Non-reconciliation and clearance of suspense accounts<sup>655</sup>**  
Millions of rands in suspense accounts were not reconciled and cleared regularly, contrary to national Treasury Regulation 17.1.<sup>656</sup> Furthermore, funds in these

<sup>652</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, pp. 99-100, 3.1; 2002/03, p. 142-3, 3.1; 2003/04, pp. 121-122, 3.1.

<sup>653</sup> Report on the Work of the IMT, Nov. 2002 – Mar. 2004, p. 58, (a).

<sup>654</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 100, 3.2; 2002/03, p. 143, 3.2; 2003/04, p. 122, 4.2.3.2.

<sup>655</sup> A suspense account is, essentially, a miscellaneous holding account for expenses, where transactions are temporarily recorded before they are properly recorded under the correct expense account. It is an accounting entry that enables the Department to temporarily record a transaction without knowing the full details of that transaction. Once the classification of the transaction is known, it should be reallocated to the correct expense account.

<sup>656</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 100, 3.3; 2002/03, p. 143, 3.3; 2003/04, p. 122, 4.2.3.3. National Treasury Regulation 17.1.2. states: "should it be necessary, in exceptional cases, to account for revenue expenditure transactions in a clearing or

accounts could not be verified by the Auditor-General due to the non-availability of supporting documents. This meant that the extent to which they may have been over or under stated, as well as their consequent effect on the financial statements, could not be determined.

In receiving repeated audit disclaimers, the Department failed to adequately account for over R58.25 billion (from 1996 – 2004).<sup>657</sup> Recurring issues raised by the Auditor-General in his report are indicative of ongoing financial management and internal control weaknesses within the Department. They represent opportunities for the loss of significant amounts of public funds through inefficiency and poor management which has the effect of compromising service delivery. It is of great concern that the Department was unwilling or unable to resolve these long-standing problems raised by the Auditor-General year on year.

### **Standing Committee on Education**

In terms of section 63 of the Standing Rules of the Eastern Cape Legislature (Rules), standing committees must ensure *inter alia* that all provincial executive organs of state (*including government departments*) are accountable to them.<sup>658</sup> Oversight of the executive by the provincial legislature is also provided for in the Constitution.<sup>659</sup> An analysis of Standing Committee minutes from 2000 to 2003 reveals the Department's repeated failure to implement Standing Committee recommendations regarding key issues such as Learner Support Material, Personnel, Asset Management and submission of documentation.

In July 2000, the Standing Committee on Education instructed the Department to ensure that Learner Support Material (LSM) was delivered before the start of the next academic year (January 2001).<sup>660</sup> According to media reports, the Department's failure to supply schools with textbooks and stationary threatened to delay the start of the school year in January 2001. Then MEC for Education, Stone Sizani, admitted in January 2001 that the Eastern Cape "would not be ready to commence with this year's school instruction on the first day because of the late delivery of textbooks and stationary."<sup>661</sup> The Department's on-going problems with LSM delivery was reflected in the standing committee minutes in January 2003, when the Committee instructed the Department to ensure that sufficient LSM was provided in accordance with the individual needs of schools, and that requisition forms for LSM were provided to schools at least two weeks before schools closed.<sup>662</sup> Once again, however, media reports indicated that the Department failed to ensure the delivery of adequate LSM to schools. According to one report, in January 2003 teaching did not take place "in most rural and township schools"

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suspense account because the classification has not been resolved, the accounting officer must ensure that – (c) monthly reconciliations are performed to confirm the balance of each account; and (d) reports are provided to the accounting officer about uncleared items on a monthly basis."

<sup>657</sup> Eastern Cape Department of Education, Annual Report, 1997/8, p. 9; Province of the Eastern Cape, Budget Statements, 2001/02, p. 160; Eastern Cape Provincial Government, Budget Statements, 2005/06, p. 320, 5.1.

<sup>658</sup> Standing Rules of the Eastern Cape Legislature, undated, p. 36.

<sup>659</sup> South African Constitution, Chapter 6(114)(2).

<sup>660</sup> Recommendations affecting the Department of Education and Training, 25 Jul. 2000, (1)(d).

<sup>661</sup> "E Cape education dept not ready for new term," *City Press*, 2 Jan. 2001.

<sup>662</sup> Recommendations of the Standing Committee on Education, p.6, 3(1)(b).

partly because they “awaited the delivery of education aids, including textbooks, stationery and other essentials.”<sup>663</sup>

The Department also failed to give effect to numerous recommendations made by the Standing Committee regarding personnel. In March 2001, the Standing Committee instructed the Department to “pay all outstanding personnel backlogs before the 31 March 2001.”<sup>664</sup> As previously mentioned, in 2002/03 the Department required R190 million to make outstanding payments to 9 000 educators.<sup>665</sup> It is clear, therefore, that the Department did not pay all outstanding personnel backlogs before the beginning of the 2001/02 financial year, or even before the following financial year. The Standing Committee also instructed the department to update the Persal system within six months, and to provide the committee with a monthly progress report from February 2001.<sup>666</sup> However, the Auditor-General’s report provides evidence of the Department’s failure to update the Persal system. According to the Auditor-General, the Personnel and Salary System was not updated in the 2001/02 financial year.<sup>667</sup> In January 2003, the Committee instructed the Department to urgently complete person-to-post matching, and told the Department to work with Provincial Treasury to correct baseline figures before the end of the financial year.<sup>668</sup> However, by March 2003 the Department could still not tell the Committee how many personnel it had under its employ. This resulted in the Committee issuing yet another recommendation that the Department set up a task team to address the problem of incorrect personnel baseline figures.<sup>669</sup>

In March 2001, the Committee instructed the Department to have an asset register, complete all stock taking, and to put in place a unit to deal with asset management by 31 March 2001.<sup>670</sup> The Department’s failure to produce an asset register for audit purposes, and the Auditor-General’s repeated finding that the Department did not implement its asset management policy adequately<sup>671</sup> indicates that the Department did not respond to the Committee’s instruction.

## Recommendations

*The Department must improve the quality of its reporting, particularly with regard to Annual Financial Statements. The Accounting officer must ensure that all financial statements submitted for audit purposes are complete and free of material errors and inconsistencies and that the necessary supporting information and documentation is available for purposes of auditing the accuracy of those statements.*

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<sup>663</sup> “Dismal start to school year,” *Herald*, 23 Jan. 2003.

<sup>664</sup> Resolutions/Recommendations Affecting the Department of Education and Training, 5 Mar. 2001, p. 1, 1(1).

<sup>665</sup> “Teacher’s strike will go ahead says Sadtu,” *Daily Dispatch*, 24 Sep. 2003.

<sup>666</sup> Resolutions/Recommendations Affecting the Department of Education and Training, 5 Mar. 2001, p. 2, 4(a).

<sup>667</sup> Eastern Cape Department of Education, Annual Report, 2001/02, p. 102, 5.4(a).

<sup>668</sup> Resolutions/Recommendations Affecting the Department of Education and Training, 24 Jan. 2003, p. 1, 1(1) and (2).

<sup>669</sup> Resolutions/Recommendations Affecting the Department of Education, 21 Mar. 2003, p. 6.

<sup>670</sup> Resolutions/Recommendations Affecting the Department of Education and Training, 5 Mar. 2001, p. 2, 3(1).

<sup>671</sup> Eastern Cape Department of Education, Annual Reports, 2001/02, p. 102, 5.4(e).

*The Department must take steps to improve the availability of documentation for audit purposes by properly maintaining all records. The wilful failure to do so constitutes a violation of Section 41 of the PFMA and, therefore, renders the Head of Department liable to charges of financial misconduct in terms of Section 81 of the PFMA.*

*The Department must take steps to improve its record keeping with regard to major departmental accounts maintained on the Financial Management System. Treasury balances disclosed in the Department's balance sheet should be verified by supporting documentation that is made available on request to the Auditor-General for audit purposes.*

*The Department must take urgent steps to address the management of suspense accounts and to ensure that these accounts are regularly reconciled and cleared. In addition, the Department must improve its record keeping with regard to these suspense accounts.*

*The Department should publish all previous Auditor-General queries as well as all recommendations made by the Standing Committee on Education and provide a detailed report with regard to its progress in addressing these. The Department's Standing Committee needs to ensure that the Department adequately responds to its recommendations, and, where the Department fails to do so, make use of their full Constitutional powers to call responsible officials to account.<sup>672</sup>*

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<sup>672</sup> According to Section 115 of the Constitution of the Republic of South Africa, Act 108, 1996, the Standing Committees have the following powers:

- To summon any person (including the MEC and HOD) to appear before it to give evidence or to produce documents.
- To require any person or provincial institution to report to it.
- To compel any person (including the MEC or HOD) to comply with a summons to appear before it.



**Submission with regard to the  
Eastern Cape Department of Health.**

The following analysis focuses on the Department's performance between 2000/01 and 2003/04 in respect of the following areas:  
resource allocation and strategic planning; expenditure management; internal monitoring of expenditure and service delivery; legislative breaches and financial misconduct; and accountability to oversight bodies.

**Public Service Accountability Monitor**

## 4. Department of Health

### **4.1. Resource Allocation And Strategic Planning**

#### **Summary**

*Although the quality of its planning improved over the period between 2000 and 2004, none of the Eastern Cape Department of Health's strategic plans during this four-year period properly adhered to the regulatory requirements governing the production of strategic plans. For instance, none of the Department's plans were found to contain accurate information on the Eastern Cape public health service delivery environment and the service delivery needs to be met by the Department. Nor was there evidence in the strategic plans that the Department had conducted a process of stakeholder consultation (whether internal consultation with its own employees or external consultation with health related research, non-governmental or community-based organisations) during the course of constructing its plans.*

*What is clear from an analysis of the Department's strategic plans for this period is that it had difficulty in setting clear objectives for its programmes and activities. For the most part, the activities undertaken within these objectives were not allocated measurable performance indicators, were not bound by clear time-frames, nor were they adequately costed. Government's budgeting approach requires that the operational plans for all programmes be completed first and used as the basis for drawing up the department's strategic plan. By contrast, the Eastern Cape Department of Health appeared to routinely draw up its strategic plans first and then complete its operational plans. Even when the figures contained in its strategic plans had been costed, none of these included a breakdown of individual unit costs for listed activities.*

*In addition, the Department's plans failed to include detailed information relating to the maintenance and upgrading of existing health-care facilities, or the construction of new facilities. The Department's 2003/2004 plan appeared to rely on a provincial hospital audit profile undertaken in 1998/99 and 2001/2002 to describe the current infrastructure status of its hospitals<sup>673</sup>. This information was over four years old, and failed to provide an account of the sums of money spent on hospital maintenance and infrastructure in the intervening period.*

The following analysis is based upon the Department's 2000/01 to 2003/04 strategic plans. It contains a detailed analysis of the Department's compliance with strategic planning requirements between 2000 and 2004.

#### **Regulatory Requirements**

The ability of provincial government departments to deliver services effectively starts off with the strategic planning process. It is the responsibility of the provincial MEC in conjunction with the HOD to produce an effective strategic plan for their department. The process of drawing up this plan involves identifying the most pressing social needs of the

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<sup>673</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, section 8.3, p. 115 and section 8.6, p. 116.

population served by the department, identifying programmes and activities to practically address these needs, and then proposing a budget and identifying service delivery indicators for implementing programme activities. Only on this basis should departments' strategic plans be endorsed by the provincial Legislature, and a budget be allocated to the department by the provincial Treasury.

In terms of the new Public Service Management Framework introduced in June 1999 all provincial service delivery departments are required to begin their strategic planning process at least 12 months before the start of the financial-year. By legislation a department's strategic plan must meet the following minimum requirements:

- It should identify the departments' core objectives.<sup>674</sup>
- It should describe the activities and programmes necessary to realize these core objectives.<sup>675</sup>
- It should include measurable outputs for all programmes.<sup>676</sup>
- It should include information necessary to define the posts required to undertake the proposed activities and to determine the department's organizational structure.<sup>677</sup>
- It should include a human resource plan indicating the human resources required to meet the department's functions, including the number of employees, their competencies and training needs. It should also include a strategy 'to recruit, retain, deploy and develop' staff within the department's available budgeted funds.<sup>678</sup>
- It should include a detailed service delivery improvement plan identifying the departments 'customers' and their needs and evaluate the departments capacity to meet these needs. This requires a process of extensive consultation with internal and external stakeholders.<sup>679</sup>

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<sup>674</sup> Public Service Regulations, 1999, Part 3, Section B. Strategic Planning, pp. 7-8.

<sup>675</sup> Ibid.

<sup>676</sup> The National Treasury Guide for Accounting Officers introduced in October 2000 states that departmental accounting officers 'should ensure that outputs are sufficiently quantified and appropriate service delivery indicators developed as soon as possible.' See Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 2 – Financial Planning, p. 10.

<sup>677</sup> Public Service Regulations, 1999, Part 3, Section B. Strategic Planning, pp. 7-8. Section B.2(a), (c) and (d) state that 'based on the strategic plan of the department, an executing authority shall (a) determine the department's organisational structure in terms of its core and support functions; (c) define the posts necessary to perform the relevant functions while remaining within the current budget and medium term expenditure framework of her or his department, which shall constitute the department's approved establishment; and (d) utilise the human resource plan described in regulation III D to plan to meet the resulting human resource needs.'

<sup>678</sup> Ibid, Part 3, Section D.1 (a), (b) and (c).

<sup>679</sup> The Public Service Regulations, 1999, require departments to produce a Service Delivery Improvement Programme (SDIP) in which they identified who their 'customers' are, what services they provided to them, and what barriers existed preventing their 'customers' from accessing these services. The SDIP was clearly premised on an extensive process of consultation given that it was required to develop strategies to remove barriers to service delivery, improve communication with 'customers' and lead to the development of service standards. See, Public Service Regulations, 1999, Part 3, Section C.1 Service Delivery Improvement Programme, p. 8. Such consultation is required to meet the Constitutional principle that 'People's needs must be responded to, and the public must

## Findings

### Accurate Profile Information on Service Delivery Environment

It is self evident that for any strategic plan to be effective it must take into account the service delivery environment and challenges that face a particular department when planning the delivery of services to citizens. This pre-supposes that departments undertake detailed needs analysis exercises that accurately identify challenges and indicate where need is greatest. The Eastern Cape Department of Health's 2000/01 and 2001/02 strategic plans do not offer profile information on the service delivery environment. These plans provide no evidence that a needs analysis had been conducted by the Department raising doubts as to whether they had taken into account the likely challenges the Department would face. In its 2002/03 strategic plan, however, the Department provides a brief review of the challenges facing it going into the next year.<sup>680</sup> For example it acknowledges that it faces a 'brain-drain of health professionals' in public hospitals, the AIDS epidemic and escalating crime in clinics. It also observes that 'immunisation coverage remains low' and that those living in the rural areas still have long distances to travel in order to access health care.<sup>681</sup> In terms of strategic planning, however, the challenges identified are of little or no value because they are too vague, lacking specific detail necessary to plan effectively. To be of any use to those planning the activities of the Department over the short and longer-term, these plan would need, for example, to identify exactly where and why 'immunisation coverage [was] low'. Only in doing so could the Department hope to be able to direct its resources to where they were most needed.

In an improvement on previous years, the Department's 2003/04 strategic plan is more in line with the legislative framework when compared to 2002/03. The 2003/04 strategic plan provides, at some length, a sectoral situational analysis including the province's epidemiological profile.<sup>682</sup> However, some of the information used in this situational analysis is questionable and could potentially have jeopardised the quality of service rendered by the Department. The epidemiological data provided in the strategic plan ranges from 1996 to 2002 and, as a result, many of the figures quoted in the plan do not accurately reflect up-to-date service delivery challenges facing the Department.<sup>683</sup> For example, the plan details the top ten causes of mortality in both male and female adults and states that the data was compiled from a study 'done in 1996 and does not incorporate the impact of HIV/AIDS'.<sup>684</sup> It is unclear how this information would have been useful to the Department for the 2003/04 financial year budget, given the devastating effect that HIV/AIDS would have had on the epidemiological profile of the

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be encouraged to participate in policy making.' South African Constitution, Chapter 10 Public Administration, section 195(1) e. The need to involve both internal and external stakeholders in the strategic planning process was subsequently made explicit by National Treasury guidelines which state that departments must ensure stakeholder and community input. See Generic Format for Strategic Plans for Provincial Departments, National Treasury, 11 July 2002, Part A, Section 3.8, p. 10.

<sup>680</sup> Eastern Cape Department of Health, Strategic Plan 2002/2003, *Strategic planning draft discussion document*, section 1.6.1, p. 4.

<sup>681</sup> Ibid.

<sup>682</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, section 6. 7. 8, pp. 5-20.

<sup>683</sup> Ibid, section 7, pp. 12-14.

<sup>684</sup> Ibid, section 7.1, p. 12

province since 1996. It would appear that as of the beginning of the 2003/04 financial year the Department did not have a clear understanding of the likely impact the HIV/AIDS epidemic would have on communities and on the Department's ability to deliver health care services. The Department, itself, acknowledged in its 2003/04 strategic plan that the "statistics do not adequately convey the magnitude of the HIV/AIDS crisis facing communities including the health sector".<sup>685</sup> Without this information, the Department would not have been able to meet the health care demands of the Eastern Cape.

Another example of inaccurate planning information is the inconsistent population figures provided in the plan. In the overview given for the Department by MEC, Dr BM Goqwana, it states that the Department services a population of '7 130 480 million'.<sup>686</sup> However, under the HIV/AIDS sub-programme the Eastern Cape population estimate is said to be '6 699 831 million' people.<sup>687</sup> It is unclear how the Department had arrived at these contradictory figures. Obtaining correct population estimates is vital for planning since budgeting in the health sector is largely determined by population figures. If the Department is to make the most efficient and effective use of available resources, as it is Constitutionally obligated to, it is incumbent on it to calculate, at the very least, the number of people it will be providing services to as well as where and what type of services are required.

### **Organisational Structure and Operational Capacity**

When drawing up strategic plans, Departments must also detail their organisational environment and challenges.<sup>688</sup> This is because the Department's operational capacity plays an important role in determining its ability to deliver services. In terms of assessing the Department's organisational environment and challenges, all four strategic plans provide a brief list of what the Department identifies as 'major health challenges'.<sup>689</sup> Despite listing the challenges facing it, the Department does not clearly show in its strategic plans how these challenges affect its operational capacity or whether it had taken these challenges into account when drawing up its goals, objectives and service delivery targets. For example, the 2000/01 strategic plan provided a SWOT analysis of Strengths, Weaknesses, Opportunities and Threats faced by the Department. However, this analysis was so poor that the numbering of headings and sub-headings did not follow sequentially and the indentation was in disarray. The number of sub-headings followed the following numbering arrangement: '1', '3', '4', '6', 'and '3.2'.<sup>690</sup> On closer inspection, the SWOT analysis revealed significant contradictions. Under threats for instance, the Department identified the brain-drain of 'professionals', including nurses, to other countries such as the UK and Saudi Arabia as a serious concern.<sup>691</sup> Immediately below this discussion the Department placed, as its first point in its list of strengths, the

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<sup>685</sup> Ibid, section 8.5.5, p. 20.

<sup>686</sup> Ibid, p. 1.

<sup>687</sup> Ibid, section 1, p. 52.

<sup>688</sup> See further in this regard: The Public Service Regulations, Government Notice R1 in Government Gazette 21951 of 1 January 2001, as amended, Part III and C and the Treasury Regulations: Government Notice R345 in Govt Gazette 22219 of 9 April 2001, at Part 3, Regulation 5.2 and Government Notice R740 of Government Gazette 23463 of 25 May 2002 (as amended), Part 3 Regulation 5.2.

<sup>689</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, section 11, p.30.

<sup>690</sup> Eastern Cape Department of Health, Strategic Plan, 2000/2001, section 1, 3, 4, 6, 3.2, pp. 4-6.

<sup>691</sup> Ibid, section 3.2, p. 5.

'availability of nurses'.<sup>692</sup> It is also important to note that the 2002/03<sup>693</sup> and 2003/04<sup>694</sup> strategic plan's listed an almost identical set of 'challenges' as the 2000/01 strategic plan despite four financial years having past between the construction of these plans.

Furthermore, the Department failed, in its strategic plans, to detail the steps taken to address its own organisational and capacity challenges. The Department experienced chronic staff shortages during the period under review. In the 2000/01 financial year the Department had a vacancy rate of 34.66 percent<sup>695</sup>, with a 48.80 percent vacancy rate within critical posts.<sup>696</sup> At the end of the following financial year the overall vacancy rate had fallen 22 percent. Disturbingly, however, the vacancy rate for critical posts had risen to 51.96 percent.<sup>697</sup> By the end of the 2002/03 financial year the Department had an overall vacancy rate of 25.6 percent<sup>698</sup> but experienced acute shortages in the following critical professions: Medical specialist, 79 percent; Principal pharmacist, 62 percent and Physiotherapists 100 percent.<sup>699</sup> Despite the magnitude of these shortages, the strategic plans for this period failed to include information relating to their proposed strategies for addressing these shortages.<sup>700</sup> For example, the 2000/01 strategic plan fails to detail a recruitment and retention strategy for that financial year. It merely states the objective to have 'human resource plan drawn' by March 2000 and by March 2002 to have 'filled district management posts'.<sup>701</sup> Despite identifying the recruitment and retention of key personnel in rural areas as a challenge for the 2001/02 financial year, the Department, it would appear, only planned to 'appoint 8 district managers' at an estimated cost of R1.71 million by August 2001.<sup>702</sup> A year later, in the 2002/03 financial year, the Department planned to 'appoint chief and senior executive officers' and to have '100% critical posts filled'.<sup>703</sup> However, the target set by the Department for this year is meaningless because it fails to set out how many critical posts need to be filled. In the 2003/04 strategic plan the Department acknowledges that the implementation of its objectives for the year took place within a context where professional staff shortages ("brain drain") remained a key challenge across its programmes and sub-programmes.<sup>704</sup> Despite acknowledging these constraints however, the Department does not clearly show how the vacancy rate affected its operational capacity, or whether the Department had developed a recruitment and retention strategy for 2003/04 financial year. In the Department's 2003/04 strategic plan, it merely states that it will 'utilise grant funds to

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<sup>692</sup> Ibid, section 3.2. 1, p. 5.

<sup>693</sup> Eastern Cape Department of Health, Strategic Plan, 2002/2003, *Strategic planning draft discussion document*, section 1.6.1, p.4

<sup>694</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, section 11, p. 30.

<sup>695</sup> Eastern Cape Department of Health, Annual Report for the year ending 31 March 2001, PR212/2001, table 3.4, p. 12.

<sup>696</sup> Ibid, table 3.5, p. 13.

<sup>697</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, table 2.2.4., p. 16.

<sup>698</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, table 3.3, p. 118.

<sup>699</sup> Ibid, table 3.3. pp. 107-118.

<sup>700</sup> The strategic plan should have made allowance for human resource planning. See further in this regard, the Public Service Regulations, Government Notice R1 in Govt Gazette 21951 of 1 January 2001 (as amended) Part III B and D.

<sup>701</sup> Eastern Cape Department of Health, Strategic Plan, 2000/2001, strategy 2, p. 7 and strategy 3, p.8.

<sup>702</sup> Eastern Cape Department of Health, Strategic Plan, 2001/2002, programme 2, section 2, p.28.

<sup>703</sup> Eastern Cape Department of Health, Strategic Plan, 2002/2003, section 1.8.3, p.16.

<sup>704</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, for examples of the Department citing the staff shortages as a challenged see section 11, p. 30, part B, p. 33, section 1, p. 40, section 3, p. 46, section 2, p. 63, section 1.8, p. 69, and section 1.5 (a), p. 77.

attract and retain' key staff.<sup>705</sup> The Department's failure to implement an effective and efficient recruitment strategy is reflected in the 2003/04 financial year vacancy rate of 32.8 percent.<sup>706</sup> Similarly, its failure, to take into account its organisational environment when planning had an effect on its ability to function effectively and to implement its plans efficiently.

In addition to having a recruitment and retention plan to address staff shortages, it is critical that the Department makes effective and efficient use of those in its employ. In terms of the Public Service Regulations of 2001, the Department should have established a performance management system to ensure that its staff worked effectively and efficiently. Performance management systems should be 'fully implemented by all departments with effect from 1 April 2001.' These regulations state that a 'performance cycle' should have been introduced in each department to ensure that the performance of employees is monitored on a 'continuous basis'. They also state that employees should be assessed on an annual basis, but should meet with their assessment supervisors at least four times a year to address performance related issues.<sup>707</sup>

In addition, Resolution 13 of the Public Service Coordinating Bargaining Council, 1998, states that all senior management within the public service must sign performance agreements. Resolution 13 states that such agreements should define 'a person's work according to his/her key duties and responsibilities [and] methods of assessing his/her performance.' It also stipulates that all senior managers should be assessed quarterly on the basis of their performance agreements.<sup>708</sup>

Despite the above regulations, the Department's strategic plans have failed since 2001 to adequately detail how it intends to implement its performance management system. There is no evidence in the 2000/01 and 2001/02 strategic plans indicating how the Department intended to implement a performance management system. However, in the 2002/03 strategic plan the Department simply states under the activity 'implement performance management system' that it will conduct 'workshops and training

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<sup>705</sup> Ibid, part B, programme 1, p. 35.

<sup>706</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, table 3.2, p. 106.

<sup>707</sup> Resolution 13 of the Public Service Coordinating Bargaining Council, 1998, states that all senior management within the public service must sign performance agreements. Resolution 13 states that such agreements should define 'a person's work according to his/her key duties and responsibilities [and] methods of assessing his/her performance.' It also stipulates that all senior managers should be assessed quarterly on the basis of their performance agreements. See, Public Service Coordinating Bargaining Council Resolution 13 Senior Management (Performance Agreements), 1998, section 3. In terms of the Public Service Regulations of 2001, performance management systems designed to 'enhance organisational efficiency and effectiveness' should have been 'fully implemented by all departments with effect from 1 April 2001.' These regulations state that a 'performance cycle' should have been introduced in each department to ensure that the performance of employees is monitored on a 'continuous basis'. These regulations also state that employees should be assessed on an annual basis, but should meet with their assessment supervisors at least four times a year to address performance related issues. See, Public Service Regulations, 2001, part VIII, B.1, p. 28. Lastly, and as we have already seen, the section 38(1)(b) of the PFMA requires that accounting officers ensure the 'effective, efficient, economical and transparent use of the resources of the department.'

<sup>708</sup> Ibid, section 3.

reports'.<sup>709</sup> According to the Department this would cost R150 000 with an intended outcome of 'less complaints and litigation, less time wasted' and 'increased productivity, improved service delivery'.<sup>710</sup> It is not clear from the plan how 'training and workshop reports' would bring about the implementation of a performance management system. A year later, in the 2003/04 strategic plan, the Department does indicate that one of its objectives is to implement a performance management system to 'ensure performance standards and improved service delivery'.<sup>711</sup> However the target for this objective is simply stated as 'update each year'.<sup>712</sup> This is meaningless and as a result makes it difficult to determine whether the Department will be able to achieve its stated objective of implementing a performance management system. It would appear that for the four years under review the Department failed to plan in any form of coherent plan to ensure the implementation of a performance management system.

### **Consultation with Internal and External Stakeholders**

In order to identify the kinds of constraints that departments are likely to face over the period of their strategic plans (and how to overcome them) they are obliged to undertake meaningful negotiations with their own staff and with external stakeholders.<sup>713</sup> Over the four financial years under review there is little evidence in the Department's strategic plans that relevant internal and external stakeholders were consulted during the strategic planning process. In the 2000/01 and 2002/03 strategic plans the Department simply lists a number of 'key players' and 'key/ other stakeholders', including health professionals, unions, tertiary education institutions, NGOs and Local Authorities and 'all the people of the Eastern Cape' as stakeholders.<sup>714</sup> However, there is no indication in these strategic plans that these stakeholders were actually consulted during the strategic planning process.

### **Achievability and Cost Effectiveness of Objectives**

For a strategic plan to be effective it must be in line with the core objectives of a Department and must provide information which demonstrates that its objectives and activities are measurable, achievable, time-bound and coherently costed.<sup>715</sup> In addition, regulations require that strategic plans should nominate officials responsible for the implementation of specific programmes.

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<sup>709</sup> Eastern Cape Department of Health, Strategic Plan, 2002/2003, section 1.8.1, p. 6.

<sup>710</sup> Ibid.

<sup>711</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, Part B, programme 1, p. 35.

<sup>712</sup> Ibid.

<sup>713</sup> See further in this regard: The Public Service Regulations, Government Notice R1 in Government Gazette 21951 of 1 January 2001 (as amended) Part III C: Service Delivery Improvement Programme.

<sup>714</sup> Eastern Cape Department of Health, Strategic Plan, 2000/01, section 1. p. 5 and Eastern Cape Department of Health, Strategic Plan, *Strategic planning draft discussion document*, Appendix: A, section 8.

<sup>715</sup> See further in this regard: Treasury Regulations (as amended) contained within Government Notice R345 in Government Gazette 22219 of April 2001, Part III Regulation 5.2.2 and where applicable, Government Notice R740 in Government Gazette 23463 of 25 May 2002, part 3 Regulation 5.2.2. See also, the Public Service Regulations 2001, contained within Government Notice R1 of Government Gazette 21951 of 1 January 2001 (as amended) at Part III A to D.



The Department's strategic plans between 2000/01 and 2003/04 failed to adequately meet with these requirements. A number of examples drawn from these plans will illustrate this contention:

- The Department's 2000/01 strategic plan set out eight strategies which constituted, in its opinion, the Department's comprehensive plan of action for that financial year. However, the strategic plan did not form part of a three-year plan as required in terms of the MTEF. This raised doubts about the Department's long term planning and budgeting. For example, infrastructure and maintenance projects often take more than one financial year to complete. Under each strategy the Department identified at least one objective which was further broken down in terms of 'key performance areas', 'key success indicators', 'the person responsible for the activity' and a timeline. Despite providing sufficiently clear and specific objectives, there is no costing or time-frames linked to any of the activities identified by the Department, nor is there any costing per programmes or sub-programme. Often there are two or more people responsible for the execution of an activity. For example, under strategy 1 (Improvement of Access to Primary Health-Care Services), the persons responsible for the drafting of service charters for all branches under the provincial office for hospitals and clinics were 'all directors and regional directors and district managers'.<sup>716</sup> The lack of measurability and costing makes it difficult to determine the achievability of the Department's targets for the 2000/01 financial year.
- Although an improvement on the previous year's strategic plan, the 2001/02 plan still failed to meet all the requirements set out by the legislative framework governing strategic planning. In a considerable advance over the previous year, the plan set out tables for each programme which indicated activities, outputs, targets, officials assuming responsibility for the achievement of activities, budget allocation and a quarterly breakdown of the targets for each activity.<sup>717</sup> In addition, most of the Department's major programmes were broken down into a number of coherent sub-programmes. For example, Programme 7: Health Facilities Development and Maintenance would receive R231 million, which was broken down in the following manner:
  - New facilities: R124 million.
  - Upgrading: R81 million (Conditional Grant).
  - Maintenance: R26 million.<sup>718</sup>

Programme 2: District Health System would receive R2 billion, which was broken down in the following manner:

- District Management: R52 million.
- Community Health Service: R587 million.
- Community Health Services RDP: R132 million.
- Emergency Medical Rescue Services: R120 million.
- Community Hospital Services: R1.2 billion.<sup>719</sup>

<sup>716</sup> Eastern Cape Department of Health, Strategic Plan, 2000/01, strategy 1, p. 6.

<sup>717</sup> This particular strategic plan combines both the Strategic Plan and the Budget Review and Operation Plans for 2001/02 financial year.

<sup>718</sup> Eastern Cape Department of Health, Budget Review 2001/02, April 24, 2001, *Operational/Service Delivery Plan*, 5/30/2002, programme 7, p. 53.

However, a significant number of the objectives listed for the Department's programmes in the 2001/02 plan fail to offer any insight into how the Department had planned to actualise its aims. In other words, they were not specific enough. For example, the aim of Programme 2 was: 'To develop and support district health services in the Eastern Cape'.<sup>720</sup> The key objectives listed in this regard included the following: 'To develop government structures with Local Government and make preparatory work for devolution of services' and 'To decrease communicable and non-communicable diseases'.<sup>721</sup> It is not at all clear how these objectives are SMART (specific, measurable, achievable, realistic and time-bound). Furthermore, it is unclear how these strategic objectives were intended to contribute to the achievement of the Department's stated strategic aim. To its credit, the plan indicates a responsible official, thus enabling the Department and oversight bodies to hold specific individual officials to account.

- For the 2002/03 financial year the Department produced both a three year strategic plan and a one year operational plan. From the outset there are glaring inadequacies in both documents regarding the cost estimates for the majority of activities listed by the Department. For example, under programme 1 (Administration), one of the activities listed is the building of management capacity within this division. One of the desired outputs for this activity is the implementation of capacity building programmes and drafting of reports.<sup>722</sup> The quantitative measure for this activity reads: 'Number of managers capacitated', while the qualitative measure reads: 'improved management of human, material, financial and time resources'.<sup>723</sup> Despite the activity being costed at R250 000<sup>724</sup>, it is not clear on what basis the Department costed the activity. This is because it is unclear how the latter two measures would be quantified and measured since the specific number of managers to be capacitated was not specified. Furthermore, the Department fails to indicate how 'improved' management of human, material and time resources would be evaluated. The determination of the achievability of these immeasurable activities is therefore not possible.

In addition, when looking at the one year operational plan, it is difficult to determine which of the activities listed under Programme 1 mapped onto the activity of building 'management capacity' in the three-year strategic plan.<sup>725</sup> This is also the case for the majority of programmes in both the operational and strategic plan. The operational/service delivery plan, in contrast to the strategic plan, notes a responsible official and had a quarterly breakdown of the individual targets. Again, however it is not clear from the plan on what basis the Department had costed its activities. For example, under programme 1 (Administration) the Department set itself the target of 'training of Persal

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<sup>719</sup> Eastern Cape Department of Health, Budget Review 2001/02, *Operational/Service Delivery Plan*, 6/13/2002, programme 2, p. 29

<sup>720</sup> Ibid.

<sup>721</sup> Ibid.

<sup>722</sup> Eastern Cape Department of Health, Strategic Plan 2002/2003, section 1.8.1, p. 6.

<sup>723</sup> Ibid.

<sup>724</sup> Ibid.

<sup>725</sup> Eastern Cape Department of Health, *Operational/Service Delivery Plan*, Year 2002, *operational/service delivery plan*, 5/28/2002, p. 1. and Eastern Cape Department of Health, Strategic Plan 2002/2003, section 1.8.1, p. 6.

Controllers and Persal Users' as the target in order to enable it to 'orientate and train controllers and users and co-ordinate Persal training requirements'. According to the Department, it would have cost R20 000 to implement this activity. However, the operational plan aimed by the second quarter of the financial year to have 'training of Persal controllers and some of the Persal Users' taking place. Yet it failed to state how many controllers and users would be trained.<sup>726</sup>

- The Department's strategic plan for 2003/04 bore little resemblance to previous year's strategic plans. Firstly the plan failed to assign specific responsibilities to specific public officials within the Department. As a result, even though the Department had set out broad strategic goals and specific measurable objectives, it remained unclear as to who should have co-ordinated the stated activities. For example, in Programme 7 (Health Care support Services), the plan referred to recruiting District Pharmacists and, in order to achieve this, allocated a budget of R100 000.<sup>727</sup> But the question as to who would oversee the recruitment of the pharmacists, or who was responsible for managing the budget, remained unanswered. Related to this, is the Department's failure to demonstrate how it decided on the targets for each financial year. Using the recruitment of pharmacists example, for instance, the plan said that it intended to recruit '5 more pharmacists' in the 2003/04 financial year. However, it would appear that the Department did not know the exact number of pharmacists in its employ in the 2002/03 financial year. The 2003/04 strategic plan merely provides an 'estimate' of the number of pharmacists employed by the Department.<sup>728</sup> It also appears that the Department did not know the actual number of district pharmacists in its employ for the 2002/03 financial year. In the absence of accurate information relating to the number of pharmacists employed by the Department, it is difficult to comment on the adequacy of the Department's target of recruiting five pharmacists in the 2003/04 financial year. In order for the Department to have adequately planned for a full staff complement, it is critical that it has accurate and up-to-date information on the number of staff in its employ.
- Another shortcoming with the 2003/04 strategic plan is the general absence of costing of activities in the plan. Where costs are provided, they are not adequately calculated.<sup>729</sup> For the most part, the plan only details budgets for the individual programmes and sub-programmes.<sup>730</sup> For example, in the 2002/03 operational plan the Department allocated an amount of R1 million for training of all Emergency Medical Rescue Services (EMRS) staff<sup>731</sup>. However, the 2003/04 strategic plan fails to state the budget allocation for the same objective, 'providing

<sup>726</sup> Eastern Cape Department of Health, Operational/Service Delivery Plan, Year 2002, *operational/service delivery plan*, 5/28/2002, p. 2.

<sup>727</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, p. 111.

<sup>728</sup> Ibid.

<sup>729</sup> This was also the case in the 2001/02 strategic plan and the 2002/2003 strategic plan and operational/service delivery plan.

<sup>730</sup> See examples in the Eastern Cape Department of Health, Strategic Plan, 2003/2004, pp. 34-37 and pp. 70-71.

<sup>731</sup> Eastern Cape Department of Health, Operational/Service Delivery Plan, Year 2002, *operational/service delivery plan*, 5/28/2002, p. 42.

adequately trained staff' within EMRS.<sup>732</sup> For the objective to be properly planned and implemented, the Department must indicate how much it would cost the Department to 'provide adequately trained staff to render EMS' (Emergency Medical Services).

The Auditor-General noted in the 2001/02 and 2002/03 audit reports that the Department had not adhered to 'zero based budgeting principles' in the preparation of the 2002/03 and 2003/04 budget.<sup>733</sup> In other words, it would appear that the Department failed from the onset of its strategic planning to undertake a detailed costing of the individual activities identified for its various programmes. Government's zero-based budgeting approach assumes that the operational plans for all programmes will be completed first, and that the costs of the individual activities listed in these plans (added up from zero), will be used on an annual basis to determine the Department's strategic plans and required budget for a financial year. By contrast it appears that the Department routinely drew up its strategic plans first and then completed its operational plans. For instance, during the 2000/01 financial year one of the success indicators listed in the Department's strategic plan was the completion of its operational plan for that year.<sup>734</sup> Again, in 2002/03, the Department acknowledged that, in its strategic plan, that its operational plan 'is still being developed'.<sup>735</sup>

### **Reconciliation with Previous Budget and Past Performance**

In order to ensure the quality of its year-on-year strategic planning and budget allocations, Departments must reconcile previous budget allocations and targets with actual expenditure. In addition, Departments should assess their progress in implementing targets set in their strategic plans.<sup>736</sup> In so doing, the Department is able to reconcile past budgets with past performance to better inform their strategic plans and operational/service delivery plans.

Between 2000/01 and 2003/04 there is very little evidence to suggest that the Department's strategic plans had been informed by past performance or previous spending patterns. A number of examples drawn from these plans will illustrate this contention:

- The Department produced a ten-page strategic plan for the 2000/01 financial year. This plan did not indicate an overall costing of the Department's planned activities and consequently did not reconcile with previous expenditure. The strategic plan did not have a three-year horizon plan as required in terms of the MTEF. There was no costing or time-frames linked to any of the activities identified by the Department, nor was there any costing per programme or sub-programme. Furthermore, there were no time-frames linked to any of the

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<sup>732</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, section 2, p. 70.

<sup>733</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General Report, section f (i) p. 63 and Eastern Cape Department of Health, Annual Report, Auditor-General Report, section f (viii) p. 172.

<sup>734</sup> Eastern Cape Department of Health, Strategic Plan, 2000/2001, strategy 3, p. 7.

<sup>735</sup> Eastern Cape Department of Health, Strategic Plan, 2002/2003, Part C section 1, p.30.

<sup>736</sup> Regulation B. 1 (f) (i) of the Public Service Regulations (as amended), Government Notice R1 of Government Gazette 21951 of 1 January 2001.

activities identified by the Department and, as a result, it was difficult to measure or determine the achievability of the objectives set out in the plan. This situation made it difficult for the Department to track its expenditure or its performance year-on-year. It not surprising then that the 2001/02 strategic plan failed to provide an adequate analysis of past performance. This, undoubtedly, would have been difficult for the Department. This is because the previous year's strategic plan had failed to provide the necessary information to enable the Department to reconcile the budget allocations for programmes and sub-programmes for the 2001/02 strategic plan.

To its credit, the 2001/02 strategic plan did provide a budget breakdown for programmes and sub-programmes.<sup>737</sup> These budget estimations are important because the final budget allocations for the Department are informed by these estimates. However, the 2001/02 plan failed to provide the three-year horizon as required in terms of the MTEF and Treasury Regulations.<sup>738</sup> The MTEF figures are important because they also serve as valuable comparisons with final budget allocations. The 2001/02 strategic plan merely provides a breakdown, per programme, of spending over the 1998/99 to 1999/2000 financial years, and the estimated expenditure for the 2000/01 financial year.<sup>739</sup> The plan did not compare previous years' expenditure figures with the MTEF budget estimates.

- In an improvement over previous years, the Department's 2002/03 and 2003/04 strategic plans included spending figures from previous years, and compared these with the MTEF budget projections by programme and sub-programmes.<sup>740</sup> These plans did not, however, compare expenditure figures from previous years against the actual budgets in those years. Furthermore, there is no evidence to suggest the Department reconciled its previous spending per programme and sub-programme against its intended spending for the following financial year. For example, under the sub-programme District Management, the 2002/03 strategic plan estimates that this programme would cost the Department R51.72 million<sup>741</sup> and yet the 2003/04 strategic plan estimates that this sub-programme would cost the Department R68.89 million.<sup>742</sup> In fact this sub-programme overspent its budget in 2003/03 financial year by R12.65 million.<sup>743</sup> There appears to be no explanation for the variance or whether the budget allocation of R75.33 million for the 2003/04 financial year in the strategic plan was informed by previous spending patterns or would be sufficient to prevent further overspending within the programme.<sup>744</sup>

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<sup>737</sup> Eastern Cape Department of Health, Budget Review, 2001/2002, April 24, 2001, p. 8 of 14 to p. 14 of 14.

<sup>738</sup> Treasury Regulation 5.2.2 (a) of Government Notice R345 in Government Gazette 22219 of 9 April 2001.

<sup>739</sup> Ibid, p. 8 of 14.

<sup>740</sup> Eastern Cape Department of Health, Strategic Plan, 2002/2003, *Strategic planning draft discussion document*, section 1.9, pp. 25-29 and Eastern Cape Department of Health, Strategic Plan 2003/2004, pp. 25-29.

<sup>741</sup> Eastern Cape Department of Health, Strategic Plan, 2002/2003, *Strategic planning draft discussion document*, section 1.9.2, p. 25.

<sup>742</sup> Eastern Cape Department of Health, Strategic Plan 2003/2004, table 5, p. 28.

<sup>743</sup> Eastern Cape Department of Health, Annual Report 2003/2004, part E, p. 188.

<sup>744</sup> Eastern Cape Department of Health, Strategic Plan 2003/2004, p. 38.

In conclusion, during the four years under review, the Department failed to demonstrate how previous budgetary information informed its forward planning.

### **Auditor-General's Queries**

None of the Department's strategic plans for the period between 2000 and 2004 were found to contain evidence of a plan to address Auditor-General's queries. In the seven financial years between 1996 and 2003, (with the exception of the 2002/03 financial year) the Department of Health's financial statements were issued with consecutive audit disclaimers by the Auditor-General's office. Effectively, the Auditor-General withheld an audit opinion on the state of financial management in the Eastern Cape Department of Health in the period between 1996 and 2002 and the 2003/04 financial year.<sup>745</sup> Audit disclaimers generally indicate a lack of internal financial control measures. This audit opinion may also be issued because so many transactions had been missing from a Department's financial statements that it was impossible to conduct a proper audit in the first place. In other words, the state of financial management in the Department was so poor that the Auditor-General could not express an opinion on the reliability of its financial statements for the years in question.

### **Capital Expenditure and Maintenance Projects**

Despite having a programme (Programme 8<sup>746</sup>: Health Facilities Development and Maintenance) dedicated to the provision of 'new health facilities, upgrading and maintaining existing health facilities'<sup>747</sup>, none of the Department's strategic plans for the period between 2000 and 2004 were found to contain an up-to-date list of costed and time-bound capital expenditure and maintenance projects. Furthermore, given the state of public health infrastructure in the Eastern Cape's 92 hospitals, 28 primary health care centres and 711 clinics it is of some importance that the Department undertakes adequate planning in order to ensure the upgrading of health facilities, the provision of new facilities, and the rehabilitation and maintenance of existing facilities.<sup>748</sup>

- The 2001/02 strategic plan states that the Health Facilities Development programme had a budget of R250 million. The plan presents in tabular form the

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<sup>745</sup> The following information was taken from Auditor General, Report of the Auditor-General on the Financial Statements of Vote 3—Health of the Eastern Cape Provincial Administration for the years ended 31 March 1996, 1997, 1998 and 1999, PR 150/2000, section 2.3, 2.5, 2.7 and 2.9, pp. 1-7; Auditor-General, Report of the Auditor-General on the Financial Statements of Vote 3—Health (Including a multi-disciplinary Audit of the salary bill) of the Eastern Cape Provincial Administration for the year ended 31 March 2000, PR112/2001, section 2.3.2, p. 7; Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Report of the Auditor-General, section 2.3.2, p. 15; Eastern Cape Department of Health, Annual Report 2001/2002, Report of the Auditor-General, section 4, p. 61; Eastern Cape Department of Health, Annual Report 2002/2003, Report of the Auditor-General, section 4, p. 167; Eastern Cape Department of Health, Annual Report 2003/2004, Report of the Auditor-General, section 4, p. 173.

<sup>746</sup> It is important to note that in the 2001/02 Strategic Plan, Health Facilities Development was Programme 7.

<sup>747</sup> Eastern Cape Department of Health, Strategic Plan 2003/2004, programme 8, p. 113.

<sup>748</sup> See "Key Objectives" in the Eastern Cape Department of Health, Strategic Plan, 2002/2003, *Strategic planning draft discussion document*, section 1.8.7, p. 23.

Department's intention to 'improve infrastructural development'.<sup>749</sup> It then sets out accompanying objectives, for example, the intention 'to revamp clinics'.<sup>750</sup> The plan then lists persons responsible, budgets and time-frames, for planning and monitoring purposes. The information provided was neither up-to-date nor adequately time-bound.<sup>751</sup> For example, under the objective 'revamp clinics', the Department details the activities it would undertake to achieve this objective as the 'revamping of prioritised clinics', which was simply a repetition of its objective. The plan provides an allocation of R10 million and a time frame of 'March 2002' which was the end of the financial year.<sup>752</sup> This is clearly inadequate as the plan fails to state what it means by 'revamp', which clinics have been targeted or where these clinics are situated. Furthermore, it fails to list the status, cost, start and finish dates of the individual projects.

In terms of maintenance projects, the plan states that in order to meet the objective of conducting 'minor maintenance work for existing health facilities', it would 'develop a plan for maintenance of facilities' at a cost of R34 million which would be completed by March 2002.<sup>753</sup> However, the plan fails to provide an up-to-date, costed and time-bound list of maintenance projects. These omissions make it impossible to monitor the progress of the Department's capital expenditure and maintenance projects.

- The Department's 2002/03 strategic plan, and its service delivery/operational plan, fail to either provide information on the status of previous capital expenditure and maintenance projects or provide an up-to-date schedule of the infrastructure projects to be undertaken in the 2002/03 financial year. As a result, the information provided by the Department is questionable. For example, the strategic plan states that '125 clinics including health centres' were to be revamped at an estimated cost of R37 million.<sup>754</sup> However, the service delivery/operational plan states that '80 clinics' had been earmarked throughout the province to be 'revamped' at a cost of R14.27 million.<sup>755</sup> Of concern is the contradictory information provided in the strategic plan and the service delivery/operational plan. It would appear that the Department did not know how many clinics were in need of maintenance or the cost of undertaking such projects.

More disturbingly, there are few time-frames linked to the Department's listed capital expenditure and maintenance projects. Using the revamping of clinics example, neither the strategic plan nor the service delivery/operational plan provide an indication of when the process is to be completed. The service delivery/operational plan merely states that in the '1st quarter (sic) 10 clinics

<sup>749</sup> Eastern Cape Department, Budget Review, 2001/2002, 24 April 2001, programme 7, section 2, p. 58.

<sup>750</sup> Ibid.

<sup>751</sup> Eastern Cape Department, Budget Review, 2001/2002, 24 April 2001, programme 7, section 2, p. 58

<sup>752</sup> Ibid.

<sup>753</sup> Ibid.

<sup>754</sup> Eastern Cape Department of Health, Strategic Plan, 2002/2003, *Strategic planning draft discussion document*, section 1.8.7, p. 23.

<sup>755</sup> Eastern Cape Department of Health, Operational/Service Delivery Plan, Year 2002, *operational/service delivery plan*, 5/30/2002, p. 54.

revamped', in the '2<sup>nd</sup> quarter 30 clinics renovated' in the '3<sup>rd</sup> quarter 60 clinics renovated' and by the '4<sup>th</sup> quarter 80 clinics revamped'.<sup>756</sup> Again, it is disturbing to note under the activity 'carry out maintenance work in health institutions' that only in the second quarter would there be an 'assessment and identification of areas needing urgent attention for maintenance' and, furthermore, only by the third quarter would the Department have commenced 'setting up a data base on condition of machinery in health institutions'.<sup>757</sup> Yet, the Department had set itself the target of undertaking 'major maintenance' in twenty seven hospitals and of having addressed 10 percent of the maintenance backlog.<sup>758</sup> As a result, it is doubtful whether the Department would achieve this target given that it would have only just completed an assessment of its maintenance needs at the end of October 2002, set up a database on the condition of machinery by the end of December 2002. This would have left only four months in which to undertake major maintenance in twenty seven hospitals before the end of the financial year.

- According to the 2003/04 strategic plan, a Health Facilities Audit was conducted throughout the Province. The audit revealed that 'buildings were poorly maintained', there was 'no budget allocated for preventative maintenance', 'poor estate management' and huge backlogs in maintenance projects.<sup>759</sup> Given the findings of the audit, the plan states that it had 'become obvious that a comprehensive CAPEX (sic) programme was required'.<sup>760</sup> In a somewhat confusing manner, the strategic plan seems to indicate that the Health facilities audit was conducted prior to 1999 because it states that a 'comprehensive Capex (sic) strategy was developed in 1999 for a ten year programme'.<sup>761</sup> However, it appears that none of the strategic plans between 2000 and 2003 made specific reference to this 'comprehensive Capex (sic) strategy'. In fact, in its management report for 20002/03, the Department made the disturbing acknowledgement that 'huge infrastructure backlogs require extensive analysis and measurement of the problem. This is a project on its own ... The services branches are supposed to identify the needs for infrastructure development but they lack capacity in this area'.<sup>762</sup> Despite apparently having developed a comprehensive CAPEX strategy in 1999, by the 2002/03 financial year the Department, it would seem, did not know the extent of its maintenance and infrastructure development needs.

In an improvement on previous years, the 2003/04 strategic plan provides a list of infrastructure projects running across the province.<sup>763</sup> The list details the facility's name and a brief, often inadequate, description of the nature of the project. The cost of the project is provided but no time-frames are indicated for the completion of the projects. All indications are that the projects would continue at least until 2005/06 although the plan states that in the 'ensuring (sic) MTEF

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<sup>756</sup> Ibid.

<sup>757</sup> Ibid, p. 55.

<sup>758</sup> Ibid.

<sup>759</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, section 8.6, p. 116.

<sup>760</sup> Ibid, section 8.2, p. 114. It is important to note that CAPEX is short for Capital Expenditure.

<sup>761</sup> Ibid, section 8.6, p. 116.

<sup>762</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, section 3.10, p. 160

<sup>763</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, annexure A, p. 117 and annexure B pp. 118 - 123.



years the projects would be added till we reach our target'.<sup>764</sup> For example, the All Saints Hospital, would in the 2003/04 financial year receive an amount of R12 million for the construction of wards, rising to R14 million in 2004/05 and R15.3 million in 2005/06.<sup>765</sup> As with previous plans, the 2003/04 strategic plan, fails to provide information on the measures taken to ensure satisfactory implementation of these projects. It also fails to make allowance for progress reports on the outputs of projects that the Department had provided funds to for several years. In short, it contained no indication of how it would monitor the Department's expenditure on infrastructure maintenance or its performance in respect of implementation. So while the Department was deemed to have complied with the requirement of setting out its infrastructural plans, the details of these plans contained in the strategic plan are entirely inadequate for the purposes of holding it accountable for its performance.

## Recommendations

In light of the discussions above, the PSAM submits the following recommendations:

*As a matter of urgency, the Department must undertake a thorough evaluation of its service delivery environment. It must identify its strategic objectives on the basis of a detailed 'needs analysis' every year. This will enable the Department to gain a better understanding of what its needs are, how best it can make use of scarce public funds, and what challenges or constraints it is likely to face when delivering health services.*

*In order to ensure the effective and efficient delivery of services, the Department must acquire a detailed understanding of its organisational structure and operational capacity. The Department must ensure that it takes its organisational structure and operational capacity into account during its strategic planning process.*

*As a matter of the utmost urgency, the Department must develop a coherent staff recruitment and retention strategy and publish this within its strategic plans.*

*The Department should also ensure that during the process of compiling its strategic plans it undertakes a thorough process of consultation with internal stakeholders (including its own managers and trade unions) and external stakeholders (including health-related NGOs, experts and service providers).*

*The Department should also attach a list of list of service level agreements, or alternatively, a list of conditions including measurable objectives, unit costs, and time-frames to be met by the local authorities or other transfer recipients, to its annual strategic plan. Only on this basis will the Department be able to form an effective judgement about these transfers and whether they are likely to assist the Department in meeting its aims and objectives.*

*The National and Provincial Treasuries must ensure that the Department utilises a zero-based budgeting approach and that it starts its planning process at the prescribed time during the financial year.*

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<sup>764</sup> Ibid, section 8.6, p. 116.

<sup>765</sup> Ibid, annexure A, section B2. 2, p. 118.

*The Department when producing its business plans should also nominate a responsible official for each programme and sub-programme. By ensuring that each programme activity is measurable, properly costed and has a clear time-frame attached to it, programme managers will be able to track and report on expenditure (and their progress in implementing these activities more effectively).*

*The Eastern Cape Legislature Health Standing Committee and SCOPA, as well as the provincial Treasury, need to take steps to ensure that the Department undertakes a detailed needs analysis of its infrastructure maintenance and development needs annually, and that it draws up revised maintenance and construction plans annually. This needs analysis should include a detailed account of maintenance and upgrading needs of existing health facilities and an evaluation of the need for new facilities.*

*The Department, in order to monitor its performance, should reconcile all future planning with previous planning, budget allocations and actual expenditure. In addition, the Department should provide this information in its strategic plans.*

*The Department, as a matter of urgency, should ensure that during its strategic planning process it takes into account queries and recommendations raised by the Auditor-General. This will enable the Department to plan, budget for and track its implementation of the Auditor-General's recommendations.*

## **4.2. Expenditure Management**

### **Summary**

*In order to make effective and economical use of scarce public resources, it is critical that departments establish an effective internal financial control environment including mechanisms to safeguard departmental assets.<sup>766</sup> In order to provide efficient services, it is critical that departments monitor their own expenditure management. Between 2000 and 2004 it is evident that the Department failed to maintain an effective internal financial control environment or to adequately monitor its expenditure. There are numerous reasons for the Department's poor expenditure management.*

*Despite facing chronic staff shortages, the Department was either unwilling or unable to put into place a reliable human resource management and performance system. The damaging effects staff shortages had on service delivery were immense. The failure to recruit or retain staff at the administrative level has undoubtedly led to the Department being unable to adequately monitor its expenditure and performance. As a result, the Department has, since 2000, failed to produce detailed and accurate reports to account for its expenditure on all its programmes and sub-programmes. The Department also failed to establish a satisfactory asset management system between 2000 and 2004. In particular, it failed to adequately account for the transfer of funds to local government structures and external bodies or to account for its expenditure on its infrastructural and maintenance programmes. Despite stringent reporting requirements governing spending on Conditional Grants, the Department, in its Annual Reports between 2000 and 2004, failed to provide detailed and accurate reports accounting for all conditional grant expenditure. Finally, the consecutive financial audits conducted by the Eastern Cape*

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<sup>766</sup> General Report of the Auditor-General on the Accounts of the Eastern Cape Provincial Administration for the financial years 1997-98 and 1998-99, PR 62/2000, p. 13.

*Auditor-General's office for the four financial years between 2000 and 2004 identify numerous breaches of the PFMA, which could possibly constitute acts of financial misconduct. The Department's reporting on financial mismanagement and/or misconduct between 2000 and 2004 fails to indicate whether departmental officials responsible for transgressions had been investigated and whether funds 'lost' were recovered or, finally, whether mechanisms had been put in place to prevent further unauthorised, irregular and wasteful expenditure from occurring.*

The following section will evaluate the Department of Health's expenditure management performance between 2000/01 and 2003/04. The following analysis is based, primarily, on the Department's 2000/01 to 2003/04 Annual Reports.

## **Regulatory Requirements**

Public expenditure incurred by provincial departments is subject to strict regulation by the PFMA (supported by Treasury Regulations and a range of implementation Guidelines) and the Division of Revenue Act (passed annually).

The PFMA makes the accounting officer (generally the HOD) within any government department responsible for 'the effective, efficient, economical and transparent use of resources' and requires her/him to take appropriate steps to prevent 'fruitless and wasteful expenditure', which is defined as 'expenditure which was made in vain and would have been avoided had reasonable care been exercised.'<sup>767</sup> Moreover, the PFMA states that before transferring any funds to an entity within or outside government an accounting officer 'must obtain a written assurance from the entity that that entity implements effective, efficient and transparent financial management and internal controls systems.'<sup>768</sup>

DORA also states that all conditional grants can only be spent in a way which is consistent with their intended use. If provinces or municipalities underspend or make improper use of conditional grants the transferring national department can either delay further payments<sup>769</sup> or withhold these if there is 'a serious or persistent material breach of the conditions to which the allocation is subject.'<sup>770</sup>

In order to ensure effective public expenditure management by government departments the PFMA sets out the general requirement that accounting officers maintain 'effective, efficient and transparent systems of financial and risk management' within departments and that they take steps to safeguard departmental assets.<sup>771</sup> In addition the PFMA and Public Service Regulations both oblige MECs to ensure that their departmental personnel are governed by 'efficient, effective and economical' human resource management procedures.<sup>772</sup> A vital part of such procedures is the implementation of

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<sup>767</sup> Public Finance Management Act, sections 38(1)(b) and (cii), Chapter 1 Definitions, p. 8.

<sup>768</sup> Ibid, section 38(1)(j), p. 24.

<sup>769</sup> Division of Revenue Act, 2003, section 21.

<sup>770</sup> Ibid, section 22(1)(b).

<sup>771</sup> Public Finance Management Act, 1999, Chapter 5, Section 38(a)(i), (c)(ii) and (d), pp. 23-24.

<sup>772</sup> Section 195(1)(h) of the Constitution states that public administration must exhibit 'good human resource management.' Public Service Regulations state that it is the responsibility of executing authorities within departments to assess the human resource needs of departments. This should be done by identifying the total numbers of staff required to meet departmental objectives, and the necessary competencies and capacities staff will require to fulfil these

effective performance management systems to govern the employment of all officials.<sup>773</sup> Finally, the PFMA requires that accounting officers of departments ensure that they establish cost-effective procurement and provisioning systems.<sup>774</sup>

## Findings

### Health Care Spending in the Eastern Cape 2000-2004<sup>775</sup>

Financial-year	Total Budget (R' 000)	Actual Expenditure (R' 000)	Variance:(over) / under expenditure (R' 000)	Percentage of (over) / under expenditure ('000)
2000/01	3 702 315	3 789 628	(87 313)	(2.36%)
2001/02	4 221 365	3 892 453	328 912	7.79%
2002/03	4 560 926	4 493 242	67 684	1.48%
2003/04	5 111 784	5 243 012	(131 228)	(2.57%)
<b>Total</b>	<b>17 596 390</b>	<b>17 418 335</b>	<b>178 055</b>	<b>1.01 %</b>

The above table represents the annual budget allocation versus total expenditure by the Department of Health in the period between 2000 and 2004. The effect of poor expenditure can be witnessed, as per the above table, in the routine over or under spending of the Department. However, it should be noted that the tendency toward under and over expenditure is not adequately represented in this table as this is witnessed primarily in the Department's programmes and sub-programmes.

Since 2000, the Department was found to have routinely incurred significant over- and under-expenditure. In the 2000/01 financial year the Department overspent its budget by

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objectives. In addition, the regulations note that training needs should be assessed and all human resource planning should be undertaken with due cognizance of the available budget. See, Public Service Regulations, 2001, Section 3 D1, pp. 12-13. Lastly, section 38(b) of the PFMA states that accounting officers are responsible for the 'effective, efficient, economical and transparent use of the resources of the department.' This clearly presupposes that departments will implement efficient and effective human resource management processes and procedures.

<sup>773</sup> Resolution 13 of the Public Service Coordinating Bargaining Council, 1998, states that all senior management within the public service must sign performance agreements. See, Public Service Coordinating Bargaining Council Resolution 13 Senior Management (Performance Agreements), 1998, section 3. The Public Service Regulations of 2001 require that performance management systems should have been 'fully implemented by all departments with effect from 1 April 2001.' See, Public Service Regulations, 2001, part VIII, B.1, p. 28. Section 38(1)(b) of the PFMA requires that accounting officers ensure the 'effective, efficient, economical and transparent use of the resources of the department.'

<sup>774</sup> Public Finance Management Act, 1999, section 38(1)(a)(iii), p. 23. The PSAM's references to procurement issues are drawn from Auditor-General and audit committee reports.

<sup>775</sup> The figures contained in the table were obtained from the following: Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Income Statement, P, 20, Eastern Cape Department of Health, Annual Report 2001/2002, Appropriation Statement, p. 83; Eastern Cape Department of Health, Annual Report 2002/2003, Appropriation Statement, p. 179; Eastern Cape Department of Health, Annual Report 2003/2004, Part E: Appropriation Statement, p. 185.

R87.31 million. It then under spent its budget for the following two financial years. For the year 2001/02 it underspent its budget by R328.91 million, or 7.9 percent, for 2002/03, it under spent by R67.68 million or 1.48 percent. Despite obtaining a budget increase of 12 percent to over R5.1 billion in 2003/04, it overspent its budget by R131.23 million, or 2.57 percent.<sup>776</sup> The overexpenditure in the 2003/04 financial year (which was reported as unauthorised expenditure by the Auditor-General<sup>777</sup>) was the cumulative result of:

- overspending on programmes in the previous financial-year (2002/03),
- fruitless and wasteful expenditure, and
- the overspending by Programmes 2 and 4 in the current financial-year.<sup>778</sup>

Furthermore, between 2000 and 2004 the Department failed to properly account for 74 percent, or R13.03 billion, of its R17.59 billion budget allocation. This amount was issued with audit 'disclaimers' by the Auditor-General for the 2000/01, 2001/02 and 2003/04 financial years.<sup>779</sup> This spending pattern is attributable to the Department's failure to undertake rigorous strategic planning, to utilise a zero-based budgeting approach, its inability to attract and retain staff, to maintain an adequate human resource management system and to undertake in-year monitoring of expenditure.

## Human Resource Management

In order for the Department to fulfil its mandate, it requires a full staff complement and a performance management system to monitor the performance of its personnel versus its personnel expenditure. However, between 2000/01 and 2003/04, the Auditor-General has repeatedly drawn attention to the poor state of the Department's human resource management system.

For example, the Eastern Cape Department of Health strategic plan for the 2003/04 financial year states that the Department had implemented a mere 10 percent of its performance management system in the 2001/02 financial year.<sup>780</sup> However, the Department states in the 2001/02 Annual Report that one of its 'proposed new activities' for the 2002/03 financial year will be the 'introduction of (sic) performance management system at all levels in department'.<sup>781</sup> This implies that the Department did not have a functioning performance management system in place in the 2001/02 financial year.

<sup>776</sup> Eastern Cape Department of Health, Annual Report 2003/2004, Part E: Appropriation Statement, p. 185.

<sup>777</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's report, section 5.1.4, p. 174.

<sup>778</sup> Ibid, Part E, Management Report, p. 162.

<sup>779</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Report of the Auditor-General, section 2.3.2, p. 15; Eastern Cape Department of Health, Annual Report 2001/2002, Report of the Auditor-General, section 4, p.61; Eastern Cape Department of Health, Annual Report 2002/2003, Report of the Auditor-General, section 4, p. 167; Eastern Cape Department of Health, Annual Report 2003/2004, Report of the Auditor-General, section 4, p. 173.

<sup>780</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, part B, programme 1, p. 35.

<sup>781</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Management Report, section 7.1.1, p. 56.

Despite this, the 2003/04 strategic plan set a target to introduce the remaining 90 percent of the Department's performance management system by the end of the 2002/03 financial year.<sup>782</sup> However, the presentation of implementation figures in this fashion is meaningless given that the Department fails to explain the extent of its performance management system (whether this covers senior management only, or all employees) or quantify these percentages (what does '10 percent complete' translate into in terms of staff numbers?). The Department's 2002/03 annual report notes that all senior managers (that is those over grade 12, or 72 posts out of a total staff complement of 28 585) had completed performance agreements.<sup>783</sup> This is, of course, substantially less than 90 percent. Despite this, in the 2003/04 Annual Report, the Department claims that 100 percent of its implementing a 'performance management system was 'completed to meet deadline of the OTP (Office of the Premier)' in the 2002/03 financial year.<sup>784</sup>

In terms of its performance management system, the Department claims that 95 percent of training occurred at 'all levels of the province'.<sup>785</sup> Once again, the presentation of the Department's implementation figures of its performance management system for the 2003/04 financial year is meaningless. This is because, it is not clear what '95 percent of training' means in relation to the establishment of a performance management system. In the absence of a functioning performance management system, it is unlikely that the Department will be able to place itself in a position to ensure that its staff work effectively and efficiently.

In addition to its poor performance management system, over the past four years, the Auditor-General has identified serious systemic problems with the Department's management of PERSAL<sup>786</sup> and other matters relating to personnel. These problems have related to, among other things, organisational structure, leave records, overtime allowances and the general maintenance of PERSAL. However, the Auditor-General's year-on-year criticism of the Department's mismanagement of human resources suggests that the recommendations made by the Auditor-General to the Department have consistently been disregarded by the Department.

In the Auditor-General's report on the financial statements for the year ended 31 March 2000 (which included a multi-disciplinary audit of the salary bill), the Auditor-General pointed out that relevant control measures should have been implemented to ensure the data on PERSAL was complete, accurate and valid. He also stated that the actual salary expenditure should have been disclosed in terms of the relevant Treasury Instructions and managed effectively, efficiently and economically.<sup>787</sup> The primary objective of the audit of the salary bill was to evaluate measures to promote effective management in terms of planning, budgeting, authorisation, control and evaluation of procurement, and

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<sup>782</sup> Eastern Cape Department of Health, Strategic Plan, 2003/2004, part B, programme 1, p. 35.

<sup>783</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Management Report, section 1.1.2, p. 149 and table 3.2, p. 106.

<sup>784</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, part B, programme 1 table 8, p. 43.

<sup>785</sup> Ibid.

<sup>786</sup> The administration of the Department's salary bill is carried out on a computer database called PERSAL (Personnel and Salary Administration System).

<sup>787</sup> Report of the Auditor-General on the Financial Statements of Vote 3 – Health (Including A Multi-Disciplinary Audit of the Salary Bill) of the Eastern Cape Provincial Administration) for the Year Ended 31 March 2000, PR 112/2001, section 4.3, p. 10.

utilisation of human resources, as well as to provide the provincial Legislature and management with information on shortcomings in management measures and the effects thereof.<sup>788</sup>

Among other things, the report identified the following problems:<sup>789</sup>

- An evaluation of the returned payrolls of some regions revealed that the whereabouts of staff members who had been transferred or whose services had been terminated, as indicated by the pay points on the payrolls, were unknown. The Department had taken no steps to identify these staff members, to stop salaries if necessary, or to upgrade PERSAL.<sup>790</sup>
- Comparison of PERSAL data with data of deceased persons revealed that in many cases staff members who had died were still being paid or had continued to be paid for some time after their death. In some cases, where the salaries of deceased staff members had been cancelled, they were reinstated after a few months.<sup>791</sup>
- Some staff members continued to be paid after absconding.<sup>792</sup>
- Many staff members over the age of 65 continued to be employed by the Department. In fact, salary payments to 240 staff members who had reached retirement age as far back as 1978 (i.e. were 86 years or older), were still being paid by the Department. This alone was costing the Department R10.9 million a year.<sup>793</sup>
- The Department did not timeously effect demotions and recover salary overpayments from staff members whose promotions had been found to be irregular by the White Commission.<sup>794</sup>
- The Department often failed to recover money owed to it by staff members.<sup>795</sup>
- There were several cases of staff members receiving salary payments from departments in different provincial administrations.<sup>796</sup>
- No accurate or complete records of leave credits existed from the Umtata, Queenstown and Kokstad regions, and hundreds of leave forms dating back to 1996 had not been captured on PERSAL.<sup>797</sup>

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<sup>788</sup> Ibid, section 4.1, p. 9

<sup>789</sup> Ibid, section 4.5, pp. 11-16.

<sup>790</sup> Ibid, section 4.5.1, p. 11.

<sup>791</sup> Ibid, section 4.5.2 (a) to (d), pp.11-12

<sup>792</sup> Ibid, section 4.5.3, p. 12.

<sup>793</sup> Ibid, section 4.5.4, p. 12.

<sup>794</sup> Ibid, section 4.5.5 (a) to (b), p. 13. The White Commission, under the chairmanship of Judge Colin White, was established in February 1995 specifically to investigate all the promotions of personnel alleged to have been irregular between 27 April 1993 and September 1994.

<sup>795</sup> Ibid, section 4.5.6, p. 13.

<sup>796</sup> Ibid, section 4.5.8, p. 14.

<sup>797</sup> Ibid, section 4.5.9, (a) to (b), pp.14-15.

- There were late payments of pension benefits and voluntary severance packages.<sup>798</sup>

Although no multi-disciplinary audit of the salary bill was undertaken for purposes of the Auditor-General's report for the year ending March 2001, the Auditor-General made many of the same findings:

- Personnel expenditure of R2.39 billion contained in the financial statements of the Department could not be fully substantiated, as the province had "not performed reconciliation between the PERSAL data and personnel expenditure as reflected in the FMS."<sup>799</sup>
- Controls of personnel records were found to be inadequate in a number of instances, particularly with regard to leave records. It was also found that personnel files were not regularly updated, leave gratuity payments were not made timeously, employees over the age of 65 were still in the employ of the Department, and overtime and working agreements were not formulated and adopted as required by Public Service Regulations.<sup>800</sup>

The situation seemed no better in 2001/2002. With regard to personnel issues, the Auditor-General observed non-compliance with a host of laws and regulations with regard to the management of personnel. The Auditor-General recorded breaches of Public Service Regulations (2001), the Basic Conditions of Employment Act (1997), Public Service Co-ordinating Bargaining Council Resolutions, the Public Service Act (1994), Public Service and Administration Resolution 7 of 2000 and Public Service and Administration Circulars.<sup>801</sup>

The Auditor-General also noted that there were insufficient internal controls in place in regard to:

- The timeous capturing of leave forms
- Overtime
- Performance contracts
- The payment of salaries
- Salary deductions
- Payrolls
- Personnel files.<sup>802</sup>

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<sup>798</sup> Ibid, section 4.5.12, p. 16.

<sup>799</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.1.3, p. 9.

<sup>800</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.2.3, pp. 12-13.

<sup>801</sup> Department of Health Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's report, section 5.2. (a) (i) –(iv), p. 62.

<sup>802</sup> Ibid, section 5.2, (a) (i) to ii), p. 62.



Once again, the Auditor-General identified employees who were being paid salaries after they had left the Department's employ. In this regard he noted that 'Recoverability of these amounts is doubtful.'<sup>803</sup>

In addition, he again noted that the actual personnel expenditure recorded by PERSAL was not reconciled on a monthly basis. He also noted that an un-reconciled difference of R1 159 334 between the personnel expenditure recorded on the income statement and that recorded on PERSAL.<sup>804</sup>

In his report on the Department's financial statements for the year ending March 2003, the Auditor-General made a special note of the Department's failure to address these long-existing deficiencies. He identified almost identical internal control weaknesses noted in previous years, including those relating to the PERSAL system which prompted him to comment, 'Audit findings revealed that actions to address these deficiencies have either not been planned or adequately maintained... I regard these weaknesses as a serious shortcoming as it hampers the effective management of the Department. It is imperative that management addresses the shortcomings reported to them.'<sup>805</sup>

Late in 2002, in the wake of consistent reports of failed service delivery and corruption within the Eastern Cape, President Thabo Mbeki deployed the Interim Management Team (IMT) to deal with chronic administrative and management problems being experienced in the province. The IMT was specifically mandated to tackle challenges of service delivery, back office support and poor discipline and lack of ethics.<sup>806</sup> In 2003 the IMT reported that most of the human resource management policies in the Department of Health 'did not take into consideration the service delivery needs of the Department and resulted in ineffective human resource practices.'<sup>807</sup> The report also revealed a high number of vacancies, poor financial management and managers who failed to maintain discipline and appropriate performance levels.<sup>808</sup> Despite the IMT and the Auditor-General having pointed out weaknesses in the Department's human resource management system, the Auditor-General in 2003/04 again reported the following weaknesses:

- According to the Auditor-General, 'Personnel and leave records were found to be unsatisfactory,' as errors within the PERSAL system indicated "that sufficient measures were not taken to ensure that the Personnel and Salary System and related leave entitlement liability was accurate.'<sup>809</sup> In the absence of reliable leave records it was impossible for the Auditor-General to verify the R99.99 million spent on leave entitlement.
- The Auditor-General found that contracts for sessional doctors appeared to be inconsistently concluded among the hospitals, with some contracts negotiating a

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<sup>803</sup> Ibid, section 5.2. (iv), p. 62.

<sup>804</sup> Ibid, section 5.3, p. 63-64.

<sup>805</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.7 (a), p. 170.

<sup>806</sup> Allan, C et al, *The Crisis of Public Health Care in the Eastern Cape: The post-apartheid challenges of oversight and accountability*, compass, 2004, p. 83.

<sup>807</sup> Interim Management Report, November 2002 - March 2004, section 8.2.3, p. 92.

<sup>808</sup> Ibid.

<sup>809</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's report, section 3.3, p. 172.

rate per session and others based on a flat fee. The Auditor-General observed that the structure of the contracts 'did not appear to be the most effective in relation to the nature of work performed by these doctors.' According to the Auditor-General, this resulted in hospitals being unable to record the number of hours worked by sessional doctors.<sup>810</sup>

- Again, the Auditor-General noted that the Department had failed to maintain effective and efficient and transparent systems of financial and internal control over the management of the Department's personnel.<sup>811</sup>

It is not possible to quantify how staff morale and the retention of staff was effected by this persistent mismanagement of the staff payroll. However, there can be little doubt that the late payment of salaries, the failure to pay notch increments, the failure to pay leave entitlements, the late payment of pensions and the inability to ensure that promotions are processed timeously contributed to the staffing crisis that the Department continues to face. In the 2003/04 financial year the Auditor-General observed that the high vacancy rate within institutions 'may result in current staff being overworked and effective service delivery being hampered'.<sup>812</sup>

### **Staffing Shortages**

The problem of staff shortages, especially at the management level, has plagued the provincial Department of Health throughout the period under review. This problem has been attributed to a number of factors; uncompetitive wages; the rural nature of much of the province; the poor state of the public health service within the province more generally; and the poaching of medical staff by overseas health services (as well as other provincial health Departments within South Africa). Whatever the reason for this shortage, the Intergovernmental Fiscal Review for 2003 noted that the Eastern Cape Health Department had the second lowest staff to population ratio in the country. In the 2003/2004 financial year the Department employed 28,498 staff, a ratio of 4.4 staff for every thousand members of the population in the province. This compared unfavourably with a national average of 5.8.<sup>813</sup>

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<sup>810</sup> Ibid, section 5.2.5, p. 175.

<sup>811</sup> Ibid, section 5.2.6, p. 175.

<sup>812</sup> Ibid, section 5.2.10, p. 176.

<sup>813</sup> National Treasury, Intergovernmental Fiscal Review 2003, table 5.5, p. 79.

### Department of Health Personnel Expenditure between 2000 and 2004<sup>814</sup>

Financial-year	Total Budget (R' 000)	Actual Expenditure (R' 000)	Variance: (over) / under expenditure (R' 000)	Percentage of (over) / under expenditure ('000)
2000/01	2 271 634	2 385 313	(113 679)	(5.00%)
2001/02	2 492 335	2 429 383	62 952	2.53%
2002/03	2 469 282	2 490 865	(21 583)	(0.87%)
2003/04	2 846 960	2 815 673	31 287	1.09%
<b>Total</b>	<b>10 080 211</b>	<b>10 121 234</b>	<b>(41 023)</b>	<b>0.41%</b>

In March 2000, the HOD of the Eastern Cape Department of Health indicated in a newspaper interview that the Department needed to fill 16,649 posts.<sup>815</sup> The Department failed to indicate, in its 1999/2000 Annual Report, however what its vacancy rate was in the 1999/2000 financial year. By the end of the following financial year the Department reported a 34.6 percent vacancy rate with a 48.8 percent vacancy rate for critical posts.<sup>816</sup> Despite this high vacancy rate, the Department over spent its overall personnel budget of R2.39 billion by R114 million for the 2000/01 financial year.<sup>817</sup> At the end of 2002, the Department's overall vacancy rate had fallen to 22 percent. Disturbingly, however, the vacancy rate for critical posts had risen to 52 percent.<sup>818</sup> According to the Department, due to its inability to fill vacant posts, it failed to spend R62.95 million of its R2.49 billion personnel budget in the 2001/02 financial year.<sup>819</sup>

<sup>814</sup> The figures contained in the table were obtained from the following: Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Income Statement, p. 20; Eastern Cape Department of Health, Annual Report 2001/2002, Appropriation Statement, p. 83; Eastern Cape Department of Health, Annual Report 2002/2003, Appropriation Statement, p. 179; Eastern Cape Department of Health, Annual Report 2003/2004, Part E: Appropriation Statement, p. 186.

<sup>815</sup> 'EC needs R48.9m to upgrade health service,' Herald, 23 March 2000.

<sup>816</sup> Eastern Cape Department of Health, Annual Report 2000/2001, table 3.2, p. 11 and table 3.5, p. 13.

<sup>817</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Income Statement, p. 20.

<sup>818</sup> Eastern Cape Department of Health, Annual Report 2001/2002, table 2.2.2, p. 15 and table 2.2.4, p.16.

<sup>819</sup> Eastern Cape Department of Health, Annual Report 2001/2002, Appropriation Statement, pp. 83-84.

In 2003 the Department reported that the overall vacancy rate risen to 25.6 percent.<sup>820</sup> With regard to critical occupations, the Department gave a detailed breakdown of vacancy rates per occupation. The following were examples of acute shortages in critical professions:

<b>Critical Profession</b>	<b>Vacancy Rate</b>
Medical specialist	79 percent
Principal pharmacist	62 percent
Physiotherapist	100 percent <sup>821</sup>

According to a national Treasury review in 2003, the Eastern Cape led the country in shortages of critical professional occupations. It was reported that the medical specialist to patient ratio was 1:47 529 patients, the third highest ratio in the country. For professional nurses the ratio in 2003 was 1: 1278 patients, the highest ratio in the country. For pharmacists the ratio was 1: 53 662 patients, the highest ratio in the country, and finally for occupational therapists, it was 1: 554 507 patients, also the highest in the country.<sup>822</sup> Once again, despite the Department experiencing acute staff shortages it over spent its personnel budget by R22 million in the 2002/03 financial year without offering a clear explanation.<sup>823</sup> According to the Department, this over expenditure was the result of the Department filling critical posts, salary adjustments and costs associated with rank and leg promotions which had not been included in the Department's original budget.<sup>824</sup>

In his audit report for the 2003/04 financial year the Auditor-General noted that there were a 'vast number of vacant positions' in the Health Department.<sup>825</sup> The Auditor-General again warned that this 'may result in current staff being overworked and effective service delivery being hampered.'<sup>826</sup>

It is important to note that in 2002 the Public Service Co-ordinating Bargaining Council (PSCBC) passed a resolution instructing government departments to redeploy, retrain or find alternative employment for 'excess employees': i.e. employees not placed in defined posts within the Department.<sup>827</sup> In the 2000/01 financial year the Department reported that it had 9026 staff 'additional to [the] establishment'.<sup>828</sup> However, in the 2001/02 financial year the Department reported that it only had 94 staff 'additional to the establishment'.<sup>829</sup> At the end of the 2002/03 financial year, the Department reported that it did not have any

<sup>820</sup> Eastern Cape Department of Health, Annual Report, 2002/03, table 3.1, p. 106.

<sup>821</sup> Eastern Cape Department of Health, Annual Report 2002/2003, table 3.3, pp. 107-118.

<sup>822</sup> National Treasury, Intergovernmental Fiscal Review, 2003, table 5.6, p. 79

<sup>823</sup> Eastern Cape Department of Health, Annual Report 2002/2003, Appropriation Statement, p. 179

<sup>824</sup> Ibid, Notes to the Appropriation Statement, section 4.1.2, p. 187.

<sup>825</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, Part E section 5.2.10, p. 176.

<sup>826</sup> Ibid.

<sup>827</sup> See Public Service Co-ordinating Bargaining Council Resolution 7, 2002, section 5. The Resolution came into effect on 6 March 2002, and was to be implemented within a maximum of 15 months, section 3.

<sup>828</sup> Eastern Cape Department of Health, Annual Report for the year ending 31 March 2001, PR212/2001, table 3.2, pp.11-12.

<sup>829</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, table 2.2.2, p. 15.

excess employees.<sup>830</sup> According to the Auditor-General, a task team had been appointed to complete a list of the Department's excess staff in the 2003/04 financial year.<sup>831</sup> However, the Auditor-General noted that this list had not been completed by the time of the audit and warned that a 'delay in finalising such a list could result in the appointment of new employees when vacancies could have been filled from the excess staff'.<sup>832</sup> A year later the Department reported that it had 1856 'posts filled additional to the establishment'.<sup>833</sup> Of some concern, despite having 33 percent vacancy rate<sup>834</sup>, the Department still spent R2.82 billion or, 98.9 percent of its R2.85 billion personnel budget in the 2003/04 financial year.<sup>835</sup> It is most likely that part of this expenditure was consumed as a direct result of the 1856 'excess employees' employed by the Department.

It is important that the Department has up-to-date information on its staff complement in order to establish baseline figures to determine its required budget for personnel. The Department's inability to keep track of vacant posts as well as its excess employees inevitably results in ineffective and inefficient expenditure on personnel. Furthermore, 'excess staff' act as a financial drain on the Department because their wages have to be paid despite their making no meaningful contribution to the efforts of the Department to meet its mandate.

The Department's inability to manage its human resources effectively resulted in it having to make extensive and costly use of consultants. In the 2002/03 financial year the Department spent between R4.07 million and R306.03 million on consultants in the year. The precise figure is uncertain as the Department reports a different figure for consultant spending in its annual report than that which appears in the consolidated budget statements for the Eastern Cape Provincial Government, 2005/06.<sup>836</sup> In 2003/04 the Department declared in its annual report that it spent R337.27 million on consultants, while the Treasury provided a figure of R83.82 million.<sup>837</sup> It is interesting to note that over the same period (2002/03 and 2003/04) the Department spent a mere R23.94 million and R25.19 million respectively on training, according to consolidated provincial budget statements.<sup>838</sup>

Staff shortages within the Department, particularly in senior management positions have clearly contributed to weak internal controls a lack of monitoring and supervision, weak financial management, poor reporting and have exacerbated the Department's poor record of service delivery. Between 2000 and 2004, the Auditor-General has repeatedly

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<sup>830</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, table 3.1, p.107.

<sup>831</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.7 (a) (viii), p. 170.

<sup>832</sup> Ibid.

<sup>833</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Part C, Table 3.1, p. 105.

<sup>834</sup> Ibid.

<sup>835</sup> Eastern Cape Department of Health, Annual Report 2003/2004, Part E: Appropriation Statement, p. 186.

<sup>836</sup> See for example, Eastern Cape Department of Health, Annual Report, 2002/2003, Notes to the Annual Financial Statements, Note 8.1 and 8.2, p. 198 and Eastern Cape Provincial Government Budget Statement, PR NR:26/2005, Annexure B to Vote 3, table B.2.1, p. 190

<sup>837</sup> See for example, Eastern Cape Department of Health, Annual Report, 2003/2004, Notes to the Annual Financial Statements, Note 9.1 and 9.2, p. 206. and Eastern Cape Provincial Government Budget Statement, PR NR:26/2005, Annexure B to Vote 3, table B.2.1, p. 190

<sup>838</sup> Eastern Cape Provincial Government Budget Statement, PR NR:26/2005, table 7.2, p.185.

drawn attention to the Department's weak management of its assets, infrastructure and maintenance expenditure, transfer of funds, and its lack of controls over its conditional grant expenditure and procurement and payment procedures.

## **Asset Management**

According to Section 38 (1) (d) of the PFMA and Treasury Regulation 10.1.2 the Department's accounting officer is responsible for the management and safeguarding of assets. Since 2000 the Auditor-General has repeatedly reported that the Department's controls over its assets have been inadequate given its inability to verify the existence, ownership and value of such assets.<sup>839</sup> Between 2001 and 2004, the Auditor-General consistently reported that the Department had failed to maintain a fixed asset register.<sup>840</sup> In 2000/01 the Auditor-General reported that 'stock cards were not adequately maintained' which resulted in the Department being unable to track the receipt or issue of its assets.<sup>841</sup> Two years later in the 2002/03 financial year the Auditor-General reported that 'there are inadequate controls in place to monitor the manual recording of the movement of stationary as stock cards are not used by the Department'.<sup>842</sup> In 2000 and again 2002 the Auditor-General reported that 'annual stock counts' were not taking place as required by Treasury Regulations.<sup>843</sup> In 2004 the Auditor-General reported, yet again, that the Department had 'not implemented policies for the ... control of state assets'.<sup>844</sup> One of the contributing factors as to why the Auditor-General could not express an opinion on the Department's annual financial statements in the 2003/04 financial year was the Department's failure to maintain adequate fixed asset registers.<sup>845</sup> The Auditor-General noted that the Department 'did not maintain adequate fixed asset registers for the assets of Umtata General Hospital and Nelson Mandela Academic Hospital; consequently fixed assets could not be positively identified'.<sup>846</sup> Even after alternative audit procedures were performed the Auditor-General could not find sufficient evidence on the existence of these Hospitals assets which were valued at R9.93 million.<sup>847</sup>

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<sup>839</sup> The Auditor-General also noted that 'certain of these deficiencies were reported in prior years. Eastern Cape Department of Health, Annual Report 2003/2004, Part E, Auditor-General's Report, section 5.2.6, p. 175.

<sup>840</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.2.5, p. 14, Eastern Cape Department of Health, Annual Report 2001/2002, Auditor-General's Report, section (d) (i), p. 63; Eastern Cape Department of Health, Annual Report 2002/2003, Auditor-General's Report, section (d) (i) p. 171.

<sup>841</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.2.5 (a), p. 14.

<sup>842</sup> Eastern Cape Department of Health, Annual Report 2002/2003, Auditor-General's Report, section (d) (v) p. 171.

<sup>843</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.2.5, (a), p. 14; Eastern Cape Department of Health, Annual Report 2001/2002, Auditor-General's Report, section (d) (i), p. 63.

<sup>844</sup> Eastern Cape Department of Health, Annual Report 2002/2003, Auditor-General's Report, section (d) (ii) p. 171.

<sup>845</sup> Eastern Cape Department of Health, Annual Report 2003/2004, Part E, Auditor-General's Report, section 3.4, p. 172.

<sup>846</sup> Ibid.

<sup>847</sup> Ibid.

In the 2003/04 Audit report, the Auditor-General noted that it was 'imperative that policies and procedures are developed and implemented as soon as possible to address these weaknesses'.<sup>848</sup> It should be noted that the failure on the part of the accounting officer to manage and exercise adequate control over assets, including the safeguarding and maintenance of those assets,<sup>849</sup> could constitute potential financial misconduct in terms of section 81 (a) of the PFMA. Despite this recommendation the Auditor-General was forced to make the finding in his 2004/05 audit that:

Adequate control was not exercised over assets and asset records are not always properly maintained. Audit work revealed that only limited fixed asset register monitoring by management is taking place, with the result that numerous fixed assets could not be physically verified. It was also discovered that fixed assets purchased by the head of office division of the Department for the transfer to various institutions were included in the head office asset register. It was therefore not possible to verify the existence of assets to the value of R370 669 000.<sup>850</sup>

It is of concern that despite the Auditor-General bringing to the Department's attention time and again its weak asset management, it appears that the Department has been either unable, or unwilling, to address this serious financial management weakness.

### **Infrastructural and Maintenance Expenditure**

It is self evident that in order for the Health Department to 'provide and ensure accessible, comprehensive integrated'<sup>851</sup> health services in the Eastern Cape it must ensure that it builds new health facilities, and upgrades and maintains its existing facilities. As a result, the Department of Health is required to report on its infrastructural and maintenance plans and projects. When reporting on the expenditure of infrastructural and maintenance funds, the Department must provide a detailed account of its major infrastructural and maintenance projects, the estimated budget of the individual projects, the status of those projects, the expected completion of those projects and the current expenditure on those projects. In the four financial years between 2000 and 2004, the Department of Health reported on its expenditure on infrastructural and maintenance funds in its Annual Reports. However, in these Annual Reports, the Department failed to provide a detailed and accurate account of what was achieved as a result of this expenditure. What follows is a detailed account of the Department's spending patterns on infrastructure and maintenance projects.

The table listed below indicates that there was a pattern of under spending in the Department's Health Facilities programme, which is responsible for the maintenance and construction of health facilities. In fact, it can be established that the Department

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<sup>848</sup> Eastern Cape Department of Health, Annual Report 2003/2004, Part E, Auditor-General's Report, section 5.2.6, p. 175.

<sup>849</sup> As required by section 38 91) (d) of the PFMA, Act 1 of 1999 as amended.

<sup>850</sup> Eastern Cape Department of Health, Annual Report, 2004/2005, Part E, Auditor-General's Report, p. 214.

<sup>851</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Part A, section 1.2., p. 3.

consistently failed to spend its budget allocation for this programme between 2000 and 2004.

#### Department of Health Infrastructure Spending between 2000 and 2004<sup>852</sup>

Financial-year	Total Budget (R' 000)	Actual Expenditure (R' 000)	Variance: (over) / under expenditure (R' 000)	Percentage of (over) / under expenditure ('000)
2000/01	226 348	151 190	75 158	33 %
2001/02	333 994	189 962	144 032	43 %
2002/03	398 623	303 218	95 405	23 %
2003/04	417 244	404 875	12 369	2 %
<b>Total</b>	<b>1 376 209</b>	<b>1 049 245</b>	<b>326 964</b>	<b>23 %</b>

The above table shows that the Eastern Cape Department of Health failed to spend an amount of R326.9 million or 23 percent of its R1.37 billion infrastructure budget between 2000 and 2004. This under spending translates into almost a quarter of the budget allocated for the maintenance and construction of hospitals, clinics and health centres in the province in this period. Significantly, this pattern of under spending occurred within a context of a steadily increasing budget allocation for the Department's infrastructure programme.

An analysis of the Department's Annual Reports for this period fails to provide a compelling account of why this under spending on infrastructure and maintenance occurred:

- In the 1999/2000 financial year the Department's R5 million under spending was attributed to the abandoning of projects by contractors, and the re-tendering of projects.<sup>853</sup> The underperformance of contractors was again cited to explain the Department's failure to spend R75 million in 2000/2001<sup>854</sup> and R144 million (or 43.7 percent) in 2001/2002.<sup>855</sup> In the 2001/2002 financial year, the Department attributed its underexpenditure to its slow payments process and the shutdown of the Provincial Tender Board.<sup>856</sup> By the Department's own admission, the failure

<sup>852</sup> The figures in the table are taken from: Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Notes to the Income Statement, p. 27.; Eastern Cape Department of Health, Annual Report, 2001/2002, Appropriation Statement, p. 83; Eastern Cape Department of Health, Annual Report, 2002/2003, Appropriation Statement, p. 179; Eastern Cape Department of Health, Annual Report, 2003/2004, Part E, Appropriation Statement, p. 185.

<sup>853</sup> Department of Health, Eastern Cape, Annual Report, 1999/2000, section 4, pp. 22-23.

<sup>854</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Notes to the Income Statement, section (2) p. 27.

<sup>855</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Appropriation Statement, p. 83

<sup>856</sup> Ibid, section 1.1, p. 84.



to pay contractors timeously exacerbated the situation and resulted, in certain instances, in contractors abandoning construction sites<sup>857</sup>.

- The reason advanced for the under expenditure of R95 million during the 2002/03 financial-year again included the poor performance of contractors. The Department's Annual Report claimed the maintenance budget was under spent because 'workmanship by the SMMEs at times was not up to the mark and had to be redone before final payment could be effected'. Other than this a 'lack of technical expertise' and an 'over-loaded' Department of Public Works were blamed for the Department's poor performance. The only specific 'problem' referred to in this report consisted of a cryptic reference to the: 'Inability to spend the funds by the rural areas due to public sector capacity'.<sup>858</sup>
- The Department improved spending on its infrastructural and maintenance funds in the 2003/04 financial year, only under spending by R12.37 million or 2.96 percent. However, the Department failed, in its Annual Report, to produce detailed and accurate reports to account for this underexpenditure. The Annual Report merely stated that R261.5 million or 63.6 percent of the total budget of R411.3 million for infrastructure was spent on rural development nodes.<sup>859</sup> However, there was no information relating to the amount budgeted for each project, their location, or whether they were completed during the 2003/04 financial year.<sup>860</sup>

On the whole, the Department blamed its spending problems on external parties. However, it is significant that the Department's strategic and operational plans during the above period consistently failed to include any provision for the monitoring of infrastructure development projects. In any event, the Department's recourse to blaming contractors for its own poor performance in managing its Health Facilities programme cannot be sustained. While poor performance on the part of contractors might well have hindered service delivery, it remains the responsibility of the Department to ensure contractors' compliance with their contractual terms in order to ensure that public health infrastructure remains up to standard.

Ultimately, the biggest obstacle to the effective management of Health infrastructure in the Eastern Cape was the Department's failure to properly quantify the extent of its maintenance and infrastructure development needs. Of particular concern, the Department in its 2000/01 Management report noted that the Department had not been spending sufficient funds on infrastructure and maintenance and warned that 'if not addressed soon ... these and other factors would place the Department under increased financial pressures'.<sup>861</sup> Despite this, in the Department's management report for the 2002/03 financial year, the Department made the disturbing acknowledgement that: 'huge infrastructure backlogs require extensive analysis and measurement of the

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<sup>857</sup> Eastern Cape Department of Health Annual Report, 2001/2002, Appropriation Statement, section 1.1, p. 84.

<sup>858</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, section 2, pp. 88 – 90.

<sup>859</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Part E, Appropriation Statement, section 8, p. 185.

<sup>860</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, section 5.9.2.3, pp. 92-93.

<sup>861</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Management Report, section (B) (iii), p. 27.

problem. This is a project on its own ... The services branches are supposed to identify the needs for infrastructure development but they lack capacity in this area'.<sup>862</sup> By 2004 the Department had still not addressed its maintenance and infrastructure development needs. In the 2003/04 Annual Report the Department noted that 'total developmental needs and backlogs exceeded the medium term budget allocation. A huge financial injection is required to make an observable impact'.<sup>863</sup>

The clear implication of this acknowledgement was that the Department had not conducted a recent analysis of infrastructure backlogs in the province. As a consequence the strategic objectives of its Health Facilities programme were not based on a properly thought out needs analysis and its budget allocations for this programme were, in all likelihood, purely speculative. The net effect of this continued state of poor planning on infrastructure development and maintenance by the Eastern Cape Department of Health, which necessarily gave rise to weak financial controls and under or overspending, was the steady deterioration of a number of hospitals and clinics in the province during the 2000 – 2004 period.

### **Transfer of funds to local government structure and external bodies**

The Department of Health transfers millions of rands to local government structures and external bodies annually. Between 2000 and 2004 the Department transferred a total of R2.3 billion to government structures and external bodies, which means that over the four years, 13 percent of the Department's R17.6 billion budget went towards funding external bodies.<sup>864</sup> For this reason it is critical that the Department maintains detailed and accurate reports to account for the transfer of these funds.<sup>865</sup> Yet, over the above period it is clear that the Department failed to produce detailed and accurate reports to account for its transfer of funds. This is confirmed by Auditor-General's reports which repeatedly note the Department's lack of proper financial record-keeping and reporting of transfer payments. A number of examples serve to illustrate this contention:

- According to the Department's Annual Report for the 2000/01 financial year it transferred a total of R619.7 million to various local government structures and NGOs/CBOs.<sup>866</sup> However, the Annual Report fails to provide a detailed list of the organisations that received funds, the amounts transferred and the amounts spent. Furthermore, the Report fails to indicate the intended purpose and outcome of the transfers, nor does it supply the names of those NGOs responsible for service delivery. In the audit of the 2000/01 financial year, the Auditor-General criticised the Department's failure to comply with legislative

<sup>862</sup> Eastern Cape Department of Health Annual Report, 2002/2003, Management Report, section 3.10, p. 160.

<sup>863</sup> Eastern Cape Department of Health Annual Report, 2003/2004, section 5.9.2.3, p. 92.

<sup>864</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Income Statement, p. 29; Eastern Cape Department of Health, Annual Report 2001/2002, Appropriation Statement, p. 72; Eastern Cape Department of Health, Annual Report 2002/2003, Appropriation Statement, p. 199; Eastern Cape Department of Health, Annual Report 2003/2004, Part E: Appropriation Statement, p. 189.

<sup>865</sup> National Treasury Regulation 8.4 and section 38 (1) (i) (j) and (k) of the Public Finance Management Act, 1 of 1999 as amended which stipulates what control measures should be in place.

<sup>866</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Income Statement, p., 29.

requirements when transferring monies to outside bodies. The Auditor-General stated that 'particulars of all transfer payments per organisation' had not been included in the notes to the income statement as required.<sup>867</sup> In addition, the Department failed to request or ensure that it received audited statements from the institutions (including NGOs/CBOs and municipalities) to which it had transferred monies.<sup>868</sup> Consequently, it was not able to determine whether these monies had been used as intended.

- The 2001/02 Annual Report provides a list of the names of organizations it transferred monies to, and also includes the amount transferred.<sup>869</sup> However, it fails to list details of the purpose of these transfers or their outcomes in terms of services delivered. Even though the Department transferred a total of R502.17 million to external bodies the Auditor-General found that it had failed to request and ensure the receipt of annual audited financial statements from the various institutions it transferred monies to during the 2001/02 financial year.<sup>870</sup> As a result, the Auditor-General concluded that the Department was not in a position to 'determine whether or not the monies transferred were used by the various institutions as intended'.<sup>871</sup>
- In the 2002/03 financial year, the Auditor-General found that the Department, for the third year running, had failed to request the necessary financial documentation from the various institutions that it transferred monies to.<sup>872</sup> Although the Department provided a statement of the transfers it made to public entities and institutions in its Annual Report it, again, failed to provide information on the intended purpose and outcome of the transfers.<sup>873</sup> It also failed to provide any information on why recipient institutions were chosen and how transferred funds were utilised during the financial year.<sup>874</sup>
- In the 2003/04 financial year the Department transferred R735.6 million to local government institutions and external bodies.<sup>875</sup> According to the Department it transferred R369.9 million to 'public entities and institutions',<sup>876</sup> and R365.6 million in 'other transfers'.<sup>877</sup> The Department's Annual Report provided a list of

<sup>867</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.1.4 (e), p. 10.

<sup>868</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.24 (a) and (b), p. 13.

<sup>869</sup> Eastern Cape Department of Health, Annual Report, 2001/2001, Section 6, p. 33.

<sup>870</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Appropriation Statement, p. 72.

<sup>871</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's Report, section 5.2 (e) (i), p. 63.

<sup>872</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.7. (c), p. 171.

<sup>873</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Appropriation Statement, Annexure 1C, p. 208.

<sup>874</sup> Ibid.

<sup>875</sup> Eastern Cape Department of Health, Annual Report 2003/2004, Part E, Notes to the Annual Financial Statements, note 10, p. 207.

<sup>876</sup> Ibid.

<sup>877</sup> Ibid.

the organisations to which transfers were made, the amounts transferred and the amounts spent. However, as in previous years, the Department failed to indicate the intended purpose and outcome of the transfers.<sup>878</sup> Of some concern, the Department indicated that Service Level Agreements 'were not in place'.<sup>879</sup> In other words, it would appear that the Department had not drawn up a list of conditions including measurable objectives, unit costs, and time-frames to be met by the local authorities or other transfer recipients. Furthermore, the Auditor-General's audit findings revealed that the Department had failed to maintain effective and efficient and transparent systems of financial and internal control in respect of transfer payments.<sup>880</sup>

It is evident from the above analysis that as a result of its lack of proper financial record-keeping it is impossible to establish whether or not monies transferred by the Department to local government structures and external bodies constituted value for taxpayer's money or translated into effective and efficient public health services.

### **Conditional Grant Expenditure**

The Eastern Cape Department of Health received a range of conditional grants from the National Department of Health between 2000 and 2004 which were ring-fenced to address specific health programmes in the province. These included hospital rehabilitation, professional training, HIV/AIDS programmes, and the integrated nutritional (or child feeding) scheme. The allocation of these grants for each financial year was set out in the Division of Revenue Act (DORA), which is tabled annually along with the national budget in February. Despite the stringent conditions attached to their use, including the possibility of withdrawal, there is evidence of non-compliance with these conditions resulting in the significant under spending and mismanagement of these grants during the four year period. In spite of the rigorous reporting requirements attached to these reports between 2000 and 2004, the Department generally failed to provide detailed and accurate reports to account for all its conditional grant expenditure. A number of examples drawn from the Department's Annual Report serve to illustrate the Department's inadequate reporting on conditional grants.

- During the 2000/01 financial year the Department received R413.24 million in conditional grants. The Department reported that all the grants under its administration were fully spent during this year.<sup>881</sup> The Department did not provide any further explanation regarding the use of, or outcomes from, this conditional grant expenditure.
- During the 2001/2002 financial-year the Department under spent its conditional grant for its school nutrition programme by an amount of R36.22 million, or 27 percent. It blamed this under expenditure on a lack of sound financial and general administrative systems and a lack of human resources, resulting in the

<sup>878</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Part E, Annexure 1B, pp. 216-218 and Annexure 1C, p. 219.

<sup>879</sup> Ibid.

<sup>880</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Part E, Auditor-General's Report, section 5.2.6, p. 175.

<sup>881</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Appropriation Statement, p. 22.

‘underfeeding’ of school children.<sup>882</sup> In addition, the Department failed to spend 65 percent or an amount of R5.38 million of its conditional grant of R8.281 million for its HIV/AIDS programmes. The explanation given for this under expenditure was the late transfer of the grant, its ‘improper loading’ onto the Department’s financial system, and delayed tendering for services earmarked for outsourcing.<sup>883</sup>

Overall, the Department under spent its total conditional grant allocation of R383.74 million for the 2001/02 financial year by an amount of R97.76 million, or 25.4 percent.<sup>884</sup> By contrast it claimed to have overspent its 2002/03 financial year allocation of R548.4 million by an amount of R30.72 million, or 5.6 percent.<sup>885</sup> However, the Department omitted to provide any explanation for this over expenditure. Moreover, three programs spent an amount of R10.45 million which had not even been allocated to them in terms of the DORA. These were: District Hospitals, Provincial Hospitals and Specialised Hospitals.<sup>886</sup> It is not clear why these programmes were not allocated conditional grants in the first instance, especially District Hospitals, given the critical functions performed under this programme.

- In the 2003/04 financial year the Department reported an improvement in its conditional grant expenditure. It spent R581.24 million, or 98.16 percent of its total Conditional Grant Allocation.<sup>887</sup> Despite this improvement, under- and over spending occurred within individual grants. For example, the Department under spent its Health Professionals Training and Development (HPTD) Grant by R11.34 million, or 14.19 percent. The HTPD Grant provides financial support to ensure that the Department can undertake health professional training and research in the province. The Department gave the following explanations for under spending on this grant: ‘Not all training fees have been paid. Not all transfer payments to Health Resource Centres were effected. Some service providers were not paid.’<sup>888</sup> It is concerning that the Department failed to spend the HPTD Grant in light of the need to train critical personnel in the Department as discussed above. If its vacancies are to be filled with skilled professionals, the Department must rigorously set about training professionals capable of filling those posts.

With regard to the Hospital Management and Quality Improvement Grant, for the 2003/04 financial year only R7.2 million or less than 50 percent of the Grant was spent. The Department gave the following explanation for its poor performance: ‘Not all service providers were paid.’<sup>889</sup> This explanation is inadequate given its failure to indicate why service providers were not paid. The late or non-payment

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<sup>882</sup> Department of Health, Eastern Cape, Annual Report, 2001/2002, Notes to the Annual Financial Statements, section 1, p. 75.

<sup>883</sup> Ibid.

<sup>884</sup> Ibid.

<sup>885</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Annexure’s to the Annual Financial Statements, Annexure 1A, p. 206.

<sup>886</sup> Ibid.

<sup>887</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Part E, Annexure’s to the Annual Financial Statements, Annexure 1A, p. 215.

<sup>888</sup> Ibid.

<sup>889</sup> Ibid.

of service providers negatively impacts on service delivery as they are either unable or unwilling to deliver services. Such delays cause delays in tendering processes as service providers inevitably become weary of tendering for contracts with the Department. Since the Department relies heavily on outsourcing in order to achieve its mandate, it must ensure that it delivers timeous payments to service providers. Moreover, the failure to pay creditors within thirty days from receipt of invoice constitutes a contravention of regulation 8.2.3 of the National Treasury Regulations, which state that departments must ensure the payment of suppliers within thirty days.<sup>890</sup> Finally, according to the Department, it failed to spend 11.8 percent, or R4.6 million, of its HIV/AIDS Health Grant, because not all service providers had been paid before the financial year end.

It provides little surprise, given the above, that the Auditor-General found that conditional grants received by the Department in terms of the Division of Revenue Act, 2003 (Act No. 7 of 2003) were not monitored adequately in terms of their measurable outputs.<sup>891</sup>

The examples above demonstrate that over the four-year period between 2000 and 2004 the Department failed to provide a detailed and accurate account of all its conditional grant spending. It is clear that the Department's failure to undertake a detailed needs analysis as part of its strategic planning processes has resulted in the inconsistent spending of Conditional Grants and has served to undermine its ability to meet its mandate.

### **Poor management of procurement and payment procedures**

Given the weak state of financial management within the Department, it is unsurprising that it had difficulty in complying with all procurement and payments procedures required by the relevant legislation. The Auditor-General listed the following instances of deficiencies in procurement and payment procedures that occurred over the four financial years from, 2000 to 2004:

#### **Transfer payments**

- Between 2000 and 2004, the Department failed to comply with proper payment procedures. For example, in terms of the PFMA a department must request and ensure the receipt of annual audited financial statements of all the institutions it supports and aids through transfer payments.<sup>892</sup> However, between 2000 and 2003, the Auditor-General noted that the Department had failed to request and ensure the receipt of audited financial statements of the various institutions that it transfers funds to. This resulted in the

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<sup>890</sup> Treasury Regulations, May 2002, Section 8.3.2.

<sup>891</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's report, section 5.2.2, p.175.

<sup>892</sup> See further in this regard, section 38 1 (i) and (j) of the Public Finance Management Act, 1 of 1999 and National Treasury Regulation 8.4.

Department not being unable to verify whether or not transfer monies were used as intended.<sup>893</sup>

- According to National Treasury Regulation 8.2.3, departments must ensure that they pay suppliers within thirty days of receipt of invoices. The Auditor-General has repeatedly criticised the Department for failing to pay suppliers timeously. For example, in the 2000/01 financial year the Department failed to account for R40 million in outstanding and unpaid creditors.<sup>894</sup> In the 2002/03 financial year, the Auditor-General once again reported that 'obligations must be settled within the prescribed or agreed period' in terms of section 38 (1) (f) of the PFMA and paragraph 8.2.3 of the National Treasury Regulations, observing that the Department had not always made payments within the prescribed thirty day period.<sup>895</sup> Once again in the 2003/04 financial year, the Auditor General criticised the Department for failing to make payments within the prescribed period.<sup>896</sup> As noted, a failure to adhere to proper procurement and payment procedures has an adverse effect on service delivery.

In addition, the Department failed on a number of occasions to comply with procurement procedures relating to the tender process.

### **Tender Processes**

- The Auditor-General noted in his 2001/02 audit report that the Department had failed to comply with Tender Regulations and not all information requests were submitted by the Department for audit purposes.<sup>897</sup>
- In his 2002/03 audit report the Auditor-General noted that the Department had failed to maintain a register for tender submissions and tender awards. As a result, there was 'uncertainty' as to whether tenders were invited for the supply of goods and services.<sup>898</sup>

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<sup>893</sup> For examples see, Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.2.4 (a) p. 13., Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's Report, section 5.2 (e) (i) p. 63, Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.7 (c) p. 171.

<sup>894</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.1.4 (f) p. 10.

<sup>895</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.7 (b) (v) p. 171.

<sup>896</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 5.2.3, p. 175.

<sup>897</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's Report, section 5.2. (g) (i) p. 63.

<sup>898</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.7 (e) (i), p. 171.

- In the 2002/03 financial year, the Auditor-General noted that Tenders were approved after their validity expired.<sup>899</sup>
- In the Same year, he noted that the Department failed to maintain a complaints register consequently, complaints about tenders were not always responded to in the correct manner.<sup>900</sup>
- Similarly, in 2002/03 the Auditor-General noted that minutes of tender committee meetings and copies of tender adverts were not submitted for audit purposes.<sup>901</sup>

To maximise the utility of all available resources the PFMA states that it is the responsibility of an accounting officer to ensure that a department has an 'appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective'.<sup>902</sup> It is clear from the discussion above that between 2001 and 2003 the Department failed to ensure that it had an appropriate procurement and provisioning system, with resultant negative impacts on service delivery.

### **Unauthorised, Fruitless and Wasteful Expenditure**

Over the years, the Auditor-General has repeatedly remarked on serious deficiencies within the Department's internal control environments. In order to avoid monetary loss, it is critical that the Department exercises control over all of its expenditure. According to the PFMA, expenditure must only be incurred in accordance with the purpose approved by the Legislature in a vote, unless it is a direct charge or a transfer specified in DORA.<sup>903</sup> As a result, the PFMA specifically requires departments to exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure. If a department does incur unauthorised, irregular or fruitless and wasteful expenditure it is required to disclose the amounts involved in its Annual Report.<sup>904</sup> This section examines the Department's reporting of unauthorised, irregular, fruitless and wasteful expenditure between 2000 and 2004. Although, the Department reported on instances of unauthorised, irregular, fruitless and wasteful expenditure in its annual financial statements, it failed, over the four financial years under review, to provide detailed and accurate explanations for this expenditure.

- According to the Department's annual financial statements, in the 2000/01 financial year it did not incur any unauthorised, irregular and fruitless and wasteful expenditure.<sup>905</sup> Contrary to these financial statements, however, the Department's Management report states that the Department incurred R87.31 million in unauthorised expenditure<sup>906</sup> because it overspent its total budget by R87.31 million.<sup>907</sup> In addition, in this year, the Auditor-General criticised the

<sup>899</sup> Ibid, 4.2.7 (e) (iii), p. 171.

<sup>900</sup> Ibid, 4.2.7 (e) (iv), p. 171.

<sup>901</sup> Ibid, 4.2.7 (e) (vii), p. 172.

<sup>902</sup> Public Finance Management Act, 1999, section 38(1)(a)(iii), p. 23. The PSAM's references to procurement issues are drawn from Auditor-General and audit committee reports.

<sup>903</sup> Public Finance Management Act, 1999, section 40(1)(d) and 40(3)(b)(i), pp. 25-26.

<sup>904</sup> Public Finance Management Act, 1999, section 40(1)(d) and 40(3)(b)(i), pp. 25-26.

<sup>905</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Notes to the Balance Sheet, section 1, p. 35.

<sup>906</sup> Ibid, Management Report, section 2 (A), p. 2.

<sup>907</sup> The PFMA defines unauthorised expenditure as either overspending of a vote or a main division within a vote or a main division. According to the PFMA, irregular expenditure refers to



Department's failure to maintain effective, efficient and transparent systems of financial and risk management and control.<sup>908</sup> As a result, the Auditor-General notes a number of instances where the Department possibly incurred unauthorised, irregular, fruitless and wasteful expenditure. For example, the Auditor-General found that an amount of R33.58 million, earmarked for HIV/AIDS, was transferred by the Department to the Fort Hare Foundation. According to the Auditor-General, the Department failed to provide a 'reasonable' explanation as to the purpose of the transfer. This led the Auditor-General to conclude that this transfer appeared to be 'irregular'.<sup>909</sup> The Auditor-General also found that the Department had been paying certain employees after their employment had been terminated and that this should be 'considered as unauthorised expenditure'.<sup>910</sup> This raises questions as to the accuracy of the Department's reporting of unauthorised, irregular, fruitless and wasteful expenditure in the 2000/01 financial year.

- In the 2001/02 Annual Report, the notes to the annual financial statements reported that the Department had not incurred unauthorised expenditure in 2001/02 but had incurred R195 million of unauthorised expenditure in respect of previous years that had not yet been approved.<sup>911</sup> According to the Department this unauthorised expenditure was the result of 'overspending of the Vote' between 1998 and 2000.<sup>912</sup> The Department failed to accurately account for this expenditure merely stating that it was to do with the 'Paymaster General Account (Bank/current account)'.<sup>913</sup>

The Auditor-General again criticised the Department for failing to comply with the terms of the PFMA and DORA. The accounting officer, specifically, was criticised for failing to establish proper internal control measures. For example, the Auditor-General noted a lack of sufficient controls over salary payments and deductions, leave and overtime, over assets, including vehicles and equipment.<sup>914</sup> Of concern, the Auditor-General pointed out that the Department had failed to institute the necessary controls at pharmaceutical depots in the province. It was established that the province's two drug depots in Umtata and Port Elizabeth had failed since 1994 to submit their financial statements for auditing.<sup>915</sup> In total, in the 2001/02 financial year the Auditor-General identified no less than seven breaches of the PFMA in terms of sections 38 and 40, all of which, in terms of section 81 of the Act, could potentially constitute financial misconduct, if it were to be established that such conduct was wilful or negligent.

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expenditure, other than unauthorised expenditure, incurred in contravention or not in accordance with legislative requirements. Finally, fruitless and wasteful expenditure, according to the PFMA, is expenditure that could have been avoided had reasonable care been exercised. Public Finance Management Act, 1999, section 40(1)(d) and 40(3)(b)(i), pp. 25-26.

<sup>908</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 3.7, p. 17.

<sup>909</sup> Ibid, section 3.5, p. 16.

<sup>910</sup> Ibid, section 3.7, (n), p. 18.

<sup>911</sup> Ibid, Notes to the Annual Financial Statements, section 13, p. 78.

<sup>912</sup> Ibid

<sup>913</sup> Ibid, Notes to the Annual Financial Statements, section 15, p. 79.

<sup>914</sup> Ibid, Auditor-General's Report, pp. 61-66.

<sup>915</sup> Ibid, Auditor-General's Report, section 5.4, (ii), p. 64.

- In 2002/03 the Auditor-General noted that the Department made payments to the value of R2.8 million and R48 million without necessary Tender Board approval. The Auditor-General noted that this constituted irregular expenditure in terms of section 1 of the PFMA.<sup>916</sup> He also noted that the Department had failed to report irregular expenditure in its annual financial statements<sup>917</sup> as required by the PFMA.
- In the 2003/04 financial year the Department incurred R258.76 million worth of unauthorised, fruitless and wasteful expenditure.<sup>918</sup> Its explanations for this expenditure were inadequate. For example, while instances of fruitless and wasteful expenditure regarding interest payments were acknowledged, the Department simply stated that investigations were completed and the expenditure was 'not condoned'.<sup>919</sup> The Auditor-General, yet again, criticised the Department in the 2003/04 financial year for failing to exercise control over all of its expenditure.<sup>920</sup> The absence of internal controls and transparent systems of financial and risk management make it likely that the Department will incur unauthorised, irregular, fruitless and wasteful expenditure. For example, the Auditor-General criticised that Department for its failure to ensure that all revenue due was being monitored or collected.<sup>921</sup> As a result the Auditor-General could not determine if an amount of R9.54 million in respect of revenue from patient fees and nursing homes disclosed in the financial statements was 'complete'.<sup>922</sup> Of some concern, the Auditor-General noted that 'security measures at a number of institutions were inadequate which could result in theft' and/or the misappropriation of Departmental assets and medical supplies.<sup>923</sup> In terms of section 38 (1) (d) of the PFMA, the Department must ensure that it proper control systems exit for assets or that preventative measures are put in place to prevent or eliminate theft, losses, wastage or the misuse of assets. Failure on the part of the Department to do this could result in the Department incurring irregular and/or fruitless and wasteful expenditure.

What this section shows is that during the period between 2000 and 2004 the Department has been unable to implement proper control systems to prevent or eliminate theft, losses, wastage or the misuse of assets

## Recommendations

In light of the discussions above, the PSAM submits the following recommendations:

*The Department must take urgent steps to establish effective human resource management systems as well as performance evaluation systems. Oversight bodies*

<sup>916</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.4, p. 169.

<sup>917</sup> Ibid.

<sup>918</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Notes to the Annual Financial Statements, section 13, p. 207.

<sup>919</sup> Ibid, section 1.3.4, p. 208.

<sup>920</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 5.2.6 p. 175.

<sup>921</sup> Ibid, section 5.1.2, p. 173.

<sup>922</sup> Ibid.

<sup>923</sup> Ibid, section 5.2.11, p. 176.

*should closely monitor the effectiveness of the Department's human resource management systems, in particular its staff recruitment and retention 'incentive schemes', to ensure that these are effectively implemented.*

*The Department, in addressing its critical staff shortages, must pay special attention to the work environment within provincial public sector health institutions. It is unlikely that highly skilled administrative staff, doctors, pharmacists and nurses will be attracted to working in an environment associated with ongoing mismanagement, misconduct, ill discipline and impropriety, or one in which they cannot be guaranteed the payment of their salaries and bonuses on time. The Department should therefore address its human resource challenges by improving the working conditions offered to health professionals. For example, the Department should maintain adequate security for personnel working at departmental health facilities and ensure that hospital buildings are maintained to a standard favourable to the provision of adequate health services. In addition, the Department must ensure that it pays all salary, leave and bonus allocations timeously.*

*Between 1996 and 2004 the Department failed to properly account for 85.05 percent, or R25.56 billion, of its R30.06 billion budget allocation.<sup>924</sup> The Department needs to ensure that it develops detailed business plans in order to guide and track the expenditure of each of its programme and sub-programmes. By ensuring that each programme activity is measurable, properly costed and has a clear timeframe attached to it, programme managers will be able to produce monthly and quarterly financial and performance reports to monitor and account for the Department's expenditure.*

*The Department is required by public finance legislation to ensure that appropriate measures are in place to guarantee that grants and other transfer payments are used for their intended purpose as set out in DORA and the Department's business plans. The Department must comply with public finance legislation, and put in place effective monitoring, review and reporting mechanisms to ensure that scarce public funds are used for their intended purpose. For example, the Department must ensure that service level agreements, or alternatively, a list of conditions including measurable objectives, unit costs, and time-frames are put in place to be met by the local authorities or other transfer recipients. The Department should also report on the implementation and value of these agreements on an annual basis.*

*As a matter of urgency, the Department must embark on strategies to strengthen its internal control environment in order to prevent breaches of applicable legislation. The MEC for Health, the Eastern Cape Legislature Health Standing Committee, SCOPA and the provincial Treasury need to take steps to ensure that the provisions of the PFMA governing financial misconduct are implemented in order to prevent unauthorised, irregular and wasteful expenditure and/or losses being incurred by the Department. In addition, the Department must ensure that it provides a detailed and accurate account of*

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<sup>924</sup> These figures were calculated from the following: Intergovernmental Fiscal Review, 2001, PR219/2001, Eastern Cape Table C7; Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Income Statement, p. 20; Eastern Cape Department of Health, Annual Report 2001/2002, Appropriation Statement, p. 83; Eastern Cape Department of Health, Annual Report 2002/2003, Appropriation Statement, p. 179; Eastern Cape Department of Health, Annual Report 2003/2004, Part E: Appropriation Statement, p. 185.

*all instances of unauthorised, irregular and fruitless expenditure in the Department's Annual Reports.*

### **4.3. Internal Monitoring of Expenditure and Service Delivery**

#### **Summary**

*Since 2000 the Auditor-General has repeatedly criticised the Department for its failure to institute effective internal monitoring and reporting functions. Between 2000 and 2004 the Department failed to provide evidence of an effective internal audit function. In addition, the Auditor-General found no evidence between 2000 and 2004 of internal audit reports being issued to either the departmental management or to the Audit Committee. With regard to the Department's Audit Committee, the Auditor-General noted that between 2000 and 2004 the Department did not have a reliable and effective Audit Committee. In addition, the Department failed to comply with applicable legislation in its reporting on its annual financial statements and conditional grant expenditure. Poor monitoring and reporting by the Department on its expenditure and performance resulted in the Department failing to provide oversight bodies, and members of the public, with accurate information on the implementation of its programmes during the review period.*

The following analysis is based upon the Department's 2000/01 to 2003/2004 Annual Reports. It contains an analysis of the Department's compliance with internal monitoring and reporting requirements between 2000 and 2004.

#### **Regulatory Requirements**

##### Requirements

In terms of the legislative framework, the accounting officers of all government departments need to provide ongoing reports on their progress in implementing their strategic plans and their expenditure of budgeted funds to their executive authorities and relevant treasuries. This reporting system provides the basis for a monitoring framework which enables the department's internal audit unit to identify potential risks in the expenditure of funds and management of departmental resources.<sup>925</sup> This, in turn, allows the department's audit committee to advise departmental managers on the effective running of its programmes and activities.<sup>926</sup> In order to ensure that this system works effectively departments are required by legislation to produce monthly financial reports and quarterly performance reports. They are also required to produce comprehensive annual reports and reports on their use of conditional grants. The strictures contained in these various reporting requirements can be summarised as follows:

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<sup>925</sup> Public Finance Management Act, 1999, Section 38(1)(a)(ii). Internal audit units are required to have a three-year strategic plan and their objectives should be based on an assessment of key areas of risk for the Department concerned. See: Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 6 Corporate Management and Internal Controls, pp. 31-32.

<sup>926</sup> Ibid, pp. 32-34. The Audit Committee is required to ensure effective communication between a department's internal audit unit and its management. It should, *inter alia*, examine the performance of the internal audit unit, review the effectiveness of a department's internal controls, monitor management's response to identified weaknesses, evaluate the performance of management, and consider the quality of financial information produced by the department. See Treasury Regulations, 2001, Section 3.2.

### *Monthly Financial Reports*

The accounting officers of provincial departments should submit a report to their MEC within 15 days of the end of each month.<sup>927</sup> A copy should also be sent to the provincial treasury concerned. These monthly reports then form the basis of a statement of revenue and expenditure for the Revenue Fund for which the provincial treasury is responsible. This statement is then published in the Government Gazette on a quarterly basis.<sup>928</sup> All monthly reports should contain the following information:

- Actual revenue and expenditure (by programme)<sup>929</sup>
- Performance in implementing service delivery plans<sup>930</sup>
- Projections of revenue and expenditure until the end of the year<sup>931</sup>
- Information on the spending on conditional grants and the extent of compliance with the conditions imposed<sup>932</sup>

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<sup>927</sup> Section 40(4)(b) and (c) of the Public Finance Management Act, Act 1 of 1999 (as amended) requires monthly financial reports. This section must be read with the applicable Treasury Regulations. The following Treasury Regulations apply for the applicable periods: Treasury Regulation 18.2.1 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 covers the period 1 June 2000 to 9 April 2001. Regulation 18.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 18.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005.

<sup>928</sup> The National Treasury, Best Practice Guideline, on In Year Management, Monitoring and Reporting states that these monthly reports should be made public on a quarterly basis through publication in the Government Gazette. It reads 'The reports will focus attention on performance against budget *and* against service delivery plans, and will alert managers where remedial action is required. In addition, reports will be consolidated and published monthly for National Departments and quarterly for Provinces in the national Government Gazette, in line with international best practice.', Introduction, p.4, July 2000. Treasury Regulation 18.1.2 directs that: 'A provincial treasury must submit a statement to the National Treasury on actual revenue and expenditure with regard to its revenue fund before the 22nd day of each month in the format determined by the National Treasury. Such a statement must include a certificate to the effect that the information supplied has been verified by the head official of the provincial treasury. The information supplied must be based on information submitted to the provincial treasury by provincial accounting officers in terms of section 40(4)(c) of the Act'. Section 32(2) of the PFMA then determines that: 'After the end of a prescribed period, but at least quarterly, every provincial treasury must submit to the National Treasury a statement of revenue and expenditure with regard to the Revenue Fund for which that treasury is responsible, for publication in the national Government Gazette within 30 days after the end of each prescribed period.'

<sup>929</sup> Section 40(4)(b) and (c) of the Public Finance Management Act, Act 1 of 1999, read in conjunction with Treasury Regulation 18.2.1(a) of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 for the applicable period; alternatively Treasury Regulation 18.1.1 of Government Notice R.345 of Government Gazette 22219 of 9 April 2001 which directs that the accounting officer must also comply with the reporting requirements of the annual Division of Revenue Act; alternatively Treasury Regulation 18.1.1 of Government Notice R.740 of Government Gazette 23463 of 25 May 2002 which also requires that the accounting officer comply with the reporting requirements of the annual Division of Revenue Act.

<sup>930</sup> National Treasury, Best Practice Guideline, on In Year Management, Monitoring and Reporting, Introduction, p.4.

<sup>931</sup> Sect 40(4)(c)(ii) of the Public Finance Management Act, Act 1 of 1999 (as amended) as read with Treasury Regulation 18.2.1(b) of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 for the applicable period;

- Information on all transfers<sup>933</sup>
- An explanation of any material variances and a summary of steps that are taken to ensure that the projected expenditure and revenue remain within the budget<sup>934</sup>

#### *Quarterly Performance Reports*

Provincial departments should submit a report to their MEC within 15 days of the end of each quarter.<sup>935</sup> These reports should contain the following information:

- Performance against budget and service delivery programme, including programme specific performance indicators.<sup>936</sup>
- Quarterly financial information
- An explanation of underspending/overspending and proposed corrective actions<sup>937</sup>

#### *Annual Reports*

The Accounting Officer for provincial departments should submit an annual report to their MEC by 31 August each year. The MEC should table this report in the provincial Legislature by 31 August. The annual report should contain the following information:

- An account of the activities of the department for the year against the measurable objectives set out for each of the department's programmes<sup>938</sup>
- An account of the department's performance against predetermined objectives<sup>939</sup>

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<sup>932</sup> Division of Revenue Act, 2002, Section 16(1)(a) and (d). Section 16(1)(a) states that 'the relevant receiving officer must, in respect of an allocation transferred to - (a) a province, and as part of the report contemplated in section 40(4)(c) of the Public Finance Management Act, within 15 days after the end of each month, submit a report to the relevant provincial treasury, the relevant provincial executive authority and the transferring national officer.'

<sup>933</sup> National Treasury, Best Practice Guideline, In Year Management, Monitoring and Reporting, Monthly Reports, p. 9, July 2000.

<sup>934</sup> Public Finance Management Act, 1999, Sect 40(4)(c)(iii).

<sup>935</sup> See further in this regard: Regulation 5.3.1 and 5.3.2 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000, which cover the period 1 June 2000 to 9 April 2001. Regulation 5.3.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 5.3.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005. In addition, the Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 4 – Reporting and Accountability, at page 9 directs that departments must produce reports which can 'be used by managers to develop plans, evaluate alternative courses of action and, where necessary, institute corrective actions.'

<sup>936</sup> Ibid. See also the Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000. This Guide states that 'While the Act focuses on financial reporting, as financial data are leading indicators of performance, the accounting officer must also include non-financial indicators, which are produced quarterly. These non-financial indicators are often department or programme specific, and should be stipulated in the performance agreement between the accounting officer and executive authority, and endorsed by the portfolio committee in the relevant Legislature. The monthly monitoring reports will be consolidated and published in the National Government Gazette, in line with international best practice.' See Section 2 – Accountability Cycle, p. 7.

<sup>937</sup> Treasury Regulations, 2001, Sect 5 (3)(1).

<sup>938</sup> Public Finance Management Act, 1999, Sect 40(1)(d) in conjunction with Sect 27(4). Sect 5 (2)(3) of the Treasury Regulations, 2001, state that 'The strategic plan must form the basis for the annual reports of accounting officers as required by sections 40(1)(d) and (e) of the Act.'

- A copy of the departments audited financial statements<sup>940</sup>
- A copy of the Auditor-General's comments on these financial statements<sup>941</sup>
- A report by the department's Audit Committee<sup>942</sup>
- A report on misconduct and corrective action within the department<sup>943</sup>

#### *Reports on Conditional Grants*

The Accounting Officer for a provincial department that has received a conditional grant should submit a report to the provincial Treasury, the department's MEC, and the Director-General of the national department which transferred the grant, within 15 days of the end of each month. This report should contain the following information:

- The amount of the conditional grant
- Expenditure for the month (and until the end of the year)
- An account of the department's compliance with the conditions of the grant
- An account of problems encountered and steps taken to deal with these problems<sup>944</sup>

### **Findings**

#### **Internal Audit**

The Department's internal audit unit is responsible for identifying financial risks through its regular internal audits. It then refers these to the Department's Audit Committee which must report on these risks to management. This crucial internal monitoring function is necessary to ensure that risks are identified and addressed during the course of the financial-year to ensure the efficient use of public funds and to prevent unauthorised or wasteful expenditure or losses.

Since 2000 the Auditor-General repeatedly drew attention to the Department's failure to institute an effective internal audit function.<sup>945</sup> In the 2000/01 financial year the Auditor-General stated that 'no internal audit function was visible at the Department and no evidence could be found that internal audits reports were issued during the financial year under review...'.<sup>946</sup> In the 2001/02 financial year the Eastern Cape provincial administration created a Shared Internal Audit Unit that was administered by the Office of the Premier. Despite the establishment of this Shared Internal Audit Unit, the Auditor-General found no evidence that internal audit reports were issued to either the management of the Eastern Cape Department of Health or to its Audit Committee, during this financial year.<sup>947</sup> The Auditor-General concluded that 'in the absence of

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<sup>939</sup> Ibid, Sect 40(3)(a)

<sup>940</sup> Ibid, Sect 40(1)(d)(ii)

<sup>941</sup> Ibid, Sect 40(1)(d)(iii)

<sup>942</sup> Treasury Regulations, 2001, Sect 3.1.10.

<sup>943</sup> Public Finance Management Act, 1999, Sect 40 (3) (b)(i) and (ii)

<sup>944</sup> The specific conditions applying to the use of conditional grants vary from year to year. The above conditions are drawn from Sect 16.1 of the Division of Revenue Act, No.5, 2002.

<sup>945</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, Auditor-General's Report, section 3.1, p. 16. PR212/2001.

<sup>946</sup> Ibid.

<sup>947</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's Report, section 5.12, p. 66.

internal audit reports I placed no reliance on the work performed by them'.<sup>948</sup> In the 2002/03 financial year the Auditor-General again noted that although internal audit work was performed at the Department 'no internal reports were provided'.<sup>949</sup> Again in 2003/04 financial year, responsibility for internal auditing in the Department was shifted from the Shared Internal Audit Service of the Office of the Premier to a Consortium of two external audit firms. This Consortium, according to the Auditor-General, commenced work in September 2003. Despite this, the Auditor-General noted that no Audit Committee was in place for the majority of the financial year as required by section 38 (1) (a) (ii) of the PFMA, and was only inaugurated in March 2004, seven days before the end of the financial year. As a result, the Audit Committee was unable to review the internal audit reports or the monthly and quarterly in-year management reports.<sup>950</sup> The failure on the part of the Department to ensure a fully functioning and effective internal auditing function constitutes a breach of legislated internal reporting and monitoring requirements.

Departments are required in terms of the PFMA to produce detailed monthly and quarterly financial and performance reports to account for the department's in-year expenditure and performance in all programmes and sub-programmes.<sup>951</sup> These monthly and quarterly reports allow for the in-year monitoring and management of its resources.<sup>952</sup> It is therefore critical that the information contained in these reports is accurate, economically justified and relevant to a department's mandate. For the reports to have any value it is critical that they focus not only on performance against budget but performance against measurable service delivery indicators. This enables departments to reflect on their achievements and where necessary to institute timeous corrective action. Between 2000 and 2004, the Department failed to provide evidence of detailed and accurate monthly and quarterly financial and performance reports on its expenditure and performance.

It should be noted that the Department's Audit Committee is required by law to report on the quality of the Department's in-year monthly and quarterly expenditure reports and to ensure that the Department takes the necessary steps to create and/or maintain an effective control environment.<sup>953</sup> Yet, according to the Auditor-General, during the 2000/01 and 2001/02 financial years the Department failed to establish a reliable and effective Audit Committee and internal audit function.<sup>954</sup> As a result, it is impossible to determine whether or not the Department did in fact produce accurate in-year monthly

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<sup>948</sup> Ibid.

<sup>949</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.8 (c), p. 173.

<sup>950</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 5.2.8 and 5.2.9, p. 176.

<sup>951</sup> Departments must produce reports which can 'be used by managers to develop plans, evaluate alternative courses of action and, where necessary, institute corrective actions.' Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 4 – Reporting and Accountability, p. 19.

<sup>952</sup> Ibid, pp. 19-21.

<sup>953</sup> Public Finance Management Act, 1999, Section 38(1) (a) (ii) read with Treasury Regulation 3.1.

<sup>954</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's report, pp. 7-19, and Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's Report, section 3.1, p. 16.



and quarterly expenditure reports in this period. In the 2002/03 financial year a Shared Internal Audit Unit, administered by the Office of the Premier, found that the Department's reporting was inadequate.<sup>955</sup> It is important to note that this Audit Committee operated out of the Office of the Premier and was a shared service and not specific to the Department of Health.<sup>956</sup> The Committee did note that the Department had submitted in-year management and monthly reports in terms of the PFMA and DORA.<sup>957</sup> However, the Committee indicated that it was 'not satisfied with the content and quality of monthly and quarterly reports prepared and issued by the various accounting officers and their Departments.'<sup>958</sup> According to the Shared Audit Committee, the Department's in-year monthly and quarterly reports lacked 'adequate detail'.<sup>959</sup> Furthermore, the Committee found that 'managers do not take the submission of reports seriously' and noted that 'without ensuring the integrity, accuracy and integrity (sic) of these reports, the annual financial statements will be affected'.<sup>960</sup>

Of some concern, in the 2003/04 financial year Audit Committee report, the Committee stated that it had been 'informed' that the monthly and quarterly in-year management reports were compiled and submitted as required in terms of the legislation.<sup>961</sup> However, because the Audit Committee was inaugurated on the 24 March 2004, seven days before the end of the 2003/04 financial-year it was unable to review these reports and could therefore express no opinion with regard to the content, quality and timeliness of these reports.<sup>962</sup>

For the above reasons it is difficult to determine whether, during the period under review, the Department did in fact produce detailed and accurate monthly financial and quarterly performance reports to account for its expenditure on all programmes and sub-programmes. In light of the findings of the Audit Committee for the 2002/03 and 2003/04 financial years, it would appear that the Department failed to meet its legislated reporting requirements.

## Financial Statements

Since 1996 the Auditor-General has repeatedly drawn attention to deficiencies and errors in the Departments annual financial statements. At the end of the 1996/97 financial year, the Auditor-General stated that although the Department had submitted its financial statements for the year under review these were found to be 'incomplete and unreliable'.<sup>963</sup> The Auditor-General recommended that the Department prepare its

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<sup>955</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Report of the Audit Committee, section V, p. 146.

<sup>956</sup> Ibid.

<sup>957</sup> Ibid.

<sup>958</sup> Province of the Eastern Cape, Office of the Premier, Annual Report, 2002/2003, Report of the Audit Committee, p. 147.

<sup>959</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Report of the Audit Committee, section V, p. 146.

<sup>960</sup> Province of the Eastern Cape, Office of the Premier, Annual Report, 2002/2003, Report of the Audit Committee, p. 147.

<sup>961</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Report of the Audit Committee Part D, Report of the Audit Committee, p. 156.

<sup>962</sup> Ibid.

<sup>963</sup> Report of the Auditor-General on Vote-3 – Department of Health for the financial year ended 31 March 1997, PR 109/1999, section 2.2.1.1., p. 1.

financial statements 'within the prescribed period ... to comply with the relevant legislation'.<sup>964</sup> In the 1999/2000 financial year, the Auditor-General noted that the 'unsatisfactory quality and incompleteness of ... books and records ... not only impeded but also prolonged the audit, resulting in higher audit costs'.<sup>965</sup> Despite the Auditor-General's recommendations, the Department's financial statements for the 2000/01 financial year were again found to contain many 'deficiencies and errors'.<sup>966</sup> This was despite the Auditor-General offering the Department the opportunity to make changes to its financial statements.<sup>967</sup> Once again, in 2001/02 the Department failed to supply the Auditor-General with the necessary supporting documentation to enable the timeous audit of the Department's financial statements.<sup>968</sup> In the 2002/03 and 2003/04 financial years the Department had to re-submit its annual financial statements because the Auditor-General once again found that these statements were either inaccurate or incomplete.<sup>969</sup> On a more positive note, the Auditor-General noted in the 2003/04 report, however, that the Department had made the necessary changes 'in order to facilitate accountability'.<sup>970</sup>

### **Conditional Grants**

As we have seen, the Department has consistently failed to provide, in its Annual Reports, detailed information regarding its conditional grant expenditure.<sup>971</sup> In particular, the Auditor-General noted in the 2003/04 Annual Report that conditional grants received in terms of the Division of Revenue Act, 2003 (Act NO. 7 of 2003) were not monitored adequately in terms of the measurable outputs.<sup>972</sup> Since conditional grants are allocated to fund specific programmes within departments, it is imperative that departments closely monitor the use of the funds in terms of measurable outputs. These measurable outputs should be captured in business plans which departments must produce as a precondition to receiving the conditional grant. It is highly problematic that the Department failed to monitor deliverables with regard to the use of conditional grant funding. For example, the Division of Revenue Act for 2004 required departments to report on (and therefore monitor) conditional grant expenditure, use and compliance with conditions pertaining to conditional grants.<sup>973</sup> The Department must address the problem in order to ensure the effective and efficient use of conditional grants.

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<sup>964</sup> Ibid.

<sup>965</sup> Report of the Auditor-General on the Financial Statements of Vote 3 – Health (Including a Multi-Disciplinary Audit of the Salary Bill) of the Eastern Cape Provincial Administration for the year ended 31 March 2000, PR 112/2001, section 3.5, p. 8.

<sup>966</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.1.4, (a) to (n), pp. 9-10.

<sup>967</sup> Ibid.

<sup>968</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's Report, section 5.1, p. 61.

<sup>969</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.1, p. 168 and Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 5.2.1, p. 174.

<sup>970</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 5.2.1, p. 174.

<sup>971</sup> See further in this regard: section 4.2, Conditional Grant Expenditure' of the submission.

<sup>972</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's report, section 5.2.2, p.175.

<sup>973</sup> Division of Revenue Act, 31 March 2004, Section 16 (2) (d) and (e).

## Recommendations

In light of the discussions above, the PSAM submits the following recommendations:

*The Department's failure to report in accordance with legislative requirements must be addressed as a matter of urgency. The main purpose of an annual report is to provide the Department, oversight bodies, and members of the public with a complete picture of the Department's service delivery performance over a financial year. The Department's inadequate reporting within its annual reports, and annual financial statements, speaks not only of an inability to present an accurate picture of performance but also an apparent disregard for the PFMA and Treasury Regulations and Guidelines. The Department should ensure that the accounting officer collects and compiles the necessary information throughout the financial year to ensure accurate reporting.*

*The Standing Committee should ensure that the Department's Audit Committee functions effectively during the forthcoming years. The Department must reconsider the outsourcing of the internal audit function, in order to ensure that effective in-year monitoring takes place. In addition, the Audit Committee should carry out its oversight role and ensure that it receives all in-year reports from the Department's internal audit unit and programme managers.*

*The national Department of Health, provincial Treasury and the Standing Committee should take the necessary steps to ensure that the Department puts in place effective monitoring mechanisms to monitor and report back on the implementation of conditional grants in all instances.*

*Many of the problems highlighted by the Auditor-General are not only the result of poor planning and budgeting but also of the Department's continued failure to adequately monitor the delivery of its services. The Department must put in place effective mechanisms for monitoring the economy of its inputs relative to its desired service delivery outputs. It should also ensure it has the capacity to monitor the efficiency of its outputs against the targets set in the strategic plans for all service delivery programmes.*

## **4.4. Legislative Breaches And Financial Misconduct**

### **Summary**

*As already indicated, departments are required to fulfil their obligations to citizens in accordance with a multitude of regulations and peremptory pieces of legislation, with the Public Finance Management Act being arguably the most onerous statute in this regard.<sup>974</sup> The PFMA's object is to "secure transparency, accountability, and sound management of the revenue, expenditure, assets and liabilities of institutions" in order to:*

- modernise the system of financial management in the public sector,*
- enable public sector managers to manage, but at the same time be held more accountable;*
- ensure the timely provision of quality information; and*

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<sup>974</sup> The Public Finance Management Act, Act 1 of 1999, as amended from time to time.

- *eliminate the waste and corruption in the use of public assets.*<sup>975</sup>

*Despite these objectives, the information which is contained within this submission on the Eastern Cape Department of Health demonstrates a plethora of instances where there has been either an inability, ignorance of, or non-adherence to legislation such as the PFMA. The disclaimers and often repetitive conclusions made by the provincial Auditor-General serve to further emphasize the recurrent obstacles that continue to negatively affect service delivery by this Department.*

*The PFMA directs that certain action or inaction which falls short of the prescribed requirements is to be addressed by way of disciplinary action where necessary, and in some instances by way of criminal proceedings should the circumstances require.*<sup>976</sup> *Despite the lucid provisions of the PFMA and accompanying Treasury Regulations, there appears to be a dearth of disciplinary action flowing from overt contraventions of the aforesaid legislation by this Department, even when such contraventions are stated explicitly by the Auditor-General.*

## **Regulatory Requirements**

The PFMA states that an accounting officer for a government department commits an act of financial misconduct if she/he wilfully or negligently makes or permits unauthorized, irregular, fruitless or wasteful expenditure or if she/he fails to comply with one of the following provisions:<sup>977</sup>

- If she/he fails to ensure that her/his department has an efficient and effective system of financial and risk management and internal control,<sup>978</sup> a system of internal audit under the direction of an audit committee,<sup>979</sup> and an appropriate procurement and provisioning system.<sup>980</sup>
- If she/he fails to take effective steps to collect all money due to the department,<sup>981</sup> or to prevent unauthorized, irregular, fruitless or wasteful expenditure.<sup>982</sup>
- If she/he fails to take effective disciplinary steps against any departmental official who commits an act which undermines the financial management or internal control systems of the department or who makes or permits an unauthorized, irregular, or fruitless and wasteful expenditure.<sup>983</sup>
- If she/he fails to ensure that the provisions of DORA are complied with when transferring funds, or if she/he fails to ensure that entities outside of government

<sup>975</sup> Introduction to the PFMA, as obtained from the National Treasury website through the following link: <http://www.treasury.gov.za/legislation/acts/pfma/default.htm> . Accessed on 9 February 2006 at 15h10.

<sup>976</sup> For comprehensive details in this regard, the reader is respectfully referred to Chapter 10 of the PFMA, in particular sections 81 through to 86, as amended from time to time.

<sup>977</sup> Public Finance Management Act, 1999, section 81(1)(a) and (b). Section 86(1) states that the accounting officer's non compliance with one of the provisions listed in this section must be committed wilfully or 'in a grossly negligent way' in order to constitute a potential criminal offence.

<sup>978</sup> *ibid* section 38(1)(a)(i)

<sup>979</sup> *ibid* section 38(1)(a)(ii)

<sup>980</sup> *ibid* section 38(1)(a)(iii)

<sup>981</sup> *ibid* section 38(1)(c)(i)

<sup>982</sup> *ibid* section 38(1)(c)(ii)

<sup>983</sup> *ibid* section 38(1)(h)(i) and (ii)

- to whom it intends transferring funds have effective, efficient and transparent financial management and internal control systems.<sup>984</sup>
- If she/he fails to take effective steps to prevent overspending by the department or within one of its main programmes.<sup>985</sup>
  - If she/he fails to keep full and proper records of the financial affairs of the department or if she/he fails to submit all reports, returns, notices and other information to the provincial Legislature, her/his MEC, the provincial treasury or the Auditor-General.<sup>986</sup>
  - If her/his annual report and audited financial statements do not fairly present the state of affairs of the department, its financial results and its performance against its predetermined objectives or its financial position at the end of the financial year.<sup>987</sup>

## Finding

The table which appears below serves to illustrate breaches of the PFMA by the Eastern Cape Department of Health identified by the Auditor-General during the period between 2000 and 2004. This table does not represent an exhaustive list and we respectfully request that the Commission consider more thoroughly the conduct of the public servants concerned (as more fully documented in management letters, special forensic reports and other more detailed documentation which appears to fall outside the public domain) against the benchmark set by legislation such as the PFMA.

The table identifies in column 1, a conclusion made by the Provincial Auditor-General during the course of his audit of the Department. This conclusion is in most instances a direct quote from the applicable audit report. There are of course stylistic or grammatical variances in these conclusions when a comparison is made between various audit reports which draw the same conclusion, albeit stated somewhat differently. The following Auditor-General's conclusions assist in illustrating this variance, despite the words nevertheless having the same effect or import:

"The following remarks are indicative of serious deficiencies in the internal checking and control measures, with regard to the department's financially related activities. Furthermore, the possibility of monetary losses due to the lack of sound financial management cannot be excluded. In view of the foregoing, it must be emphasized that it is the Accounting Officer's responsibility in terms of section 38 of the PFMA, to ensure that the department has and maintains, effective, efficient and transparent systems of financial and risk management and internal control."<sup>988</sup>

<sup>984</sup> *ibid* section 38(1)(i) and (j)

<sup>985</sup> *ibid* section 39(2)(a)

<sup>986</sup> *ibid* section 40(1)(a) and (f)

<sup>987</sup> *ibid* section 40(3)(a)

<sup>988</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the

Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2001, as contained

in the Department of Welfare Annual Report for 2000/01, at page 54, paragraph 3.2.

Whilst in another audit report it is stated as follows<sup>989</sup>:

“The following remarks are indicative of serious deficiencies in the internal checking and control measures, with regard to the department’s financially related activities. Furthermore, the possibility of monetary loss due to the lack of sound financial management cannot be excluded. In view of the foregoing, it must be emphasized that it is the accounting officer’s responsibility **to protect its financial interests and indirectly the citizens interests, by watching over its finances with the utmost circumspection and within the provisions of the law:**”<sup>990</sup>

Where there are variations of a particular conclusion made by the Auditor-General, we have indicated as much in the corresponding footnote by using the abbreviation “WTTSE” which means “*words to that similar effect*”. Column 2 of the table notes the financial year in which the conclusion was made, whilst column 3 records the provincial department which was the subject of the conclusion.

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<sup>989</sup> Bold text is used purely to highlight the variance.

<sup>990</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 5 – Department of Roads and Public Works for the year ended 31 March 2001, as contained in the Department of Roads and Public Works Annual Report for 2000/01, at page 38, para.3.1.

<b>Auditor-General's conclusion.</b>	<b>Financial year</b>	<b>Department</b>
"National Treasury Regulations paragraph 17.2.1 requires the retention of all financial information in its original form. Section 41 of the PFMA stipulates that submission of all information, returns, documents, explanations and motivations as the Auditor-General may require. In addition to the non-compliance with the National Treasury Regulations and the PFMA, the non-submission of documentation required for audit purposes results in a limitation of the scope of the audit."	2000/2001	Health <sup>991</sup>
"In terms of section 38 of the PFMA, an accounting officer must ensure that the department has and maintains effective, efficient and transparent systems of financial and risk management and internal control. The following are areas of non-compliance and/or internal control weaknesses..."	2001/2002 2002/2003 2003/2004	Health <sup>992</sup> Health <sup>993</sup> Health <sup>994</sup>
"Audit work has revealed that there are inadequate controls in place over the basic accounting system suspense accounts. These suspense accounts were allowed to accumulate and items remained uncleared in the Department's accounting system at year-end. Inadequate reconciliations were prepared for these accounts. Hence, the Department did not fully comply with 17.1 of the National Treasury Regulations and section 40(1)(a) of the PFMA"	2002/2003	Health <sup>995</sup>
"Particulars of all transfer payments per organisation has not been included in the notes to the income statement. In addition the department has incorrectly stated that they had complied with section 38(1)(j) of the PFMA"	2000/2001	Health <sup>996</sup>

<sup>991</sup> Report of the Auditor-General on the Financial Statements of Vote 3 – Department of Health for the year ended 31 March 2001, as contained in the Annual Financial Statements of the Department of Health for the year ended 31 March 2001, at p.11, para.2.2.2.1.

<sup>992</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 3 – Department of Health for the year ended 31 March 2002, as contained in the Department of Health Annual Report for 2001/02, at p.62, para.5.2.

<sup>993</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 3 – Department of Health for the year ended 31 March 2003, as contained in the Department of Health Annual Report for 2002/03, at p.170, WTTSE

<sup>994</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 3 – Department of Health for the year ended 31 March 2004, as contained in the Department of Health Annual Report for 2003/04, at p. 175, WTTSE

<sup>995</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 3 – Department of Health for the year ended 31 March 2003, as contained in the Department of Health Annual Report for 2002/03, at p.172, para.4.2.7(g).

"Financial Statements, as required in terms of section 40(1)(c) of the PFMA could not be produced for audit purposes. Financial statements have not been produced since the establishment of the Pharmaceutical Depot in the Eastern Cape since 1994."	2000/2001	Health <sup>997</sup>
"The observations made in paragraph 2.2.2 could represent financial misconduct in terms of section 81 of the PFMA and are reported as such"	2000/2001	Health <sup>998</sup>

The following two tables provide details of MEC's and HOD's that we believe were incumbent within the department between 1994 and 2004. In some instances we have been unable to confirm exact dates.

MEC	Period in Office	Source document
<b>Dr Trudy Thomas</b>	<b>1994-1999</b>	The Herald, 11 October 2004. <sup>999</sup> Department of Health and Welfare, Province of the Eastern Cape, Annual Report, 1995/96. <sup>1000</sup> Department of Health and Welfare, Province of the Eastern Cape, Annual Report, 1996/97. <sup>1001</sup> Annual Report by Dr T. Thomas MEC for Health.
<b>Dr Bevan Goqwana</b>	<b>1999-Present</b>	The Herald, 10 November 2004. <sup>1002</sup> Daily Dispatch, 14 February 2002. <sup>1003</sup> Eastern Cape Department of Health, Annual Report, 2001/2002. <sup>1004</sup> Eastern Cape Department of Health, Annual Report, 2002/2003. <sup>1005</sup> Eastern Cape Department of Health, Annual Report, 2003/2004. <sup>1006</sup>

<sup>996</sup> Report of the Auditor-General on the Financial Statements of the Department of Health (Vote 3) for the year ended 31 March 2001, as contained in the Annual Financial Statements of the Department of Health for the year ending 31 March 2001, at p.10, para.2.2.1.4(e).

<sup>997</sup> Report of the Auditor-General on the Financial Statements of the Department of Health (Vote 3) for the year ended 31 March 2001, as contained in the Annual Financial Statements of the Department of Health for the year ending 31 March 2001, at p.14, para.2.2.2.6.

<sup>998</sup> Report of the Auditor-General on the Financial Statements of the Department of Health (Vote 3) for the year ended 31 March 2001, as contained in the Annual Financial Statements of the Department of Health for the year ending 31 March 2001, at p.16, para.3.3.

<sup>999</sup> [http://www.theherald.co.za/herald/2004/11/10/news/n13\\_10112004.htm](http://www.theherald.co.za/herald/2004/11/10/news/n13_10112004.htm)

<sup>1000</sup> Department of Health and Welfare, Province of the Eastern Cape, Annual Report, 1995/96, Cover Page.

<sup>1001</sup> Department of Health and Welfare, Province of the Eastern Cape, Annual Report, 1996/97, Foreword, pp.1-3.

<sup>1002</sup> [http://www.theherald.co.za/herald/2004/11/10/news/n13\\_10112004.htm](http://www.theherald.co.za/herald/2004/11/10/news/n13_10112004.htm)

<sup>1003</sup> <http://www.dispatch.co.za/2002/02/14/easterncape/BSTAMP.HTM>

<sup>1004</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Foreword by the Honorable MEC for Health, p. 2.



<b>Dr Bevan Goqwana</b>	<b>Between October 2001- June 2002 on full paid Leave.</b>	Daily Dispatch, 14 of February 2002. <sup>1007</sup>
<b>Max Mamase (Acting)</b>	<b>2001</b>	Daily Dispatch, 5 October 2001 <sup>1008</sup>
<b>Gugile Nkwinti (Acting)</b>	<b>2002</b>	The Herald, 29 May 2002. <sup>1009</sup>

#### Eastern Cape Department of Health HODs

<b>HOD</b>	<b>Period in Office</b>	<b>Source document</b>
<b>Dr Sipiwo Stamper</b>	<b>1997-2003</b>	The Herald, 11 October 2004. <sup>1010</sup> The Herald, 31 December 2002. <sup>1011</sup> Eastern Cape Department of Health, Annual Report, 2001/2002. <sup>1012</sup>
<b>Dr Sipiwo Stamper</b>	<b>Suspended Nov. 2000 for approximately 16 months.</b>  <b>Died 30<sup>th</sup> December 2002</b>	The Herald, 10 November 2004 <sup>1013</sup> Daily Dispatch, 14 February 2002. <sup>1014</sup> The Herald, 26 February 2002. <sup>1015</sup>
<b>Dr Mamisa Chabula (Acting)</b>	<b>Dec. 2001</b>	Daily Dispatch, 14 of February 2002. <sup>1016</sup>
<b>Dr Thobile Mkjekevu (Acting)</b>	<b>2001</b>	Daily Dispatch, 26 April 2001. <sup>1017</sup> Daily Dispatch, 27 March 2001. <sup>1018</sup>
<b>Mr Mike Fraser (Acting) also CFO</b>	<b>2003- 2004</b>	The Herald, 3 January 2003. <sup>1019</sup> Eastern Cape Department of Health, Annual Report, 2002/2003. <sup>1020</sup>

<sup>1005</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Foreword by the Honorable MEC for Health, pp. 3-4.

<sup>1006</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Part A, Report of the Executive Authority, pp.7-8.

<sup>1007</sup> <http://www.dispatch.co.za/2002/02/14/easterncape/BSTAMP.HTM>

<sup>1008</sup> <http://www.dispatch.co.za/2001/10/05/easterncape/AHEALTH.HTM>

<sup>1009</sup> [http://www.theherald.co.za/herald/2002/05/29/news/n21\\_29052002.htm](http://www.theherald.co.za/herald/2002/05/29/news/n21_29052002.htm)

<sup>1010</sup> [http://www.theherald.co.za/herald/2004/11/10/news/n13\\_10112004.htm](http://www.theherald.co.za/herald/2004/11/10/news/n13_10112004.htm)

<sup>1011</sup> [http://www.theherald.co.za/herald/2002/12/31/news/n02\\_31122002.htm](http://www.theherald.co.za/herald/2002/12/31/news/n02_31122002.htm)

<sup>1012</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Review by the Head of Department, pp. 3-4.

<sup>1013</sup> [http://www.theherald.co.za/herald/2004/11/10/news/n13\\_10112004.htm](http://www.theherald.co.za/herald/2004/11/10/news/n13_10112004.htm)

<sup>1014</sup> <http://www.dispatch.co.za/2002/02/14/easterncape/BSTAMP.HTM>

<sup>1015</sup> <http://www.theherald.co.za/herald/2002/02/26/news/doc.htm>

<sup>1016</sup> <http://www.dispatch.co.za/2002/02/14/easterncape/BSTAMP.HTM>

<sup>1017</sup> <http://www.dispatch.co.za/2001/04/26/easterncape/HOFFICIA.HTM>

<sup>1018</sup> <http://www.dispatch.co.za/2001/03/27/easterncape/DOFFICIA.HTM>

<sup>1019</sup> [http://www.theherald.co.za/herald/2003/01/03/news/n10\\_03012003.htm](http://www.theherald.co.za/herald/2003/01/03/news/n10_03012003.htm)

Lawrence Boya	May 2004	The Herald, 26 April 2004. <sup>1021</sup> Eastern Cape Department of Health, Annual Report, 2003/2004. <sup>1022</sup>
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## Recommendation

In light of the discussions above, the PSAM submits the following recommendation:

*The legislation and supporting regulations which are documented throughout this submission are peremptory and do not allow for selective adherence by public servants. If the provincial administration of the Eastern Cape is to address compliance deficiencies within its own staff, this automatically requires that Departments take steps to address non-compliance particularly where it is of a systemic nature. The Auditor-General's recurrent findings illustrate that there is inadequate adherence to such legislation.*

*Executing authorities and accounting officers within provincial departments need to enforce the provisions of the PFMA and other legislation without fear or favour. If accounting officers in particular fail to comply with their legislative duties in a wilful or negligent manner, such failure should result in disciplinary action being taken against them.*

## **4.5. Accountability To Oversight Bodies**

### Summary

*Since 1996, the Eastern Cape Department of Health has consistently failed to effectively and efficiently respond to queries and recommendations made by the Auditor-General and the Legislature Standing Committee on Health. The Department's consistent inability or unwillingness to address financial management and performance and monitoring weaknesses raised by these oversight bodies has had a negative impact on the provision of effective public health care services in the Province since 1996. In addition, it would appear that the Eastern Cape Legislature has been incapable or unwilling to compel the Department to properly address audit queries and recommendations by the Department's Standing Committee.*

What follows is an account of the financial management issues raised by the Auditor-General, the Standing Committee on Health and the Standing Committee on Public Accounts (SCOPA) for the four financial years between 2000 and 2004 in respect of the Eastern Cape Department of Health.

### Regulatory Requirements

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<http://www.health-e.org.za/news/article.php?uid=20030978>

<sup>1020</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Overview by the Acting HOD, pp. 5-13.

<sup>1021</sup> [http://www.theherald.co.za/herald/2004/04/26/news/n08\\_26042004.htm](http://www.theherald.co.za/herald/2004/04/26/news/n08_26042004.htm)

<sup>1022</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Part A, Report of the Head of Department, pp. 9-24.

In terms of the Constitution the Office of the Auditor-General must audit and report annually on the 'accounts, financial statements and financial management' of all government departments. These reports must then be submitted to the provincial Legislature.<sup>1023</sup> One of the key functions of the Auditor-General is to ensure that government departments are properly managed and that their resources 'are procured economically and utilised efficiently and effectively.'<sup>1024</sup>

The various portfolio committees of the Provincial Legislature are then tasked with scrutinising the content of department's annual reports and investigating queries raised in the Auditor-General's report. According to the Constitution, the Legislature and its committees are tasked with exercising oversight of executive authorities in the province and their corresponding government departments.<sup>1025</sup> In carrying out this function a provincial Legislature or any of its committees may 'summon any person to appear before it' and 'require any person or government institution to report to it'.<sup>1026</sup>

## Findings

### Auditor-General

#### Department of Health Audit Opinions between 1996 and 2004<sup>1027</sup>

Financial Year	Actual Expenditure (R000's)	Audit Opinion
1996/1997	3 066 196	Disclaimer
1997/1998	3 030 900	Disclaimer
1998/1999	3 048 180	Disclaimer
1999/2000	3 496 357	Disclaimer
2000/2001	3 789 628	Disclaimer
2001/2002	3 892 453	Disclaimer
2002/2003	4 493 242	Unqualified Opinion
2003/2004	5 243 012	Disclaimer
<b>Total</b>	<b>30 059 968</b>	<b>7 disclaimers in 8 years</b>

Over the four years covered by this submission the Department has consistently failed to address queries raised by the Auditor-General. An examination of the Auditor-General's audit reports from 2000/01 to 2003/04 demonstrates that many audit queries have persisted from year to year despite the Auditor-General drawing attention to them on a repeated basis. This would seem to indicate that the Department is either unwilling or

<sup>1023</sup> Constitution of the Republic of South Africa, section 188(1) and (3).

<sup>1024</sup> Auditor-General Act, 1995, section 4(d).

<sup>1025</sup> Constitution of the Republic of South Africa, section 114(1) and (2).

<sup>1026</sup> Ibid, section 115(a) and (b).

<sup>1027</sup> The figures contained in the table were obtained from the following: Intergovernmental Fiscal Review, 2001, PR219/2001, Eastern Cape Table C7; Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Income Statement, p. 20; Eastern Cape Department of Health, Annual Report 2001/2002, Appropriation Statement, p. 83; Eastern Cape Department of Health, Annual Report 2002/2003, Appropriation Statement, p. 179; Eastern Cape Department of Health, Annual Report 2003/2004, Part E: Appropriation Statement, p. 185.

unable to act on the recommendations of the Auditor-General as it is compelled to in terms of the Constitution and the PFMA. The following section will present a number of examples which illustrate the Department's failure to address queries raised by the Auditor-General.

In the eight financial years between 1996 and 2004, the Eastern Cape Department of Health was issued with seven audit disclaimers by the Auditor-General's office. In the 2003/04 Audit Report, the Auditor-General noted that although many deficiencies had been reported in prior years, 'audit findings revealed that actions to address these deficiencies had either not been planned or not been adequately maintained...'.<sup>1028</sup>

- **Internal Controls**

After auditing the Eastern Cape Department of Health's financial statements for the 2002/2003 financial-year, the Auditor-General issued the Department with an unqualified Audit opinion.<sup>1029</sup> Although this audit opinion reflects the accuracy of the Department's financial statements it does not represent the successful establishment of financial control measures and compliance 'in all material respects with relevant laws and regulations' by a public entity. Despite this audit opinion the Auditor-General's report for the year listed exactly the same internal control failures and breaches of the regulatory framework revealed in previous financial years. In fact, the Auditor-General's 2002/2003 report specifically draws attention to the department's failure to implement corrective measures to deal with the internal control weaknesses identified in previous audits.<sup>1030</sup>

As we have seen, the Department has consistently failed to deal with internal control issues relating to issues such as personnel, expenditure, transfer payments, and asset management and suspense accounts. The following instances of ineffective internal controls have been cited consistently by the Auditor General:

### **Personnel**

- There was no indication that the monthly payrolls received by hospitals were being reviewed by management to confirm the existence of employees (1999/2000 Audit Report).<sup>1031</sup>
- Not all employees selected could be tested for physical verification (2001/02 Audit Report).<sup>1032</sup>

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<sup>1028</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 5.2.6, p. 175.

<sup>1029</sup> Ibid, section 3, p. 167.

<sup>1030</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.7 (a) to (g), pp.170 - 172

<sup>1031</sup> Report of the Auditor-General on the Financial Statements of Vote 3 – Health (Including a Multi-Disciplinary Audit of the Salary Bill) of the Eastern Cape Provincial Administration for the year ended 31 March 2000, PR 112/2001, section 2.2.2.1, p. 4.

<sup>1032</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's Report, section 5.2 (a) (iv), p. 62.

- The Department continued to pay certain employees their salaries after their employment had been terminated (2002/03 Audit Report).<sup>1033</sup>
- Personnel and leave records were found to be unsatisfactory, and errors within the PERSAL system were deemed to be an indication that sufficient measures had not been taken to ensure that the Personnel and Salary System and related leave entitlement liability was accurate (2003/04 Audit Report).<sup>1034</sup>

### **Expenditure**

- Insufficient internal controls were found in the following areas: recording and allocation of transactions; cancellation of invoices; supporting documentation; authorisation of journals (2000/01 Audit Report).<sup>1035</sup>
- Government vehicle expenditure, according to the First Auto statements, was not reconciled on a monthly basis with the financial information on the basic accounting system, to ensure that only expenditure to the Department was recorded (2002/03 Audit Report).<sup>1036</sup>
- Not all documentation requested for Audit purposes, could be submitted by the Department (2002/03 Audit Report).<sup>1037</sup>
- Documentation to support journals, expenditure and accruals to the value of R45 052 788 were not submitted timeously, which placed a limitation on the scope of the audit (2003/04 Audit Report).<sup>1038</sup>

### **Asset management**

- Not all items received/used were recorded on stock cards, at one of the larger hospitals no stock cards were maintained at the dispensary (1999/2000 Audit Report).<sup>1039</sup>
- Certain controls over asset management were found to be inadequate in a number of instances. For example, fixed asset registers were not adequately maintained (2000/01 Audit Report).<sup>1040</sup>

<sup>1033</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.7 (a) (vi) p. 170.

<sup>1034</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 3.3. p. 172.

<sup>1035</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's Report, section 5.2. (b) (ii) p. 62.

<sup>1036</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.1.2, p. 168.

<sup>1037</sup> Ibid, section 4.2.7, (b) (iv), p. 171.

<sup>1038</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 3.1. p. 171.

<sup>1039</sup> Report of the Auditor-General on the Financial Statements of Vote 3 – Health (Including a Multi-Disciplinary Audit of the Salary Bill) of the Eastern Cape Provincial Administration for the year ended 31 March 2000, PR 112/2001, section 2.2.2.3, (h) and (i) p. 5.

<sup>1040</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.2.5 (k) p. 14.

- Insufficient internal controls in place in the following areas; fixed asset register; annual stock counts, inventory control, stock cards, Government vehicles and equipment (2001/02 Audit Report).<sup>1041</sup>
- Adequate control was not exercised over assets and records of assets were not always properly maintained. For example, the fixed asset register was not properly maintained; there were inadequate controls in place to monitor the manual recording of the movement of stationery as stock cards were not utilised by the Department (2002/03 Audit Report).<sup>1042</sup>

### **Suspense accounts**

- The following significant deficiencies were noted during the audit of suspense accounts: the head of section had not signed all journal entries and there were no narrations on the journal entries to explain the reason for passing the journal and processed journals were not marked “accepted” to avoid double processing (1997/98 and 1998/99 Audit Report).<sup>1043</sup>
- The audit revealed that there were weaknesses in the controls over suspense accounts. Sufficient action was not taken to ensure that the various accounts in the ledger were properly maintained and there was a lack of follow-up action (1999/2000 Audit Report).<sup>1044</sup>
- The following issues were pertinent to the suspense account balances reflected in the financial statements of the Department: all accounts had not been analysed and reconciled on a monthly basis; the accounts were not reviewed by an appropriate official for reasonability and the recoverability of debtor related suspense accounts was highly doubtful (2000/2001 Audit Report).<sup>1045</sup>
- The following issues were pertinent to the suspense account balances reflected in the financial statements of the Department: the recoverability of debtor related suspense accounts of R15 790 281 was highly doubtful; all accounts had not been analysed and reconciled on a monthly basis; there were inadequate controls in place over the reconciliation and clearing of suspense accounts, hence there was non-compliance with section 40 (1) (a) of the PFMA and the accounts were not reviewed by an appropriate official for reasonability (2001/2002 Audit Report).<sup>1046</sup>

<sup>1041</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General’s Report, section 5.2. (d) (i) p. 63.

<sup>1042</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General’s Report, section 4.2.7 (d) p. 171.

<sup>1043</sup> Report of the Auditor-General on the Financial Statements of Vote 3 – Health of the Eastern Cape Provincial Administration for 1997-98 and 1998-99, PR 109/1999, section 2.2.1.4 (a) (i) and (ii), p. 4.

<sup>1044</sup> Report of the Auditor-General on the Financial Statements of Vote 3 – Health (Including a Multi-Disciplinary Audit of the Salary Bill) of the Eastern Cape Provincial Administration for the year ended 31 March 2000, PR 112/2001, section 2.2.1.1 (b), p. 3.

<sup>1045</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General’s Report, section 2.2.1.2, p. 9.

<sup>1046</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General’s Report, section 5.6. p. 63.

- Audit work revealed that there were inadequate controls in place over the basic accounting system suspense accounts. These suspense accounts were allowed to accumulate and items remained uncleared in the Department's accounting system at year-end. Inadequate reconciliations were prepared for these accounts. Hence, the Department did not fully comply with 17.1 of the National Treasury Regulations and section 40 (10 (a) of the PFMA. (2002/2003 Audit Report).<sup>1047</sup>

- **Security**

Since 1999 the Auditor-General consistently found during the course of his audits, that the Department lacked proper security and control systems to prevent theft, loss, wastage, and the misuse of Departmental assets. For example, in the 1999/2000 financial year the Auditor-General found that 'safety and security measures in stores at various hospitals were not adequate in that stores were not fitted with lockable gates, window were not burglar-proofed, no fire-fighting equipment was attached to the stores and access to the stores was not strictly controlled'.<sup>1048</sup> The Auditor-General also criticised the Department for failing to institute adequate controls to prevent unauthorised employees from gaining access to stores.<sup>1049</sup> In the 2000/01 financial year the Auditor-General criticised the Department for failing to exercise effective control over departmental assets.<sup>1050</sup> In the 2001/02 and 2002/03 financial years, the Auditor-General noted that the Department had failed to ensure that it had sufficient internal controls in the following areas; fixed asset register; annual stock counts, inventory control, stock cards, Government vehicles and equipment.<sup>1051</sup> In the 2003/04 financial year the Auditor-General once again criticised the Department for its failure to ensure adequate security at the various health facilities. For example, the Auditor-General found that 'security measures at a number of institutions were inadequate which could result in theft and unauthorised entry'.<sup>1052</sup> The Auditor-General also stated that 'storerooms are not locked at all times' and that departmental assets were 'therefore subject to misappropriation'.<sup>1053</sup>

<sup>1047</sup> Eastern Cape Department of Health, Annual Report, 2002/2003, Auditor-General's Report, section 4.2.7 (g), p. 172.

<sup>1048</sup> Report of the Auditor-General on the Financial Statements of Vote 3 – Health (Including a Multi-Disciplinary Audit of the Salary Bill) of the Eastern Cape Provincial Administration for the year ended 31 March 2000, PR 112/2001, section 2.2.2.3 (d), p. 5.

<sup>1049</sup> Ibid, section 2.2.2.3 (f), p. 5

<sup>1050</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 2.2.2.5 (k) p, 14.

<sup>1051</sup> Eastern Cape Department of Health, Annual Report, 2001/2002, Auditor-General's Report, section 5.2. (d) (i) p. 63 and Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 4.2.7 (d) p. 171.

<sup>1052</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 5.2.11, p. 176.

<sup>1053</sup> Ibid.

- **Fleet Maintenance**

Since 2000 the Auditor-General has repeatedly drawn attention to the Department's failure to exercise adequate controls over government vehicles. In the 1999/2000 financial year the Auditor-General reported that 'control over motor vehicles was not satisfactory in all respects'.<sup>1054</sup> In the next financial year (2000-2001), the Auditor-General reported that 'certain government vehicle files have not been kept up-to-date', that 'certain government vehicles were in a poor condition' and that trip request forms, trip authority forms, vehicle logbooks and logsheets were not always adequately completed, reviewed and maintained'.<sup>1055</sup> Three years later, the Auditor-General again reported that the Department was not adequately exercising control over, in particular, its Emergency Medical Rescue vehicles.<sup>1056</sup> During August 2003 the Department of Transport entered into an agreement to outsource the Provincial Government's motor vehicle fleet to a fleet management company called FleetAfrica. FleetAfrica then became responsible for the management of the Health Department's Emergency Medical Vehicles. In the 2003/04 financial year, the Auditor-General noted that in terms of the agreement FleetAfrica had charged the Department a fee which is based on kilometres travelled by each vehicle.<sup>1057</sup> According to the Auditor-General, the Department 'had not reconciled the kilometres reflected on the Service Provider's (FleetAfrica) invoices to its own records to ensure that the amounts invoiced are accurate'.<sup>1058</sup> In other words, according to the Auditor-General, the Department was not exercising adequate control over the use of motor vehicles and as a result monitoring of expenditure was inadequate.<sup>1059</sup>

It is of concern to the PSAM that many of the substantive issues raised by the Auditor-General since 1996 have not been satisfactorily addressed. The consistent inability or unwillingness on the part of the Department to address the financial management weaknesses raised by the Auditor-General undoubtedly compromised the quality of health care services in the Province.

### **Standing Committee on Health and the Standing Committee on Public Accounts**

In addition to the Office of the Auditor-General, the Standing Committees of the Eastern Cape Provincial Legislature are responsible for ensuring that all provincial government departments and other state organs conduct their affairs in a transparent and accountable fashion. The two key provincial Legislature committees responsible for holding the Eastern Cape Department of Health accountable for its performance are the

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<sup>1054</sup> Report of the Auditor-General on the Financial Statements of Vote 3 – Health (Including a Multi-Disciplinary Audit of the Salary Bill) of the Eastern Cape Provincial Administration for the year ended 31 March 2000, PR 112/2001, section 2.2.2.7 (a), p. 6.

<sup>1055</sup> Province of the Eastern Cape, Annual Financial Statements of the Department of Health for the year ending 31 March 2001, PR212/2001, Auditor-General's Report, section 3.7 (a), (b) and (e), pp. 17-18.

<sup>1056</sup> Eastern Cape Department of Health, Annual Report, 2003/2004, Auditor-General's Report, section 5.2.7, p. 176.

<sup>1057</sup> Ibid.

<sup>1058</sup> Ibid.

<sup>1059</sup> Ibid.



Standing Committee on Health and the Standing Committee on Public Accounts (SCOPA).

Both committees have the following constitutional powers:

- To summon any person (including the MEC and HOD) to appear before it to give evidence or to produce documents
- To require any person or provincial institution to report to it
- To compel any person (including the MEC or HOD) to comply with a summons to appear before it<sup>1060</sup>

The Standing Committee on Health is responsible for monitoring and investigating the performance of the Department of Health. The Committee is also constitutionally mandated to make recommendations to the Department regarding its performance.<sup>1061</sup> SCOPA is responsible for ensuring that all provincial departments comply with the relevant laws and regulations relating to the proper management of public finances. This Committee is also constitutionally empowered to make recommendations to ensure compliance by the Department with financial laws.<sup>1062</sup>

In general, the Provincial Department of Health was either unwilling or unable to respond in a satisfactory manner to recommendations made by the Standing Committee for Health since 2000. In July 2000, the Standing Committee on Health recommended that the Department:

- Establish the necessary management structure to enable it to properly monitor financial and human resource systems to ensure the effective and efficient delivery of services in Programme 1 (Health Administration).<sup>1063</sup>
- Put in place, within Programme 2 (District Health Services), proper management systems at all levels.<sup>1064</sup>
- Integrate its HIV/AIDS programme with other departmental HIV/AIDS programmes to enable the Department to better contribute to the fight against HIV/AIDS.<sup>1065</sup>
- Should implement stricter control measures over medicines.<sup>1066</sup>
- Must put in place proper financial management controls within Programme 3 (Provincial Hospitals Services).<sup>1067</sup>
- Improve its monitoring and evaluation of conditional grants.<sup>1068</sup>
- Fast-track the upgrading of enrolled nurses.<sup>1069</sup>

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<sup>1060</sup> Constitution of the Republic of South Africa, Act 108, 1996, section 115.

<sup>1061</sup> Standing Rules of Procedure of the Eastern Cape Provincial Legislature, Section 63.

<sup>1062</sup> Ibid.

<sup>1063</sup> Eastern Cape Provincial Legislature, Recommendation Affecting the Department of Health, Adopted by the House 17 July 2000, Published on the 25 July 2000, section (1) (i).

<sup>1064</sup> Ibid, section (2) (i).

<sup>1065</sup> Ibid, section (2) (ii).

<sup>1066</sup> Ibid, section (3) (i).

<sup>1067</sup> Ibid, section (3) (ii).

<sup>1068</sup> Ibid, section (4) (ii).

<sup>1069</sup> Ibid, section (5) (i).

- Reconsider or reinvestigate the criteria for appointment of contractors for the provision of new health facilities and the upgrading and maintenance of exiting facilities.<sup>1070</sup>

At the end of the 2000/01 financial year, the Standing Committee on Health recommended that the Department:

- Fast-track person-to-post matching due to the Department's over expenditure on personnel. As discussed previously, the Department had continued to pay a number of staff members after their death and had continued to pay staff members no longer employed by the Department. As a result, the Committee recommended that the Department ensure that undertake person-to-post matching to ensure that it is only paying staff employed by the Department.<sup>1071</sup>
- Terminate the contracts of all NGO's not performing their duties in regard to the school nutrition programme. The Committee noted that the Nutrition Programme was not reaching the people it was intended to serve.<sup>1072</sup>
- Improve the HIV/AIDS inter-departmental coordination to maximise the effectiveness of the programme<sup>1073</sup>.
- Kick-start the Provincial AIDS Council.<sup>1074</sup>
- Appoint hospital CEO's and urgently fill middle management posts to ensure that Provincial hospital services operate effectively.<sup>1075</sup>
- Put in place, as a matter of urgency, a proper asset register.<sup>1076</sup>
- Address the shortage of pharmacists to improve the management and distribution of drugs<sup>1077</sup>, and
- Strengthen administrative systems to avoid situations where the Department is unable to determine leave taken by employees.<sup>1078</sup>

In the 2002/03 and 2003/04 financial years the Committee made similar recommendations to the Department. For example, towards the end of the 2002/03 financial year the Standing Committee raised the following concerns:

- The urgent need to address the shortage of nurses.<sup>1079</sup>
- The implementation of a staff retention strategy.<sup>1080</sup>
- The on-going training of managers.<sup>1081</sup>

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<sup>1070</sup> Ibid, section (7) (i).

<sup>1071</sup> Eastern Cape Provincial Legislature, Resolutions/Recommendations Affecting the Department of Health, Adopted by the House on 29 January 2001, published 5 March 2001, section (1).

<sup>1072</sup> Ibid, section (3).

<sup>1073</sup> Ibid, section (4).

<sup>1074</sup> Ibid, section (5).

<sup>1075</sup> Ibid, section (6).

<sup>1076</sup> Ibid, section (7).

<sup>1077</sup> Ibid, section (9) (a).

<sup>1078</sup> Ibid, section (13).

<sup>1079</sup> Resolutions/ Recommendations affecting the Department of Health, Published on 21 January 2003, section (1) (a).

<sup>1080</sup> Ibid, section (1) (b) and (c).

<sup>1081</sup> Ibid, section (2).

- The transfer of HIV/AIDS funds to District Municipalities must be done in terms of clear service level agreements.<sup>1082</sup>
- The need to capacitate NGOs to enhance their effectiveness.<sup>1083</sup>
- The need to ensure that the HIV/AIDS plan is implemented timeously and that it is effectively used.<sup>1084</sup>
- The need to appointment CEOs for Hospitals and support staff to executive officers.<sup>1085</sup>
- The need to build capacity in the Alfred Nzo and OR Tambo District Municipalities.<sup>1086</sup>
- The need to properly coordinate the Department's activities and those of the Tender Board, Provincial Treasury and Public Works in areas of capital projects.<sup>1087</sup>
- The Department must monitor the acquisition of the EMRS vehicles.<sup>1088</sup>
- The need to improve revenue collection.<sup>1089</sup>

During the 2003/04 financial year, the Standing Committee made, amongst others, the following recommendations:

- The Department should develop an attraction and retention strategy to address staff shortages.<sup>1090</sup>
- The Department should ensure that they utilise all the funds allocated for the HIV/AIDS Programme.<sup>1091</sup>
- Having found that no mechanism was in place to monitor HIV/AIDS funds transferred to District Municipalities, the Committee recommended the Department develop a clear monitoring mechanism.<sup>1092</sup>
- The Committee instructed the Department to ensure that feeding via the Integrated Nutrition Programme started when schools reopened in January 2004.<sup>1093</sup>
- Having found that morale was very low amongst staff members due to overloading or work and understaffing, the Committee instructed the Department to expedite the filling of vacant posts. In addition it recommended that the Department should report regularly to the Committee on its progress.<sup>1094</sup>

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<sup>1082</sup> Ibid, section (3) (b) (i).

<sup>1083</sup> Ibid, section (3) (b) (iv).

<sup>1084</sup> Ibid, section (3) (b) (v).

<sup>1085</sup> Ibid, section (4).

<sup>1086</sup> Ibid, section (7) (a).

<sup>1087</sup> Ibid, section (7) (b).

<sup>1088</sup> Ibid, Part 2, section (2) (b)

<sup>1089</sup> Ibid, Part 2, section (1) (b) (ii).

<sup>1090</sup> Resolutions/Recommendations affecting the Department of Health, Published 2 December 2003, Programme 1, recommendations (a).

<sup>1091</sup> Ibid, Programme 2, recommendations (a).

<sup>1092</sup> Ibid, Programme 2, findings (b) and recommendations (b).

<sup>1093</sup> Ibid, Programme 2, recommendations (d).

<sup>1094</sup> Ibid, Programme 3, findings (a) and recommendations (a).

- The Committee instructed the Department to collaborate with the Provincial Treasury to determine the exact number of staff employed by the Department, as well as the vacancy rate, in order to establish an accurate and adequate budget for personnel.<sup>1095</sup>

As can be seen, many of these issues, including the need to fill vacant posts, the inadequate performance of the Department's nutrition programmes, and spending on HIV/AIDS, were raised by the Committee year-on-year. Despite this, the Department consistently failed to implement the majority of recommendations made by the Committee. This again raises questions about the extent to which Legislature oversight bodies have been able to perform their Constitutional function of promoting transparency, accountability and responsiveness in the Eastern Cape.

## Recommendations

In light of the discussions above, the PSAM submits the following recommendations:

*The reports of the Auditor-General speak not only to the Department's continuing inability to manage its public finances, but also to its continued failure to address, among other things, the management of conditional grants, personnel, revenue collection, the supply of health products and the safety and security of its staff and clients. The Department must, as a matter of urgency, incorporate clear and measurable activities into its strategic plan to address Auditor-General queries and to ensure the systematic implementation of the Standing Committee's recommendations. In addition, the Standing Committee should insist on receiving regular reports from the MEC and HOD of Department in this regard.*

*In light of the Auditor-General's criticism of the Department for failing to have a revenue collection policy, the Department must, in order to prevent any further loss of scarce funds, put in place mechanisms to ensure that all due revenue is collected.*

*There has been a manifest breakdown in the implementation of Legislature oversight committee resolutions by the Eastern Cape Department of Health. The Department should publish all previous oversight committee and SCOPA resolutions in its Annual Reports. It should also provide a detailed account of its progress in the implementation of these resolutions in its Annual Report. For their part, the Legislature and the parliamentary oversight committee should be more assertive in the use of their Constitutional Powers to call the MEC for Health and senior departmental officials to account for their performance in implementing oversight resolutions.*

*The Standing Committee should exercise its oversight function and ensure that the Department is held accountable to the Committee by providing in-year performance reports on all conditional grant spending.*

*The Standing Committee must ensure that the Department and relevant officials are held accountable to the Committee. The Department must ensure that corrective measures are taken against Departmental officials found guilty of breaching the various provisions of the regulatory framework.*

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<sup>1095</sup> Ibid, Programme 1, recommendations (a).

*The Eastern Cape Legislature Health Standing Committee and SCOPA, as well as the provincial Treasury, need to ensure that the Department provides them with detailed and accurate reports to account for its expenditure of infrastructural and maintenance funds. These bodies should also ensure that the Department tracks its expenditure on these facilities year-on-year and that it reports rigorously on the implementation of its infrastructure and maintenance plans.*

*In order to track the standard and quality of the services the Department is delivering, it must consult with and account to the community it is providing those services to. The Department needs to ensure that it meets, on a regular basis, with all stakeholders.*

**Submission with regard to the  
Eastern Cape Department of Social Development.**

The following analysis focuses on the Department's performance between 2000/01 and 2003/04 in respect of the following areas:  
resource allocation and strategic planning; expenditure management; internal monitoring of expenditure and service delivery; legislative breaches and financial misconduct; and accountability to oversight bodies.

**Public Service Accountability Monitor**

## 5. Department of Social Development

### **5.1 Resource Allocation and Strategic Planning**

#### **Summary**

*Strategic planning forms an integral part of the planning, budgeting, monitoring and reporting framework set in place to ensure the effective oversight of government departments and their accountability to the public. However, the Department's strategic planning has not been informed by a proper understanding of the particular service delivery environment that the Department operates within. The Department's plans have been characterised by an absence of reasonable timeframes for goals and objectives, and there is little evidence to suggest that the Department properly monitors the delivery of its objectives to see that they are properly met.*

*No evidence could be found between the 2001/02 and 2003/04 financial years to suggest that the Department had performed a needs analysis of its service delivery environment. Many of the problems experienced by the Department stem from the fact that it did not conduct adequate needs analysis surveys. This made it difficult for the Department to successfully implement policies to fulfill its mandate. For example, it is clear that the Department did not know exactly how many people were in need of social assistance within the Province. This made it difficult for the Department to plan properly and direct its resources where they are most needed. In addition, despite stating in the 2003/04 financial year that it had carried out a Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis of its organizational environment, there is little evidence to suggest that the Department has properly quantified and accounted for the challenges that it has faced, such as its high vacancy rate and poor internal control environment.*

*The plans for these years also show no evidence of effective consultation with relevant stakeholders, both internal and external. In addition, the Department's Strategic Plans contain no evidence of the existence of transfer agreements with social development institutions that received subsidies from the Department. This made it difficult for the Department to properly monitor the use of transferred funds.*

*The Department also failed to reconcile its budget and expenditure from previous years with its planning for the MTEF period. In this regard, the Department did not properly take into account its budgetary allocations, expenditure and performance from previous years, when drawing up its strategic plans.*

*The Department has, over the three years under review, not provided adequate information on the number of capital and maintenance projects it planned to undertake in each MTEF period. In addition, there is a lack of information relating to the resources that the Department required to undertake and complete these projects. For example, there was inadequate information on the time frames for the completion of projects, who would be responsible for the monitoring and control of projects, and the costs involved.*

*Despite repeated undertakings by the Department to address queries raised by the Auditor-General, the Department has failed to adequately address these issues. This*

*repeated failure, seems to illustrate an apparent disregard for the role of the Auditor-General.*

## **Regulatory Requirements**

The ability of provincial government departments to deliver services effectively starts off with the strategic planning process. It is the responsibility of the provincial MEC in conjunction with the HOD to produce an effective strategic plan for their department. The process of drawing up this plan involves identifying the most pressing social needs of the population served by the department, identifying programmes and activities to practically address these needs, and then proposing a budget and identifying service delivery indicators for implementing programme activities. Only on this basis should departments' strategic plans be endorsed by the provincial Legislature, and a budget be allocated to the department by the provincial Treasury.

In terms of the new Public Service Management Framework introduced in June 1999 all provincial service delivery departments are required to begin their strategic planning process at least 12 months before the start of the financial-year. By legislation such plans are obliged to meet the following minimum requirements:

- It should identify the departments' core objectives.
- It should describe the activities and programmes necessary to realize these core objectives.<sup>1096</sup>
- It should include measurable outputs for all programmes.<sup>1097</sup>
- It should include information necessary to define the posts required to perform the proposed activities and determine the department's organizational structure.<sup>1098</sup>
- It should include a human resource plan indicating the human resources required to meet the department's functions, including the number of employees, their competencies and training needs. It should also include a strategy 'to recruit, retain, deploy and develop' staff within the department's available budgeted funds.<sup>1099</sup>
- It should include a detailed service delivery improvement plan identifying the departments 'customers' and their needs and evaluate the departments capacity

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<sup>1096</sup> Public Service Regulations, 1999, Part 3, Section B. Strategic Planning, pp. 7-8.

<sup>1097</sup> The National Treasury Guide for Accounting Officers introduced in October 2000 states that departmental accounting officers 'should ensure that outputs are sufficiently quantified and appropriate service delivery indicators developed as soon as possible.' See Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 2 – Financial Planning, p. 10.

<sup>1098</sup> Public Service Regulations, 1999, Part 3, Section B. Strategic Planning, pp. 7-8. Section B.2(a), (c) and (d) state that 'based on the strategic plan of the department, an executing authority shall (a) determine the department's organisational structure in terms of its core and support functions; (c) define the posts necessary to perform the relevant functions while remaining within the current budget and medium term expenditure framework of her or his department, which shall constitute the department's approved establishment; and (d) utilise the human resource plan described in regulation IIID to plan to meet the resulting human resource needs.'

<sup>1099</sup> Ibid, Part 3, Section D.1 (a), (b) and (c).



to meet these needs. This requires a process of extensive consultation with internal and external stakeholders.<sup>1100</sup>

The discussion below is informed by the Department of Social Development's Strategic Plans, ranging from the 2001/02<sup>1101</sup> to the 2003/04 financial years. The PSAM has been unable to source the Strategic Plan for the 2000/01 financial year. The following is therefore a three year evaluation of the Department's Strategic Planning.

## Findings

### Needs Analysis

In order to quantify the need in the province for the services of the Department, it is crucial that the Department performs a complete and accurate needs analysis. This is imperative as it informs the Strategic Planning process and enables the Department to allocate its resources efficiently and effectively. However, it is clear that over the three financial years under review, the Department has failed to conduct an in-depth needs analysis. There is no evidence to suggest that a needs analysis was performed or that specific service delivery challenges facing the Department were identified before the completion of the 2001/02 Strategic Plan. Instead of providing a detailed break-down of the Department's service delivery challenges, the plan simply states that the "Province has suffered severely from past neglect."<sup>1102</sup> It further states that, "coercive measures which were mobilized by the South African State to promote the early processes of industrialization created a servile and marginalized class in the countryside."<sup>1103</sup> The plan did not provide information on the extent of this problem, how the Department intended to address it, or the resources required to do so. This limitation had not been remedied by the time the Department produced its Strategic Plan for the 2002-2005 financial years. Instead of providing critical information on the social services sector, the plan gave an historical account of the subjugation of the people of the province by the previous government. The plan did not include a thorough needs analysis detailing the extent of the need in the province. For example, it did not provide any information on the

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<sup>1100</sup> The regulations required departments to produce a Service Delivery Improvement Programme (SDIP) in which they identified who their 'customers' are, what services they provided to them, and what barriers existed preventing their 'customers' from accessing these services. The SDIP was clearly premised on an extensive process of consultation given that it was required to develop strategies to remove barriers to service delivery, improve communication with 'customers' and lead to the development of service standards. See, Public Service Regulations, 1999, Part 3, Section C.1 Service Delivery Improvement Programme, p. 8. Such consultation is required to meet the Constitutional principle that 'People's needs must be responded to, and the public must be encouraged to participate in policy making.' South African Constitution, Chapter 10 Public Administration, section 195(1)e. The need to involve both internal and external stakeholders in the strategic planning process was subsequently made explicit by National Treasury guidelines which state that departments must ensure stakeholder and community input. See Generic Format for Strategic Plans for Provincial Departments, National Treasury, 11 July 2002, Part A, Section 3.8, p. 1

<sup>1101</sup> It should be noted that the cover for the Department's 2001/02 Strategic Plan erroneously states that it is the plan for the 2000/01 financial year. This plan will be referred to as the 2001/02 Strategic Plan.

<sup>1102</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plans, 2001/02, section 1(b), p. 1.

<sup>1103</sup> Ibid.

number of social grant beneficiaries that are currently registered or the number of people who still require assistance.<sup>1104</sup>

In its 2003-2006 Strategic Plan, the Department stated that it carried out a SWOT analysis to identify its strengths and weaknesses. However, there was little evidence in the Department's Strategic Plan to suggest that this included a proper needs analysis. For example, it was not enough for the SWOT analysis to demonstrate the self-evident fact that the Department lacked capacity.<sup>1105</sup> Another weakness identified by the SWOT analysis was the Department's "inadequate monitoring and evaluation capacity."<sup>1106</sup> While this observation was useful, it did not specify in which area the Department needed to develop its monitoring and evaluation capacity. For example, the Department should have specified whether it lacked capacity in terms of the monitoring of social grant payments, transfers of funds, financial monitoring or the monitoring of its control environment. The Department also identified poor record keeping as a particular weakness.<sup>1107</sup> However, it did not state whether its record keeping was weak in terms of social security files, staff files or financial documents. For the Department to be able to plan properly it needs to identify exactly where and why it lacks capacity. For example, it needs to identify what aspects of its evaluation and monitoring function need to be strengthened, and why it lacks the capacity to maintain adequate records, be they financial management or personnel files. The Department then needs to demonstrate in its strategic plans how it intends to address these problems.

The Department's failure to plan properly is illustrated by its inability to register Child Support Grants (CSG) as it had hoped. The Department's failure to properly assess the need for CSGs led to a number of problems in regard to their registration during the 2002-2005 MTEF period. The Department had originally targeted 870 000 CSG's to be registered by the end of the 2002-2005 period.<sup>1108</sup> According to then MEC, Ncumisa Kondlo, this figure was broken down into 25 000 grants per Welfare District, this meant that 2080 grants per month would be registered in each district.<sup>1109</sup> However, it would appear that this registration drive did not take into consideration different conditions in each district. It would appear that the Department did not take into account the fact that resources and needs in the Port Elizabeth Metropole district office were different to those in the Mbashe district office. According to the Provincial Budget Statements for 2003, the number of CSGs to be registered was subsequently adjusted by the Department to 425 000.<sup>1110</sup> It would appear that the Department had been too ambitious in regard to how many children in the province it could supply with CSG's. It is clear that the Department did not properly assess its own resources and limitations in terms of its ability to deliver. An effective needs analysis would have allowed the Department to quantify the need for CSGs and thus enable it to plan and target resources more effectively.

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<sup>1104</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, section 1.7.1, p. 9.

<sup>1105</sup> Eastern Cape, Department of Social Development, Strategic Plan, 2003-2006, section 9.2, p. 13.

<sup>1106</sup> Ibid.

<sup>1107</sup> Province of the Eastern Cape, Department of Social Development, Strategic Plan, 2003-2006, p. 13.

<sup>1108</sup> Province of the Eastern Cape, Department of Welfare, Policy Speech 2002/2003, Birth Registration: The first right, p. 8.

<sup>1109</sup> Ibid.

<sup>1110</sup> Eastern Cape, Department of Social Development, Budget Statement 2, 2003, p. 118.

## Departmental structure and capacity

A further problem with the Department's strategic planning process has been its failure to accurately take into account its organizational structure and capacity. The Department's plans contain no details relating to its personnel needs and capacity. This information is vital if the Department is to make adequate budgetary and planning provision for additional staff it may need to meet its objectives. In the 2001/02 Plan no mention was made of the Department's overall resource requirements.<sup>1111</sup> The plan states repeatedly, however, that the Department intended training and capacitating its staff. For example, the plan states that 60 percent of Social Security staff would be trained in the operational year, the remaining 40 percent would be trained in the following year, while the final year of the MTEF period was set aside in order to monitor and evaluate this training.<sup>1112</sup> The plan also states that 24 district co-ordinators would be trained on HIV/AIDS programmes<sup>1113</sup> while middle and senior management were to receive training.<sup>1114</sup>

The plan for the 2001/02 financial year states that the Department intended to fill all budgeted posts<sup>1115</sup> but it did not provide information on how it intended to do this or what resources it required to do so. The 2002-2005 Strategic Plan states that the Department would absorb those staff additional to the establishment who possessed the necessary skills.<sup>1116</sup> The Department also budgeted R18.24 million for the "upgrading of human resources at district level."<sup>1117</sup> The Department had budgeted a further R600 000 for capacitating middle and senior staff, R5 000 for skills development and R20 000 to review its organogram.<sup>1118</sup> However, there is no evidence of funds being budgeted to recruit new staff. In the Strategic Plans for 2002-2005 and 2003-2006 the Plans stated that SWOT analysis had been carried out in order to identify departmental strengths and weaknesses. These analyses are said to have identified a number of issues which included staff shortages, poor control measures, poor dissemination of information and an overall lack of capacity.<sup>1119</sup> However, the Strategic Plans did not quantify the extent of these problems. For example, in the 2002-2005 plan the Department stated that it lacked staff, but it did not quantify how many staff it lacked and whether it lacked social workers, support staff or administrative staff.

In the Strategic Plan for the 2003-2006 MTEF period the Department stated that it was "grossly understaffed in all areas of the departmental core functions."<sup>1120</sup> The plan provided an outline of the number of vacant positions. For example, it stated that it had a 49 percent vacancy rate for social workers, an 86 percent vacancy rate for community

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<sup>1111</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plans, 2001/02.

<sup>1112</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2001/02, p. 19.

<sup>1113</sup> Ibid, p. 25.

<sup>1114</sup> Ibid, p. 36.

<sup>1115</sup> Ibid, p. 34.

<sup>1116</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, p. 15.

<sup>1117</sup> Ibid, p. 41.

<sup>1118</sup> Ibid, p. 64.

<sup>1119</sup> See Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, section 1.7.2, p. 10; and Eastern Cape, Department of Social Development, Strategic Plan, 2003-2006, section 9.2, p. 13.

<sup>1120</sup> Eastern Cape Department of Social Development, Strategic Plan, 2003-2006, section 17.2, p. 78.

liaison officers and a 63 percent vacancy rate for social security personnel.<sup>1121</sup> However, it did not provide any information on how it intended to address these shortages or what resources it required to ensure that all posts in its organogram were filled. The Plan stated that its vacancy rate meant that the Department was unlikely to implement its programmes successfully.<sup>1122</sup> However, when planning for the 2003-2006 financial years, the Department did not appear to adequately take into account the effect that this weakness would have on its ability to deliver. Nor did the Department appear to have a coherent staff recruitment and retention strategy in place to try and address this chronic weakness.

Given the negative effect that staff shortages have on the Department's ability to deliver against its mandate, it should have mentioned in its Strategic Plans how it intended filling its critical vacant posts such as social workers, community liaison officers and social security personnel. In addition, it should have included budgets for the filling of these posts. In its plans for 2001/02 and 2002-2005 the Department simply mentioned its training and recruitment objectives but did not provide any measurable activities for the implementation of these objectives. Its plan for the 2003-2006 provided even less information on how it intended to address the problem of critical staff shortages. Given the fact that the vacancy rate had not improved, despite these stated objectives, it is clear that the Department did not develop a coherent, costed and measurable plan to address this critical problem.

### **Consultation with stakeholders**

In the Strategic Plans for 2001/02, 2002-2005 and 2003-2006 there was little evidence that the planning process included consultation with all relevant stakeholders. The plan for 2001/02 mentioned the fact that the Department's success depended "on the understanding of its functions by workers and managers at all levels" and acknowledged the role that can be played by members of civil society.<sup>1123</sup> However, no evidence could be found to suggest that consultation with external stakeholders had taken place during this financial year.<sup>1124</sup> The plans for 2002-2005 and 2003-2006 state that consultation took place with internal stakeholders.<sup>1125</sup> In the 2002-2005 plan the Department stated that "the planning process has been based on the logical framework approach towards planning which requires participation from stakeholders who will be responsible for carrying out the plan."<sup>1126</sup> The plan for the 2003-2006 MTEF period declared that the strategic planning process was "a consultative process of program managers, sub program managers, planners and district managers."<sup>1127</sup> However, this did not take into

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<sup>1121</sup> Ibid, section 17.2, p. 79.

<sup>1122</sup> Eastern Cape Department of Social Development, Strategic Plan, 2003-2006, section 17.2, p. 79.

<sup>1123</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2001/02, section 1.1, p. 3.

<sup>1124</sup> Part III, C1(b) of the Public Service Regulations, 2001 determines that the service delivery improvement programme of the Department's Strategic Plan must contain "consultation arrangements with the department's actual and potential customers.

<sup>1125</sup> See Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, section 1.8, p. 11 and Eastern Cape Department of Social Development, Strategic Plan, 2003/04, section 10, p. 14.

<sup>1126</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, section 1.8, p. 11.

<sup>1127</sup> Eastern Cape Department of Social Development, Strategic Plan, 2003/04, section 10, p. 14.

consideration the importance of involving external stakeholders, such as civil society organisations, who could provide crucial information and expertise relevant to the mandate of the Department. While the Department has engaged in consultation with staff members, it should be reiterated that this is crucial because they will be responsible for the implementation of its plans and policies. Internal staff members must be fully conversant with the Department's mandate, its plans for the coming years, the requirements for implementing these plans and what activities they will be expected to undertake.

### **Achievability of objectives**

In order for the Department to effectively plan and monitor the implementation of its plans, it needs to ensure that its objectives, and the activities that it needs to undertake to meet those objectives, are measurable, achievable, time bound and properly costed<sup>1128</sup>. However, in the 2001/02 Strategic Plan the Department made no clear distinction between its stated objectives and activities. From the plan it is not clear what the required activities were in order to achieve the Department's objectives. For example, the Department stated that one of its objectives was to conclude the capturing and verification of re-registered beneficiaries.<sup>1129</sup> While this objective is clear it was not broken down into a detailed set of activities which would enable the Department to achieve this objective. In addition, the plan failed to take into account the necessary resources, both in time and budget, required to meet this objective.<sup>1130</sup> The Department's Strategic Plan for the 2002-2005 financial years shows a slight improvement as objectives are clearly divided into activities.<sup>1131</sup> However, the activities are poorly time-bound with many set for completion at the end of 2005. In order to ensure effective in-year monitoring, the Department should have set quarterly targets, which would have enabled the Department to properly monitor the progress of these projects. The objectives were also not measurable. For example, one objective required social security programmes to be accessible to the public. The corresponding measurement indicator was the training of a "number" of staff in this regard, and the provision of access to these programmes for a "number" of communities and "prospective beneficiaries."<sup>1132</sup> The Department should have provided exact data on the numbers of staff to be trained, and the numbers of beneficiaries who would benefit.<sup>1133</sup>

The one-year operational plan activities for the 2003/04 financial year were costed, but are not measurable, as many of the measurements for the achievement of these activities are indicated as percentages. Percentages make it difficult for oversight bodies to quantify progress in lieu of baseline figures. For example, one activity required that

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<sup>1128</sup> Treasury Regulation 5.2.3 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000, which covers the period 1 June 2000 to 9 April 2001. Treasury Regulation 5.2.2 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Treasury Regulation 5.2.2 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005.

<sup>1129</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2001/02, p. 19.

<sup>1130</sup> Ibid.

<sup>1131</sup> See Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, pp. 17-23.

<sup>1132</sup> Ibid, p. 19.

<sup>1133</sup> Eastern Cape Department of Social Development, Strategic Plan, 2003-2006, p. 22.

fraud cases be effectively dealt with within 30 days of detection. The measurement indicator for this activity was “40% of fraud cases are detected and dealt with.”<sup>1134</sup> It is not possible to monitor and evaluate the Department’s performance against an indicator which states “40 percent of fraud cases,” when the exact number of cases is lacking.

Given the improvement in the Strategic Plan for the 2002-2005 MTEF period, it is concerning to note that the Department’s Strategic Plan for the 2003-2006 period failed to clearly outline and separate its objectives from its activities. The 2003-2006 plan simply listed its objectives and high level activities for each programme over the MTEF period without breaking these down into activities that could be costed or monitored. For example, the Department stated that its overall objective for the administration of social grants for the 2003-2006 MTEF period was “to improve administration of grants in terms of taking of applications, payments, capturing and diversion policies by end of March 2006.”<sup>1135</sup>

The plan went on to list a number of items that can be perceived as “high” level activities. For example, it stated that “social security control measures are developed, implemented, monitored, evaluated and reviewed” and mobile helpdesks at service points are operational, and are monitored and evaluated.<sup>1136</sup> However, these are objectives that themselves require a number of activities. For example, the plan does not state what control measures were to be developed by the Department, how they were to be developed and implemented, and how they would be monitored and evaluated. The Strategic plan also failed to state the activities involved in operationalising the helpdesks or how they would be monitored and evaluated. In addition, the Department’s objectives and high level activities were costed on an annual basis, but all were not properly time-bound. Some were said to be completed by the end of the financial year, others by the end of the MTEF period. For example, the Department budgeted R21.13 million over the MTEF period for the operationalising of the mobile helpdesks. However, this overall objective was to be achieved by the end of March 2006.<sup>1137</sup> Given the importance of this project and the large amount that was budgeted by the Department for its implementation, the Department should have had in-year time-frames for the completion of each stage of this project. In the absence of these time-frames, the Department would have found it very difficult to carry out any effective in-year monitoring because of its failure to ensure that objectives and high-level activities were properly time-bound. The absence of proper time frames also compromises the Department’s ability to adequately monitor spending on projects, exposing it to the risk of projects not only overrunning, but also going over the budget. The Department would avoid these pitfalls if it adhered to regulations governing the creation of strategic plans.

These weaknesses are exacerbated by the Department’s failure to nominate responsible officials to monitor activities included in its plans.<sup>1138</sup> In the 2000/01 Strategic Plan, activities are allocated to specific programmes within the Department. For example, responsibility for the Professional Foster Care programme was assigned to the

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<sup>1134</sup> Ibid, p. 42.

<sup>1135</sup> Eastern Cape Department of Social Development, Strategic Plan, 2003-2006, p. 43.

<sup>1136</sup> Ibid.

<sup>1137</sup> Ibid.

<sup>1138</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2001/02, p. 11; Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, pp. 17-23; Eastern Cape Department of Social Development, Strategic Plan, 2003-2006, pp. 28-71.

Developmental Social Services programme.<sup>1139</sup> However, the Department can only hope to ensure accountability if it assigns individual officials to oversee the implementation of its activities. Subsequent Strategic Plans for 2002-2005 and 2003-2006 also allocated objectives and activities to specific programmes but failed to nominate responsible officials to carry out monitoring and take responsibility for specific activities.<sup>1140</sup> For example, the 2002-2005 Strategic Plan allocated responsibility for the building of community centres in Peddie and Tsomo, for which R4 million was budgeted for the 2002/03 financial year, to Programme 7.<sup>1141</sup> However, by the end of the 2003/04 financial year, neither centre had been built.<sup>1142</sup> The Department should have allocated an official responsible for the completion of this project. Its failure to do so, presumably meant that it was not able to hold anyone to account for the failure to build these community centres.

### **Reconciliation with previous years' budget**

In order for the Department to monitor its expenditure and improve budgeting whilst undertaking its strategic planning, it needs to review its budgets from previous financial years. This is necessary in order to determine how spending trends in previous years correspond with MTEF projections and strategic plan objectives. In the 2001/02 strategic plan, however, no evidence was found to suggest that the plan had been reconciled with previous budget allocations or actual expenditure by programme.<sup>1143</sup>

The Department's Strategic Plan for the 2002-2005 MTEF period included spending figures from previous years, and compared these with MTEF budget projections by programme, but did not compare spending figures from previous years against the actual budgets for those years.<sup>1144</sup> While this information was useful for the Department in terms of viewing increases in the budget, the Department did not show how this had affected its budgetary allocations or its spending. In its planning for the 2003-2006 period the Department set out previous years' expenditure figures and compared these with the MTEF budget projections by programme. The plan did not, however, compare previous years' expenditure figures against the actual budgets in these years. There was no evidence to suggest that budgets by programme for the period from 2002-2005 or 2003-2006 had been reconciled with previous budgetary information.

Thus, over three years, the Department failed to reconcile its budget and expenditure. The Department's failure to reconcile these figures results in it being unable to guide its strategic planning, in regard to the setting of budgets and targets. This is because past experience has not been taken into account when formulating plans for future performance.

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<sup>1139</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2001/02, p. 11.

<sup>1140</sup> See Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, pp. 24-76 and Eastern Cape Department of Social Development, Strategic Plan, 2003-2006, pp. 29-71.

<sup>1141</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2000-2005, p. 36.

<sup>1142</sup> See PSAM Press Release, 'PSAM calls on government to maintain improved service delivery', 19 August 2004.

<sup>1143</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2001/02.

<sup>1144</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, section 1.12.3, p. 81.

## Transfer of funds

Between 2000/01 and 2003/04 the Department received R545.91 million to be transferred to social development institutions in the form of subsidies.<sup>1145</sup> In 2002/03 alone, the Department subsidised more than 1200 social development and poverty relief programmes run by NGO's.<sup>1146</sup> Given the significant amount budgeted for these transfers, and the number of organisations that receive subsidies, it is important that the Department implement mechanisms to ensure compliance with transfer agreements and outsourcing contracts. Despite the importance of developing adequate monitoring mechanisms, none of the Strategic Plans between 2001/02 and 2003/04 contained any details of transfer agreements, such as Service Level Agreements (SLAs)<sup>1147</sup>, or mechanisms to monitor the spending of transferred funds.<sup>1148</sup> It is clear that the Department can only ensure that transferred funds are used efficiently and effectively if it enters into agreements with all bodies that it transfers funds to.

## Response to Auditor-General queries

Departments are required to provide detailed strategies in their Strategic Plans articulating how they intend to follow-up and address audit queries identified by the Auditor-General. In the Strategic Plan for 2001/02 the Department stated that it intended establishing an internal audit unit that would address its backlog of audit queries.<sup>1149</sup> Despite this, in its 2002/03 Annual Report the Department admitted that its response to audit queries was "extremely poor."<sup>1150</sup> In the Strategic Plans for the 2002-2005 and 2003-2006 periods, the Department restated its intention to address audit queries. For the 2002-2005 MTEF period, the Department said that its strategy for addressing these queries involved increasing the "capacity" of its internal audit function, increasing the staff complement of the division responsible for addressing audit queries, and the inclusion of these queries in the strategic plan as problems facing the Department.<sup>1151</sup> Despite this, the plan provided no detail regarding the activities required to meet this objective, nor did it provide any time-frames, or budget costs, or nominate any officials to take responsibility for its implementation. In addition, it did not state what type of training staff would undergo, how it would choose the staff to be trained and who would undertake the training. In the 2003-2006 Strategic Plan the Department reiterated its intention to strengthen its internal audit function. It also stated that it would ensure that management staff continued to receive training in regard to the PFMA so that they would

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<sup>1145</sup> See Eastern Cape Department of Social Development, Annual Reports, 2000/01, section 1.1.9.1, p. 71; 2001/02, table 3.3.1, p. 28; 2002/03, Annexure 1B, p. 89; 2003/04, Annexure 1 B, p. 105.

<sup>1146</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, pp. 103-138

<sup>1147</sup> A SLA is a contract that states what is expected of each party when monies are transferred. It details service levels that must be met by the receiving body and lists penalties that can be imposed by the transferring body if service levels are not maintained.

<sup>1148</sup> See Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2000/01; Province of the Eastern Cape, Department of Welfare, 2002-2005 and Eastern Cape Department of Social Development, Strategic Plan, 2003-2006.

<sup>1149</sup> Province of the Eastern Cape, Department of Social Development, Strategic Plan, 2001/02, p. 39.

<sup>1150</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 15

<sup>1151</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, section 1.18.1, p. 92,



be equipped to support financial management staff.<sup>1152</sup> However, the plan did not designate responsibility for this to any official, nor did it provide a time frame within which this would take place.<sup>1153</sup> As this submission will demonstrate further, the failure of the Department to plan adequately to address its audit queries has resulted in the Auditor-General raising a number of queries repeatedly over the four financial years under review.<sup>1154</sup>

### **Capital expenditure and maintenance projects**

In accordance with the PFMA, the Department needs to provide detailed information on its capital investment programme.<sup>1155</sup> In the 2001/02 Strategic Plan, the Department stated that it intended to build 30 welfare service points in various districts. It further stated that it planned to build 10 multi-purpose centers in 10 districts. The plan also contained information on plans to upgrade and perform maintenance on existing facilities.<sup>1156</sup> However, the plan did not provide any clear details on when the Department intended to commence with any of these projects. In addition, it failed to supply information regarding the resources that it required to complete these projects, or when it hoped to complete them. The plan also failed to provide information on where the 30 welfare service points were to be built.<sup>1157</sup>

In the 2002-2005 Strategic Plan, the Department referred to a number of projects to be completed. The plan included budgetary details, and, in some instances, time-frames for the completion of these projects.<sup>1158</sup> The plan noted, however, that “due to financial constraints, the Department has been hampered in building new facilities and in rendering completed ones operational.”<sup>1159</sup> However, these constraints do not seem to have been taken into account in the summary of maintenance projects for the 2002/03 financial year. Programme 7 is responsible for the development of new capital projects, upgrading and maintenance of existing facilities and the monitoring of contracts of leased properties.<sup>1160</sup> The 2002-2005 Strategic Plan provided a list of what it termed the “outputs/results” for Programme 7 for the operational year. This list consisted of an objective, the sub-programme under which each objective fell, the intended output or result, an indicator, which was to be used to monitor and evaluate the progress made in terms of achieving the objective, and the budget for each project.<sup>1161</sup> However, in the

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<sup>1152</sup> Eastern Cape Department of Social Development, Strategic Plan, 2003-2006, section 18.5, p. 83.

<sup>1153</sup> Province of the Eastern Cape, Department of Social Development, Strategic Plan, 2000/01, p. 39; Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, section 1.18.1, p. 92; Eastern Cape Department of Social Development, Strategic Plan, 2003-2006, section 18.5, p. 83.

<sup>1154</sup> See further in this regard p. 16 and p. 17 below.

<sup>1155</sup> Treasury Regulation 5.2.2(c) and (d) of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 which covers the period 9 April 2001 to 27 May 2002 while Treasury Regulation 5.2.2(e) and (f) of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005.

<sup>1156</sup> Province of the Eastern Cape, Department of Social Development, Strategic Plan, 2001/02, p. 31.

<sup>1157</sup> Ibid

<sup>1158</sup> Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, p. 89.

<sup>1159</sup> Ibid.

<sup>1160</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 38.

<sup>1161</sup> Province of the Eastern Cape, Department of Social Development, Strategic Plan, pp. 89-90.

place of the objective, the plan did not state what it intended to achieve, but simply provided a number. Providing a figure in this fashion is meaningless and prevents oversight of the Department's plans by the Legislature and members of the public. Another limitation of this list was its failure to nominate responsible officials, provide relevant time frames for in-year monitoring, or provide information about the activities required to meet each objective.<sup>1162</sup>

The Department's inadequate planning in regard to capital expenditure is illustrated by the failure of its capital expenditure plans included in the 2002-2005 Strategic Plan. This plan noted the Department's intention to build an old-age home in Butterworth for which R3 million had been budgeted.<sup>1163</sup> It also stated that the Department intended to build multi-purpose centres in Mount Frere, Cradock, Grahamstown, Ngqamakwe, Mount Fletcher and Idutywa.<sup>1164</sup> The cumulative budget for these projects was stated as R18.6 million. However, in the Department's Annual Report for 2002/03 it listed the building of these centres as projects "to be implemented in the next financial year."<sup>1165</sup> According to the Annual Report, "the main challenge in this programme is that the department is not prioritized on CAPEX<sup>1166</sup> funding." Given this circumstance, it is not clear why the Department planned these projects.

By the 2003-2006 MTEF period the Department had five programmes instead of the eight it had in previous years.<sup>1167</sup> This resulted in Programme 7 falling away. Whenever the plan listed maintenance or capital projects, it assigned responsibility for these objectives to programme 1.<sup>1168</sup> The plan stated that one of the Department's objectives was "to provide and maintain adequate infrastructure for effective delivery of social development services."<sup>1169</sup> Some of the higher level objectives included in the plan were the building of multi-purpose centres, "the completion of 2 and starting of 3 community development centres" and the maintenance of facilities owned or leased by the Department.<sup>1170</sup> However, despite the plan including a budget, there was no evidence of any reconciliation with infrastructural maintenance plans from the previous financial year as laid out in the Strategic Plan for 2002-2005.<sup>1171</sup> As in the 2002-2005 Strategic Plan, the Department again failed to specify time-frames for these projects, or the activities required to complete them. The Strategic Plan for the 2003-2006 MTEF period noted that the Department had a rolling multi-year plan for capital projects. However, the Department failed to properly articulate what this meant, or how it affected its planning in regard to capital expenditure.

Another issue that the Department failed to highlight in its plans is the role that the Department of Public Works was to play in terms of the construction and maintenance of facilities. The Strategic Plans do not provide any information on how time and financial constraints affect the ability of Public Works to assist it in achieving its objectives.

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<sup>1162</sup> Ibid.

<sup>1163</sup> Ibid, p. 89.

<sup>1164</sup> Ibid.

<sup>1165</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 42.

<sup>1166</sup> CAPEX refers to capital expenditure.

<sup>1167</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, part B, p. 15.

<sup>1168</sup> Eastern Cape Department of Social Development, Strategic Plan, 2003-2006, p. 40.

<sup>1169</sup> Ibid, p. 40.

<sup>1170</sup> Ibid, p. 40.

<sup>1171</sup> See Province of the Eastern Cape, Department of Welfare, Strategic Plan, 2002-2005, p. 89.

## Recommendations

*Needs Analysis: The Department needs to take urgent steps to improve the quality of its strategic planning. It is essential that the Department carries out a proper needs analysis to quantify exactly how many citizens within the province are in need of assistance from the Department. In particular it should ascertain how many people require social grants.*

*Organisational structure and capacity: A rigorous needs analysis exercise is also required to enable the Department to identify its exact staffing requirements and their training needs..*

*Consultation with stakeholders: Internal stakeholders are primarily responsible for carrying out tasks and activities to implement departmental plans. It is therefore vital that they provide input during the strategic planning process, and understand what is required of them. In addition, information possessed by external stakeholders, such as civil society research organisations, can prove to be crucial when planning. Given this, it is important that the Department fully consults both internal and external stakeholders during its strategic planning processes.*

*Achievability of objectives: In order to successfully implement its plans, the Department has to take into account the possible limitations and constraints that could influence the planning, monitoring and implementation of its plans. The Department needs to ensure that all objectives are achievable by dividing them into manageable activities that are properly costed and timebound. In addition, in order to ensure accountability the Department needs to allocate responsibility for the implementation of individual projects to officials who can monitor progress and be held accountable if projects fail.*

*Reconciliation with previous budgets: The Department needs to prioritise its reconciliation of previous years spending trends with actual budgets so that it is able to better utilise its budget.*

*Transfer of funds: The Department should be signing service level agreements (SLA) with every institution to which it transfers funds. The Department needs to ensure that it develops and monitors these SLAs to ensure that conditions within these SLAs are adhered to and efficient and effective use if made of public funds.*

*Auditor-General queries: The Department should develop a detailed and coherent plan detailing how it intends to address issues raised by the Auditor-General. This plan should be properly funded and responsible staff should be identified to ensure its success.*

*Capital expenditure and maintenance: The Department should provide more information in its Strategic Plans of how it intends to address its infrastructural needs. The plans should provide detailed information on limitations, such as time and financial constraints, and how these affect the Department's ability to meet its infrastructural objectives. The Department should also reflect on its past capital expenditure successes and failures when planning its future construction and maintenance objectives.*

## **5.2 Expenditure Management**

### **Summary**

*The tendency of the Department to over- or under spend its budget can be partly attributed to its ineffective and inadequate planning. It can also be argued that many of the Department's expenditure management problems stem from the fact that it continues to be severely understaffed. For the past four financial years (from 2000/01 to 2003/04) the Department has functioned with an average vacancy rate of 50.93 percent.<sup>1172</sup>*

*The Auditor-General has, over the four financial years in question, repeatedly raised the issue of weak and inadequate controls over assets, which, he has stated, could lead to the possibility of monetary losses. Despite this, little appears to have been done to address this problem.*

*Evidence also demonstrates that the Department does not have adequate mechanisms in place to monitor and control both the transfer of funds to external bodies, and transfers it receives in the form of conditional grants. Given the large amount of money that the Department transfers to external bodies in the form of subsidies, it is concerning to note that controls are not in place to monitor the use of these funds.*

*Finally, the Department has on a number of occasions failed to follow correct payment and procurement procedures which has led to large amounts of money being deemed as unauthorized, fruitless and wasteful expenditure in terms of the PFMA.*

### **Regulatory Requirements**

Public expenditure incurred by provincial departments is subject to strict regulation by the PFMA (supported by Treasury Regulations and a range of implementation Guidelines) and the Division of Revenue Act (passed annually).

The PFMA makes the accounting officer (generally the HOD) within any government department responsible for 'the effective, efficient, economical and transparent use of resources' and requires her/him to take appropriate steps to prevent 'fruitless and wasteful expenditure', which is defined as 'expenditure which was made in vain and would have been avoided had reasonable care been exercised.'<sup>1173</sup> Moreover, the PFMA states that before transferring any funds to an entity within or outside government an accounting officer 'must obtain a written assurance from the entity that that entity implements effective, efficient and transparent financial management and internal controls systems.'<sup>1174</sup>

DORA also states that all conditional grants can only be spent in a way which is consistent with their intended use. If provinces or municipalities underspend or make

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<sup>1172</sup> See Eastern Cape Department of Social Development, Annual Reports, 2000/01, p. 68; 2001/02, p. 77; 2002/03, p. 65; 2003/04, p. 84.

<sup>1173</sup> Public Finance Management Act, sections 38(1)(b) and (cii), Chapter 1 Definitions, p. 8.

<sup>1174</sup> Ibid, section 38(1)(j), p. 24.

improper use of conditional grants the transferring national department can either delay further payments<sup>1175</sup> or withhold these if there is 'a serious or persistent material breach of the conditions to which the allocation is subject.'<sup>1176</sup>

In order to ensure effective public expenditure management by government departments the PFMA sets out the general requirement that accounting officers maintain 'effective, efficient and transparent systems of financial and risk management' within departments and that they take steps to safeguard departmental assets.<sup>1177</sup> In addition the PFMA and Public Service Regulations both oblige MECs to ensure that their departmental personnel are governed by 'efficient, effective and economical' human resource management procedures.<sup>1178</sup> A vital part of such procedures is the implementation of effective performance management systems to govern the employment of all officials.<sup>1179</sup> Finally, the PFMA requires that accounting officers of departments ensure that they establish cost-effective procurement and provisioning systems.<sup>1180</sup>

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<sup>1175</sup> Division of Revenue Act, 2003, section 21.

<sup>1176</sup> *Ibid.*, section 22(1)(b).

<sup>1177</sup> Public Finance Management Act, 1999, Chapter 5, Section 38(a)(i), (c)(ii) and (d), pp. 23-24.

<sup>1178</sup> Section 195(1)(h) of the Constitution states that public administration must exhibit 'good human resource management.' Public Service Regulations state that it is the responsibility of executing authorities within departments to assess the human resource needs of departments. This should be done by identifying the total numbers of staff required to meet departmental objectives, and the necessary competencies and capacities staff will require to fulfil these objectives. In addition, the regulations note that training needs should be assessed and all human resource planning should be undertaken with due cognizance of the available budget. See, Public Service Regulations, 2001, Section 3 D1, pp. 12-13. Lastly, section 38(b) of the PFMA states that accounting officers are responsible for the 'effective, efficient, economical and transparent use of the resources of the department.' This clearly presupposes that departments will implement efficient and effective human resource management processes and procedures.

<sup>1179</sup> Resolution 13 of the Public Service Coordinating Bargaining Council, 1998, states that all senior management within the public service must sign performance agreements. See, Public Service Coordinating Bargaining Council Resolution 13 Senior Management (Performance Agreements), 1998, section 3. The Public Service Regulations of 2001 require that performance management systems should have been 'fully implemented by all departments with effect from 1 April 2001.' See, Public Service Regulations, 2001, part VIII, B.1, p. 28. Section 38(1)(b) of the PFMA requires that accounting officers ensure the 'effective, efficient, economical and transparent use of the resources of the department.'

<sup>1180</sup> Public Finance Management Act, 1999, section 38(1)(a)(iii), p. 23. The PSAM's references to procurement issues are drawn from Auditor-General and audit committee reports.

## Budget and Expenditure: 2000/01 – 2003/04

Financial Year	Total Budget (R'000)	Actual Expenditure (R'000)	Variance: (over)/under expenditure (R'000)	Percentage of (over)/under expenditure (R'000)
2000/01 <sup>1181</sup>	4 032 964	4 067 474	(34 510)	(0.86)
2001/02 <sup>1182</sup>	5 343 419	4 663 013	680 406	12.73%
2002/03 <sup>1183</sup>	6 353 822	6 425 476	(71 654)	(1.13%)
2003/04 <sup>1184</sup>	7 838 326	8 444 747	(606 421)	(7.74%)
<b>Total</b>	<b>23 568 531</b>	<b>23 600 710</b>	<b>(32 179)</b>	

## Findings

### Asset Management

According to Section 38(1)(d) of the PFMA and Treasury Regulation 10.1.2 the accounting officer is responsible for the management of assets, including their safeguarding and maintenance.<sup>1185</sup> In the Department's 2000/01 Annual Report, the Auditor-General stated that the Department's asset management system lacked sufficient information regarding assets, which, according to the Auditor-General, resulted in "an inability to utilise the fixed asset register as an adequate control over assets."<sup>1186</sup> In 2001/02 the Auditor-General again raised concerns about the Department's seeming inability to adequately maintain records of its assets.<sup>1187</sup> According to the Auditor-

<sup>1181</sup> Eastern Cape Department of Social Development, Annual Report, section 4.3 (1), p. 67.

<sup>1182</sup> Eastern Cape Department of Social Development, Annual Report, p. 77.

<sup>1183</sup> Eastern Cape Department of Social Development, Annual Report, p. 65.

<sup>1184</sup> Eastern Cape Department of Social Development, Annual Report, p. 84.

<sup>1185</sup> See Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2005 as contained in Eastern Cape Department of Social Development Annual Report for 2004/05, at p.83, section 4.9.10.

<sup>1186</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2001 as contained in the Eastern Cape Department of Welfare Annual Report for 2000/01, at p.56, section 3.2.9.

<sup>1187</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2001 as contained in the Eastern Cape Department of Welfare Annual Report for 2001/02, section 5.2(c), p. 61.

General, “asset registers in respect of motor vehicles, furniture and equipment did not contain the financial information requirements in terms of the Eastern Cape Provincial Treasury Directive 10.1.2 nor any information regarding additions or disposals.”<sup>1188</sup> The Auditor-General also raised this issue in the Department’s 2002/03 and 2003/04 Annual Reports.<sup>1189</sup> For example, in his audit of the Department in 2002/03 the Auditor-General noted that adequate control was “not being exercised over assets and records of assets are not always properly maintained.”<sup>1190</sup> It is deeply concerning to note that little appears to have been done to improve the Department’s control over its assets. This is demonstrated by the fact that this issue has been repeatedly raised by the Auditor-General over four financial years and was again identified as a problem in the Department’s 2004/05 Annual Report.<sup>1191</sup>

### Transfers to external bodies

Financial Year	Budget (R’000) <sup>1192</sup>	Actual Expenditure (R’000) <sup>1193</sup>
2000/01	130 000	118 900
2001/02	138 023	130 180
2002/03	143 196	146 771
2003/04	134 694	132 792
Total	545 913	528 640

<sup>1188</sup> Ibid.

<sup>1189</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Social Development for the year ended 31 March 2003, as contained in the Eastern Cape Department of Social Development Annual Report for 2002/03, at page 60, section 5.2(c) and in the Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Social Development for the year ended 31 March 2004, as contained in the Eastern Cape Department of Social Development Annual Report, at p.76, section 4.3(e).

<sup>1190</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Social Development for the year ended 31 March 2003, as contained in the Eastern Cape Department of Social Development Annual Report for 2002/03, p.60, section 5.2(c).

<sup>1191</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Social Development for the year ended 31 March 2004, as contained in the Eastern Cape Department of Social Development Annual Report for, 2003/04, at p.76, section 4.3(e).

<sup>1192</sup> See Eastern Cape Department of Social Development, Annual Reports, 2000/01, section 1.1.9.1, p. 71; 2001/02, table 3.3.1, p. 28; 2002/03, Annexure 1B, p. 89; 2003/04, Annexure 1 B, p. 105.

<sup>1193</sup> See Eastern Cape Department of Social Development, Annual Reports, 2000/01, section 1.1.9.1, p. 71; 2001/02, note 6, p. 71; 2002/03, Annexure 1B, p. 89; 2003/04, Annexure 1 B, p. 105.

The Department of Social Development transfers large amounts of money to external bodies such as welfare institutions which depend on subsidies from the Department. According to Treasury regulations, the accounting officer of the Department “must maintain appropriate measures to ensure that grants and other transfer payments are applied for their intended purposes.”<sup>1194</sup> These measures include “regular reporting procedures; audit requirements and, where appropriate submission of audited statement; regular monitoring procedures; scheduled or unscheduled inspection visits or review of performance; and any other controls deemed necessary.”<sup>1195</sup>

According to the Department’s Annual Report for the 2000/01 financial year, it transferred a total of R118.9 million to social welfare NGOs in the Province.<sup>1196</sup> However, the Annual Report did not provide a list of the organisations that received these subsidies, but instead grouped them together by type of organisation. For example, instead of supplying the names and details of each organisation, it simply stated that it had made payments to a number of Children’s Homes, Places of Safety or Homes for the Disabled.<sup>1197</sup> The Annual Report also provided a list of Victim Empowerment projects to which an amount of R197 thousand had been allocated, but again it did not provide any further information on why these specific projects had been chosen and how the funds were utilised.<sup>1198</sup> Finally, the Annual Report provided another list of transfer payments, to the value of R14.84 million, which had been made in the form of poverty alleviation grants.<sup>1199</sup>

In the Department’s Annual Report for 2001/02 a list of NGO’s which ran “Welfare” and “Poverty Relief Programmes” that had received subsidies from the Department was provided.<sup>1200</sup> According to the Annual Report, the cumulative total of these payments amounted to R130.18 million.<sup>1201</sup> The Management Report stated that institutions and NGO’s that had received these payments were “required to give assurance that they implemented effective, efficient and transparent financial management and internal control systems before funds were disbursed to them.”<sup>1202</sup> The Management Report further noted that recipients of subsidies were required to produce cash flow projections when requesting funds, together with quarterly reports detailing how funds were spent. Each organisation was also expected to produce financial statements for the Department at the end of each financial year in which funds were received.<sup>1203</sup> Despite these requirements, no evidence could be found in the Department’s Annual Report to suggest that institutions that had received transfers, had complied with the requirements.<sup>1204</sup> The Auditor-General noted that the Department could not provide a list of approved

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<sup>1194</sup> Treasury Regulations for departments constitutional institutions and public entities, issued in terms of the PFMA, 1999, National Treasury of South Africa, April 2001, Section 8.4.1, p. 23.

<sup>1195</sup> Ibid, section 8.4.1 (a, b, c, d, e), p. 23.

<sup>1196</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, section 1.1.9.1, p. 71.

<sup>1197</sup> Ibid, table 3.3.1, p. 28.

<sup>1198</sup> Ibid, Table 3.3, p. 33.

<sup>1199</sup> Ibid, Section 5, p. 36.

<sup>1200</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, Annexures C and D, pp. 97-132.

<sup>1201</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, Notes to the Annual Financial Statements, Note 6, p. 71.

<sup>1202</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, Notes to the Annual Financial Statements, section 5, p. 54.

<sup>1203</sup> Ibid, section 5, p. 54.

<sup>1204</sup> See Eastern Cape Department of Social Development, Annual Report, 2001/02.



institutions that had received subsidies from the Department for the 2000/01 financial year.<sup>1205</sup> In addition, he found that in certain instances the number of individuals who had received subsidies differed from the numbers appearing on the claims that had been submitted for approval.<sup>1206</sup>

In the Annual Report for the 2002/03 financial year, the Department provided a list of NGOs and other local authorities to which it had transferred funds. It did not, however, give details of the purpose of these transfers or the manner in which they were ultimately utilised.<sup>1207</sup> Instead of providing information on the requirements that each of these organisations have to adhere to, the Management Report simply referred to a list of organisations that had been added as an Annexure to the Department's 2002/03 Annual Report.<sup>1208</sup> The Auditor-General's report made no reference to transfer payments to NGO's and welfare institutions for 2002/03.

The Annual Report for the 2003/04 financial year also provided the names of the organisations that received transfer payments.<sup>1209</sup> However, the Auditor-General expressed his dissatisfaction with the Department's management of funds transferred to NGOs. According to the Auditor-General "the Non Government Organisation records were found to be unsatisfactory, as the information is not complete and updated. The validity of the beneficiaries could not be verified in all instances. In the absence of proper internal control measures the possibility of monetary loss cannot be excluded, but the monetary implications cannot be quantified without the performance of a forensic investigation which falls outside the scope of the regularity audit."<sup>1210</sup> The Auditor-General noted that the business plans, registration certificates and annual evaluations of NGOs were not always available. He also found that there were discrepancies between payments made to the NGOs and the amounts that they had received.<sup>1211</sup> Given that these manifest problems were identified in 2003/04 it would seem to indicate that, despite the Auditor-General making no reference to them, these same problems may have occurred in the 2002/03 financial year.

An example of the Department's failure to properly monitor transferred funds is provided by the lack of Departmental monitoring of its decision to outsource social grant payments. The Department announced in August 2002 that it was outsourcing the payment of social grants. The then MEC for Social Development, Ncumisa Kondlo, said that outsourcing would result in a more "efficient and effective system" which would eliminate "fraud and corruption" and improve "accessibility to beneficiaries".<sup>1212</sup> The Department also hoped that the outsourcing of payments, at a cost R180 million, would see improved identification security and more reliable beneficiary lists which, it anticipated, would solve many of the problems identified above as well as freeing up Departmental staff to enable them to focus on the job of actually processing applications. The Department committed itself to closely monitoring the performance of the chosen

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<sup>1205</sup> Ibid, section 3.2.7(a), p. 56.

<sup>1206</sup> Ibid, section 3.2.7(b), p. 56.

<sup>1207</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, pp. 103-126.

<sup>1208</sup> Ibid, number 6, p. 56.

<sup>1209</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, pp. 131-179.

<sup>1210</sup> Ibid, section 4.3(f), p. 76.

<sup>1211</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, section 4.3(f), p. 76.

<sup>1212</sup> "New grant payment plan 'will cut fraud'", *Daily Dispatch*, 8 May. 2001.

private service providers, AllPay and Cash Paymaster Services (CPS), through the creation of a monitoring unit within the Department.<sup>1213</sup>

Despite these arrangements, within weeks of the contracts being signed a plethora of media reports appeared which detailed the ill treatment and unprofessional handling of beneficiaries, a number of deaths in pension queues, poor communication of payment dates by the service providers and the apparent inability of the new service providers to carryout the effective and efficient payment of social grants. What this episode demonstrates is a clear example of the Department's abject failure to properly monitor the performance of institutions which it transferred funds to.<sup>1214</sup>

Given the large amount of money that the Department transfers to NGOs and private service providers on an annual basis, it is crucial that the Department develops and implements mechanisms, such as service level agreements, to ensure that these institutions, comply with financial management regulations governing the use of public resources. Only by doing so can the Department's accounting officer demonstrate that efficient and effective use is being made of such resources.

### **Conditional Grants**

Departments also have to account for their conditional grant expenditure. In its financial statements for the 2000/01 financial year the Department indicated that it had received a total conditional grant allocation of R19.29 million.<sup>1215</sup> The Annual Report provided a breakdown of the Department's conditional grant expenditure for the 2000/01 year, which included explanations for its reported spending variances.<sup>1216</sup> For example, the Department stated that its gross shortage of personnel was responsible for under spending its conditional grant allocation for the Child Support Grant (CSG) by R1 million during the 2000/01 financial year.<sup>1217</sup>

In the 2001/02 Annual Report the Department indicated that it had received a total of R451.81 million in conditional grants, of which R450 million was for the payment of social grants. However, the Department under spent its entire budget (which included both conditional grants as well as equitable share allocations) for Programme 2 (Social Security) by R565.98 million, or 11.5 percent.<sup>1218</sup> The Department attributed this under expenditure to the late allocation of the R450 million conditional grant from the Provincial Treasury which was intended to service social grant back-payments. According to the Department's Management report, "the under-spending did not have much impact on the core service delivery, that is the disbursement of grants to disabled, child support and older persons."<sup>1219</sup> It seems inconceivable that service delivery was not compromised by

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<sup>1213</sup> "Eastern Cape Pension Payouts Outsourced", *Daily Dispatch*, 15 Jan. 2002

<sup>1214</sup> For a detailed discussion of this issue, see PSAM research report, *The Outsourcing of Social Security Payments in the Eastern Cape: Service Delivery Challenges and the Problem of Accountability*, Neil Overy and Rock Zuma, January 2005.

<sup>1215</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, Section 4.3(1), p. 67.

<sup>1216</sup> Ibid, section 4.3(1), p. 68.

<sup>1217</sup> Ibid, section 1.1.15, p. 70.

<sup>1218</sup> According to the Management report however, the total under spending amounts to R638 million. See Eastern Cape Department of Social Development, Annual Report, 2001/02, p. 52.

<sup>1219</sup> Ibid, p. 53. The Department was permitted to role over this conditional grant to the following financial-year.

the Department's failure to spend R450 million, given that this amount was designated for the implementation of Regulation 11.<sup>1220</sup>

In 2002/03 the Department received a conditional grant of R443 million in order to service back-pay after requesting a rollover of the conditional grant allocation that it had not spent in the previous financial year. However, it yet again under spent this conditional grant by R208.67 million, or 46 percent, and a rollover for this amount was again requested. Despite receiving a significant conditional grant to address backlogs, it is concerning that the Department once again grossly under spent this grant, which resulted in more than 40 000 beneficiaries not being awarded their back-pay.<sup>1221</sup> The Provincial Department claimed that this under spending was the result of inadequate information and instructions received from the National Department of Social Development.<sup>1222</sup> This claim seems somewhat unlikely given that the Provincial Department is required to draw up business plans detailing how these funds are to be utilised. The information and instructions cited by the Department would need to have been obtained from the National Social Development Department during the drafting process of the business plans, prior to the funds being transferred.

In its statement on conditional grants in its 2003/04 Annual Report, the Department indicated that it had spent R58.94 million on the payment of social grant arrears.<sup>1223</sup> However, given that this money was not budgeted for in the conditional grant allocation transferred to the Department, it is not clear where these funds were appropriated from, or whether the spending of these funds as a conditional grant was approved.<sup>1224</sup>

The Department failed to adequately spend its R272.13 million conditional grant allocated for servicing the Child Support Grant (CSG), only utilising R178.84 million, or 66 percent of the total allocation for 2003/04.<sup>1225</sup> According to the Department, it under spent this conditional grant because of "the late start of the project in terms of the current financial-year, difficulties in registering children and the possibility that the funding for this grant may have been more than that required by the Province". However, this once again indicates inadequate planning on the part of the Department. The registration of new Child Support Grants had been an ongoing concern since 1998 yet the Department failed to spend the budget allocated to it for this purpose.<sup>1226</sup> Given that thousands of

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<sup>1220</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 20. According to National Social Development Minister, Zola Skweyiya, Regulation 11 of the Social Assistance Act was amended "so that the accrual date of benefits is from the date of application and the three-month limitation on back pay is discarded." See, Speech by Dr Zola Skweyiya, Minister for Social Development at the launch of the norms and standards project to improve the delivery of social security, Centurion, 6 August 2001.

<sup>1221</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 20.

<sup>1222</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, Annexure 1A, p. 89.

<sup>1223</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, Annexure 1A, p. 105.

<sup>1224</sup> From the table provided in the Eastern Cape Department of Social Development, Annual Report, Annexure 1A, p. 105 it appears that there was no allocation made for a conditional grant for social grant arrears by the Division of Revenue Act.

<sup>1225</sup> Ibid.

<sup>1226</sup> PSAM Monitoring Brief, Eastern Cape Department of Social Development, Performance Report for 2001/02-2002/03, V. Tetyana, p. 11. There is some confusion with regard to the estimated targets which had been set by the Department with regard to the Child Support Grant

children still needed to be registered for Child Support Grants, it is highly unlikely that funding for this project exceeded what was required. It is far more likely that the Department failed to adequately use its conditional grant allocation for CSG's because of difficulties it experienced during the registration and planning process. Given the fact that the Department has been engaged in this registration process for six years it is most concerning that it has not properly assessed or resolved difficulties it faces in regard to the registration of CSG's.

Between the 2000/01 and 2003/04 financial years the Department of Social Development received a total of R13.91 million for its HIV/AIDS conditional grant.<sup>1227</sup> The Department indicated in its Annual Reports for these four financial years that it had spent its entire conditional grant allocation for HIV/AIDS.<sup>1228</sup> In the Department's Annual Report for 2002/03 it stated that despite its conditional grant statement showing that it had under spent its HIV/AIDS conditional grant, the reports that it had submitted to the national Department of Social Development reflected that its expenditure had actually exceeded the amount of the grant. According to the Department, the reason for this discrepancy was "due to incorrect coding of the expenditure and hence the expenditure being allocated to a different objective."<sup>1229</sup> This suggests that the Department does not have effective monitoring mechanisms to ensure the correct allocation of its expenditure. Despite this, however, it can be concluded that the Department has consistently spent its HIV/AIDS conditional grant over the four financial years.<sup>1230</sup>

In light of these findings, the Department should address its spending of its CSG conditional grant. It is clear that the Department has not adequately planned for or budgeted for the spending of this grant. This is mostly due, in part, to the Department's failure to properly assess, via an accurate needs analysis, the extent of the need in the province for CSGs.

### **Under- and overspending**

In the 2000/01 financial year, the Department overspent its total budget of R4.07 billion by R34.5 million.<sup>1231</sup> Programme 2 (Social Security) alone overspent by R80.7 million in 2000/01.<sup>1232</sup> In 2001/02 the Department received a total budget allocation of R5.34 billion, of which it spent R4.66 billion. This translated into an under spending of over R680 million. Major under spending in 2001/02 was attributed to the late transfer by the

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(CSG). The original target was 780 000 CSG's to be registered by the end of 2002/03. However, this was adjusted to 425 000 by the Department but according to the IMT report the original figure was 803 483 of which only 371 556 had been registered by the end of February 2003. Eastern Cape Department of Social Development, Budget Statement 2, 2003, p. 118 and Report: Work of the Interim Management Team: Eastern Cape, November 2002-March 2004, p. 124.

<sup>1227</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, section 1.1.1, p. 68; 2001/02, Note 1 to the Annual Financial Statements, p. 70; 2002/03, Annexure 1A, p. 89; 2003/04, Annexure 1A, p. 105.

<sup>1228</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, section 1.1.1, p. 68; 2001/02, Note 1 to the Annual Financial Statements, p. 70; 2002/03, Annexure 1A, p. 89; 2003/04, Annexure 1A, p. 105.

<sup>1229</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, Annexure 1A (1), p. 89.

<sup>1230</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, section 1.1.1, p. 68; 2001/02, Note 1 to the Annual Financial Statements, p. 70; 2002/03, Annexure 1A, p. 89; 2003/04, Annexure 1A, p. 105.

<sup>1231</sup> Eastern Cape Social Development Department, Annual Report, 2000/01, section 4.3, p. 67.

<sup>1232</sup> Ibid. This overspending figure was off-set by underspending in other departmental programmes resulting in overspending of R34.5 million.

Provincial Treasury of a R450 million conditional grant earmarked for social grant back-payments.<sup>1233</sup> According to the Department, a lack of spending capacity resulted in R116 million worth of funds not being spent on certain services at district level.<sup>1234</sup> A further R45 million remained unspent because of the Department's failure to appoint critical personnel, while R16 million was under spent because of delays caused by slow tendering and procurement processes.<sup>1235</sup>

In 2002/03 the Department received a total budget allocation of R6.35 billion, while its expenditure for this financial year was R6.43 billion.<sup>1236</sup> This means that it overspent its budget by an amount of R71.7 million<sup>1237</sup> or 1.13 percent. The largest single over-expenditure was within the Social Security programme, which overspent its budget by R76.04 million.<sup>1238</sup> This over-expenditure was attributed to inadequate budgeting for the financial year.<sup>1239</sup> The fact that the Department overspent 1.13 percent of its 2002/03 budget compared to a 12 percent under spend for 2001/02 does mark a substantive improvement in the Department's ability to spend its money more effectively.

The Department overspent its 2003/04 budget by R606.42 million or 7.74 percent.<sup>1240</sup> This over expenditure can largely be attributed to the social assistance programme which overspent its R7 billion budget by R588.79 million. This constituted 96.6 percent of the Department's total over expenditure.<sup>1241</sup> The Department also overspent due to a growing number of litigation cases brought against it by grant applicants which has resulted in it having to pay out millions of rand which it had not budgeted for.<sup>1242</sup> The Department incurred litigation costs of R52 million over the four financial years between 2000/01 and 2003/04.<sup>1243</sup>

In the 2003/04 financial year, Programme 5 (Population Development) only spent 57 percent of its budget.<sup>1244</sup> The Department attributed this to a shortage of staff which prevented the programme from carrying out its functions. This under expenditure has serious implications for the planning function of the Department because this programme's objective is "to facilitate the utilisation of demographic data and socio-economic indicators in the planning of comprehensive equitable and accessible developmental welfare services".<sup>1245</sup> Under expenditure in this programme directly impinges on the Department's ability to provide the necessary statistics, during is strategic planning processes, which are vital to the process of establishing service

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<sup>1233</sup> Eastern Cape Social Development Department, Annual Report, 2001/02, section 3, pp. 52-53.

<sup>1234</sup> Eastern Cape Social Development Department, Annual Report, 2001/02, section 3, pp. 52-53.

<sup>1235</sup> Ibid.

<sup>1236</sup> Eastern Cape Social Development Department, Annual Report, 2002/03, p. 65.

<sup>1237</sup> Ibid.

<sup>1238</sup> Ibid, p. 65.

<sup>1239</sup> Ibid, section 4.1(2), p. 74.

<sup>1240</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 84.

<sup>1241</sup> Ibid.

<sup>1242</sup> "Bhisho's expensive lawsuit headache", *The Herald*, 8 Feb. 2005.

<sup>1243</sup> See, PSAM Research report, *Resorting to the court: Litigation and the crisis of social grants in the Eastern Cape*, Stacey-Leigh Joseph, October 2005, pp. 23-26.

<sup>1244</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 84.

<sup>1245</sup> Ibid, figure B9, p. 56.

delivery needs. Only with an effective needs analysis can departments' plan appropriately and utilise their resources in a systematic and efficient fashion.

The Department's erratic spending patterns over the four financial-years indicate an apparent inability to adequately plan for the efficient use of budgeted funds. This is deeply concerning given the vital role that the Department is mandated to play in the province.

### **Tender processes**

The Department has, on a number of occasions, failed to comply with procedures related to tender processes. For example, when reviewing the Department's Annual Report for the 2001/02 financial year, the Auditor-General found that due to a misunderstanding caused during the Department's tender processes, an amount of R2.62 million was deemed irregular expenditure in terms of the PFMA.<sup>1246</sup> This irregular expenditure related to a tender that was awarded to the Welfare Intervention Consortium for the extension of the re-registration of social pensions. However, it was found that certain members of the Consortium had been excluded from the tender. This happened despite the fact that a condition of the project was that all the members of the Consortium were involved with the project.<sup>1247</sup> The Department continued to experience problems relating to its tender process in 2002/03 when payments made to a service provider were regarded as irregular expenditure.<sup>1248</sup> It was found that despite the expiration of a contract between the Department and the service provider in August 2000, the Department continued to make use of the service provider. In order to continue making use of the service provider, the Department had to obtain approval for this from the Tender board but failed to do so. Therefore, the subsequent payments to the service provider of R17.04 million were regarded as irregular.<sup>1249</sup>

### **Unauthorised, Irregular, Fruitless and wasteful expenditure**

The PFMA (section 1 of 1999) defines fruitless and wasteful expenditure as expenditure which could have been avoided. Irregular expenditure is defined as "expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation" while unauthorised expenditure refers to "overspending of a vote or a main division within a vote" or "expenditure not made in accordance with a vote."<sup>1250</sup> In 2000/01 the Auditor-General remarked that serious deficiencies in internal checking and control measures in regard to the Department's financial activities could lead to the possibility of monetary loss. The weaknesses highlighted by the Auditor-General included problems surrounding payments for goods and services, personnel, leave, termination of services, the motor financing scheme, government vehicles, social services, ledger accounts and asset management.<sup>1251</sup> For example, the Auditor General found that in a number of instances, officials authorised payments despite their names not being on the list of authorised people to do so.<sup>1252</sup>

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<sup>1246</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, section 5.4, p. 61.

<sup>1247</sup> Ibid.

<sup>1248</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, section 5.3, p. 61.

<sup>1249</sup> Eastern Cape Department of Social Development, Annual Reports, 2002/03, section 5.3, p.

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<sup>1250</sup> Public Finance Management Act, 1999, Section 1

<sup>1251</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, section 3.2, p. 54.

<sup>1252</sup> Ibid, section 3.2.1(b), p. 54.

When reviewing the Department's statements for the 2001/02 financial year, the Auditor-General again noted that the Department's internal control environment was so poor that "the possibility of monetary loss due to the lack of sound financial management cannot be excluded."<sup>1253</sup> Clearly, such weak internal controls create an environment which exposes the Department to the possibility that instances of irregular or unauthorised expenditure will occur.

In the 2002/03 financial year, the Auditor-General noted that the Department had incurred two instances of unauthorised, irregular or fruitless and wasteful expenditure. In the 2002/03 financial year the Auditor General found that an amount of R117.30 million was reported as unauthorised expenditure.<sup>1254</sup> This unauthorised spending occurred in respect to transfer payments to grant beneficiaries,<sup>1255</sup> and in regard to an irregular expenditure made to a supplier after its contract with the Department had expired in August 2000 (noted above).<sup>1256</sup>

In the 2003/04 financial year the Department was issued with an unqualified opinion by the Auditor-General.<sup>1257</sup> However, the Auditor-General noted that the Department exceeded its budget by R629.49 million in order to service transfer payments. In terms of Section 1 of the PFMA this was regarded by the Auditor-General as unauthorised expenditure.<sup>1258</sup> The Auditor-General also found that the Department incurred irregular expenditure when it made a prepayment of R6.36 million to a service provider before services had been completed.<sup>1259</sup> In addition, the Department has, in three consecutive financial years, 2000/01<sup>1260</sup>, 2002/03<sup>1261</sup> and 2003/04,<sup>1262</sup> incurred unauthorised expenditure by exceeding its budget for Programme 2 (Social Security).

### Capital Expenditure Management

According to the Department's 2000/01 Annual Report, Programme 7 (Welfare Facilities) was responsible for providing "physical and technological infrastructure for use by Welfare service providers."<sup>1263</sup> In the 2000/01 financial year, this programme received R3.5 million, of which it only spent R1.5 million.<sup>1264</sup> The Department provided a very brief report on the output and service delivery of this programme which included information on the number of facilities which had been upgraded and built during the course of the financial year. In explaining why it under spent its budget for this programme, the Department stated that it was "due to professional and special services which are linked to the construction of buildings."<sup>1265</sup> It is not clear what the Department means here,

<sup>1253</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, section 4, p. 60.

<sup>1254</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, section 5.1, p. 59.

<sup>1255</sup> Eastern Cape Social Development Department, Annual Report, 2002/03, p. 65.

<sup>1256</sup> Ibid, section 5.3, p. 61.

<sup>1257</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, section 3, p. 74.

<sup>1258</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, section 4.1, p. 75.

<sup>1259</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, section 4.2, p. 75.

<sup>1260</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, section 4.3 (1), p. 67.

<sup>1261</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 65

<sup>1262</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 84.

<sup>1263</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, section 3.7(1), p. 39.

<sup>1264</sup> Ibid, section 2, p. 39.

<sup>1265</sup> Ibid, section 1.1.5(7.1), p. 70.

which clearly makes it difficult for oversight bodies and the public to call the Department to account. In addition, the Department must report in a transparent and accountable fashion to enable it to avoid such under spending in the future.

In its Annual Report for 2001/02 the Department provides a more detailed list of its maintenance and capital expenditure projects. Programme 7 was allocated R17.97 million of which it only spent R2.3 million, or 12.8 percent.<sup>1266</sup> Of the eight buildings that were targeted for maintenance, only three were finished while the Department reported that the remaining five were 60 percent complete.<sup>1267</sup> The Department stated that it had targeted 32 buildings for upgrading but it only completed 10 of these while the remainder were 60 percent complete.<sup>1268</sup> Of the 10 buildings that the Department had planned to purchase in this financial year, the Department reported that it was unable to purchase any.<sup>1269</sup> Again, no evidence was provided as to the time-frames, costs or controls to monitor the completion of these projects were provided by the Department. The explanations provided by the Department for the under spending of R16 million in this programme is discussed earlier in this submission.<sup>1270</sup>

The Department's reporting on maintenance, capital projects and upgrading of facilities is much more detailed in its Annual Report for the 2002/03 financial year. The Department provides the names of projects, the districts in which projects are to take place, their status and also the actual expenditure to date.<sup>1271</sup> In addition, it provides separate lists detailing the maintenance projects, projects to be upgraded and its new capital projects for the following financial years.<sup>1272</sup> The Department's spending of its budget for this financial year also improved considerably from the previous year, as it spent R25.4 million, or 82.73 percent, of its budget allocation.<sup>1273</sup> It is clear that the Department's reporting improved for this particular financial year.

In the 2003/04 financial year, the Department scrapped Programme 7 and relocated the responsibility for capital and maintenance projects to Programme 1 (Administration).<sup>1274</sup> The Department received a budget of R19.74 million for the building and maintenance of welfare facilities, of which it spent R17.88 million, or 91 percent.<sup>1275</sup> The Annual Report provides a list of projects planned for the 2003/04 financial year but fails to provide any details on the budgets for each of the projects, the time-frames or the monitoring mechanisms to ensure that they are completed.<sup>1276</sup> This was a step backwards in terms of the Department's reporting, as it had provided a much more detailed report in the previous financial year.

The Department's expenditure of its capital and maintenance budget has improved considerably between 2000/01 and 2003/04 but its reporting against its expenditure in this regard remains poor.

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<sup>1266</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, section 2, p. 45.

<sup>1267</sup> Ibid, section 3.1, p. 46.

<sup>1268</sup> Ibid, section 3.2, p. 46.

<sup>1269</sup> Ibid, section 3.3, p. 46.

<sup>1270</sup> See pp. 20-21 of this submission.

<sup>1271</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, pp. 41-42.

<sup>1272</sup> Ibid.

<sup>1273</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, figure 7.1, p. 38.

<sup>1274</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 17.

<sup>1275</sup> Ibid, table B3, p. 19.

<sup>1276</sup> Ibid, p. 29.



## Human Resource Management

One of the Social Development Department's biggest challenges is its lack of adequate staff, and the apparent absence of a functioning human resource management system. Over the past four years, the Department has had an average vacancy rate of 51 percent.<sup>1277</sup> In order for the Department to fulfil its mandate, it obviously requires a full staff complement, as well as a fully functioning performance management system in place to monitor the performance of its staff. In the 2000/01 Annual Report the Department stated that it had "insufficient number (sic) of middle management and professionals to implement the plans of various programmes in this department."<sup>1278</sup> The Department also acknowledged that "the rate at which staff is appointed as against the rate at which staff is leaving the department is slower."<sup>1279</sup> Despite its chronic staff shortages the Department under spent its budget allocation for the recruitment of personnel in 2001/02 because it failed to undertake person to post matching during the financial year. The Department reported that it had made a subsequent "saving" of R45 million in personnel.<sup>1280</sup> However, as the Department itself acknowledged, the shortage of skilled personnel is one of its biggest constraints.<sup>1281</sup> Given this, it is somewhat disingenuous of the Department to report a saving in personnel.

At the end of the 2002/03 financial year, the Head of Department again observed that the shortage of skilled personnel within the Department was a major constraint.<sup>1282</sup> Overall the Department had a vacancy rate of 51 percent.<sup>1283</sup> The Department's apparent inability to manage or quantify its human resource problems is illustrated by the Department's contradictory reporting in regard to social workers. In 2002/03 it stated that "the inadequate provision of critical components like social workers undermines the delivery capacity of the department and often results in litigation and court cases due to failure to render statutory services."<sup>1284</sup> However, this observation contradicted its reporting in its annual report. According to the Department's organogram there were 561 permanent and 12 temporary social worker positions. Of this, the Department claimed to have filled 558 permanent positions, and all temporary positions. This means that the Department was reporting that 99.5 percent of its social worker posts were filled.<sup>1285</sup>

According to the Interim Management Team report from June 2003 the beneficiary to staff ratio was 1:2900 in the Eastern Cape, compared to an average ratio in other provinces of 1:1700.<sup>1286</sup> The IMT reported that human resource management within the Department was inadequate because there was no overall human resource plan, no skills development plan, no employment equity plan and no proper strategy to retain and

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<sup>1277</sup> See Eastern Cape Department of Social Development, Annual Reports, 2000/01, p. 8; 2001/02, p. 7; 2002/03, p. 94; 2003/04, p. 16.

<sup>1278</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, table 2.2, p. 8.

<sup>1279</sup> Ibid, table 2.4, p. 9.

<sup>1280</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, 52.

<sup>1281</sup> Ibid, p. 54.

<sup>1282</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 55.

<sup>1283</sup> Ibid, note to table 3.1, p. 94.

<sup>1284</sup> Ibid, p. 55.

<sup>1285</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, table 3.3, p. 95.

<sup>1286</sup> Report: Work of the Interim Management Team: Eastern Cape, November 2002 – March 2004, section 10.1.5 (b) p. 123.

attract professional staff.<sup>1287</sup> Despite the IMT report bringing these serious deficiencies to the Department's attention in 2003, the Department reported a 51.6 percent overall vacancy rate at the end of the 2003/04 financial year.<sup>1288</sup>

The IMT report also found that the Social Development Department had been led by acting Heads of Department for a long period of time and that it had operated without a Chief Financial Officer, financial manager and head of Corporate Services.<sup>1289</sup> It also found that top management were dealing with matters that should have been dealt with by programme managers.<sup>1290</sup> According to the IMT, this was worsened by the fact that "programme management capacity was lacking."<sup>1291</sup> In addition, the IMT noted that a lack of skilled staff and incapacity at district office level was compromising service delivery.<sup>1292</sup> According to the IMT, the Department's human resource management was "reactive, unplanned and administrative."<sup>1293</sup>

The 2003/04 Annual Report stated that in order to "deliver on its mandate, the department had no option but to utilize consultants, contract workers and volunteers to render some of the function."<sup>1294</sup> However, the use of consultants, contract workers and volunteers can never represent more than a short term solution to a systemic problem which the Department has not succeeded in overcoming because it appear to lack a comprehensive and coherent plan to address human resource limitations.

The Department of Social Development reported that it had 173 staff additional to the establishment in 2002/03, and 16 at the end of the 2003/04 financial year.<sup>1295</sup> While these figures are relatively small they should be considered with the context of the Department's overall vacancy rate. Public Service Co-ordinating Bargaining Council Resolution 7 of 2002, stated that the Department should train, as far as possible, excess employees so that they could be absorbed into vacant posts, or assist employees to retire early, or approve applications for severance packages where applicable.<sup>1296</sup> Given that these excess employees are paid, despite not being appointed to approved posts, the Department clearly needs to ensure that they are, where possible, re-trained to fill approved vacant posts with the Department's organogram.

The Department of Social Development also needs to implement an efficient performance management system in order to ensure effective human resource management.<sup>1297</sup> According to the Department's Strategic Plan for 2001/02 it planned

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<sup>1287</sup> Ibid.

<sup>1288</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 16.

<sup>1289</sup> Report: Work of the Interim Management Team: Eastern Cape, November 2002 – March 2004, section 10.1.5 (c) p. 123.

<sup>1290</sup> Ibid.

<sup>1291</sup> Ibid.

<sup>1292</sup> Ibid, section 10.1.5 (c), p. 124.

<sup>1293</sup> Ibid.

<sup>1294</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 16.

<sup>1295</sup> Eastern Cape Department of Social Development, Annual Reports, 2002/03, table 3.3, p. 95; 2003/04, table E10, p. 113.

<sup>1296</sup> Amendment of Public Service Regulations, 7 June 2002., pp. 6-7.

<sup>1297</sup> Resolution 13 of the Public Service Coordinating Bargaining Council, 1998, states that all senior management within the public service must sign performance agreements. Resolution 13 states that such agreements should define 'a person's work according to his/her key duties and responsibilities [and] methods of assessing his/her performance.' It also stipulates that all senior managers should be assessed quarterly on the basis of their performance agreements. See,

to begin implementing a performance management system which was to be fully functional in 2002/03, and evaluated in 2003/04.<sup>1298</sup> The Strategic Plan also stated that the Department would ensure that “performance agreements are developed and job descriptions are written up.”<sup>1299</sup> However, despite this undertaking, the Department’s Annual Report for the 2001/02 contained no evidence to suggest that performance agreements had been signed or that the Department had succeeded in developing an effective performance management system.<sup>1300</sup>

The Strategic Plan for the 2002-2005 MTEF period again stated, as one of the Department’s objectives, the development and implementation of human resource management and human resource development systems.<sup>1301</sup> However, there is again no evidence in the Department’s Annual Report for the 2002/03 financial year to suggest that the Department had succeeded in implementing a performance management system.<sup>1302</sup> According to the Department’s Strategic Plan for 2003-06 the Department has a duty to “enter into performance agreements with its managers” because it is a “tool which links directly to financial planning and expenditure management.” The plan noted that all senior managers would sign performance agreements by the end of March 2003.<sup>1303</sup> It also stated in its operational plan (as a key performance indicator) that over the course of the coming financial year a “performance management system” and a “departmental work place skills plan” would be “implemented.”<sup>1304</sup> However, no evidence can be found to suggest that the Department had a functioning performance management system in place at the end of the 2003/04 financial year. It is a serious indictment against the Department that it had for three financial years repeatedly stated its intention to develop and implement an effective performance management strategy but had consistently failed to do so.

The Department’s inability to manage its human resources effectively has also resulted in it having to make extensive and costly use of consultants. In the 2002/03 financial year the Department spent between R203.78 million<sup>1305</sup> and R219.41 million<sup>1306</sup> on

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Public Service Coordinating Bargaining Council Resolution 13 Senior Management (Performance Agreements), 1998, section 3. In terms of the Public Service Regulations of 2001, performance management systems designed to ‘enhance organisational efficiency and effectiveness’ should have been ‘fully implemented by all departments with effect from 1 April 2001.’ These regulations state that a ‘performance cycle’ should have been introduced in each department to ensure that the performance of employees is monitored on a ‘continuous basis’. These regulations also state that employees should be assessed on an annual basis, but should meet with their assessment supervisors at least four times a year to address performance related issues. See, Public Service Regulations, 2001, part VIII, B.1, p. 28. Lastly, and as we have already seen, the section 38(1)(b) of the PFMA requires that accounting officers ensure the ‘effective, efficient, economical and transparent use of the resources of the department.’

<sup>1298</sup> Eastern Cape Department of Social Development, Strategic Plan, 2001/02, p. 34.

<sup>1299</sup> Ibid, p. 35.

<sup>1300</sup> See Eastern Cape Department of Social Development, Annual Report, 2001/02, part 2, pp. 6-14.

<sup>1301</sup> Eastern Cape Department of Social Development, Strategic Plan, 2002-2005, p. 22.

<sup>1302</sup> Ibid.

<sup>1303</sup> Provincial Department of Social Development, Strategic Plan, 2003-06, p. 82.

<sup>1304</sup> Ibid, p. 31.

<sup>1305</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, note 9.1, p. 82 and table E46, p. 129. The figures presented for the Department of Social Development both in its annual report and by the Treasury are inflated due to the outsourcing of social grant payouts that has taken place in the province. Payments to AllPay and CPS, the outsourced companies

consultants in the year. The precise figure is uncertain as the Department reports a different figure for consultant spending in its annual report when compared to the one that appears in the consolidated budget statements for the Eastern Cape Provincial Government, 2005/06.<sup>1307</sup> In 2003/04 the Department declared in its annual report that it spent R438.05 million<sup>1308</sup> on consultants, while the Treasury provided a figure of R533.72 million.<sup>1309</sup> It is interesting to note that over the same period (2002/03 and 2003/04) the Department spent R1.56 million and R1.2 million respectively on training, according to consolidated provincial budget statements.<sup>1310</sup>

## Recommendations

*Asset management: By failing to implement adequate control systems, the department exposes itself to “the possibility of monetary loss.”<sup>1311</sup> The Department must address the Auditor-General’s concerns and set out practical and measurable steps to improve internal control over its assets.*

*Staffing: As a matter of urgency, measures need to be instituted to address the Department’s debilitating vacancy rate. The Department needs to properly finance the creation of a coherent staff recruitment and retention strategy. In addition, given the critical importance of social workers to the Department, it needs to develop specific solutions to address this particular problem. For example, the Department could provide incentives to social workers, especially those who are employed in rural areas. In addition, the Department could focus its energies on creating relationships with institutions that train social workers, in an effort to attract newly qualified social workers to the province. Such measures will reduce the Department’s reliance on consultants.*

*Performance management system: The Department should take immediate steps to implement an effective performance management system particularly in light of its continued staff shortages. This will ensure that those staff that it does have work to their fullest potential.*

*Transfers to external bodies: the Department should implement effective mechanisms to monitor the transfer of funds to external bodies. The Department needs to develop and sign service level agreements with every entity that it transfers funds to. This will enable the Department to monitor the use of public resources more effectively.*

*Conditional grants: The Department also needs to address conditional grant spending. Given the fact that the registering of beneficiaries for the CSG was identified as a priority in 1998 the Department has performed poorly in regard to spending its conditional grants allocated for the registration of child support grant beneficiaries. The Department has to conduct a needs analysis in order to determine how many children in the province*

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responsible for the payment of social grants, are included within both sets of statistics as specialised services. This relates to all subsequent spending on consultants.

<sup>1306</sup> Eastern Cape provincial government, Budget statements, 2005/06, table B.2, p. 248.

<sup>1307</sup> See Eastern Cape Department of Social Development, Annual Report, 2002/03, note 9.1, p. 82. and Eastern Cape provincial government, Budget statements, 2005/06, table B.2, p. 248.

<sup>1308</sup> Eastern Cape Department of Social Development, Annual Report, note 9.1, p. 99.

<sup>1309</sup> Eastern Cape provincial government, Budget statements, 2005/06, table B.2, p. 248.

<sup>1310</sup> Ibid, table 7.2, p. 243.

<sup>1311</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, section 4.3, p. 75.

*require assistance in this regard. It should then use this information to inform its strategic planning.*

*Unauthorised, fruitless and wasteful expenditure: Instances of unauthorised, fruitless and wasteful expenditure have occurred largely because of the Department's weak internal control environment. The Department therefore needs to prioritise the development and implementation of effective control mechanisms consistent with the PFMA to monitor expenditure.*

*Procurement: The Department has repeatedly failed to follow proper payment and procurement procedures as defined by the PFMA. The Department needs to institute measures to ensure that it has an effective internal audit unit and Audit Committee in place to make certain that the Department complies with payment and procurement procedures outlined in the PFMA.*

### **5.3 Internal Monitoring of Expenditure and Service Delivery**

#### **Summary**

*The Department has, over the four financial years in question, failed to maintain a reliable and effective Audit Committee and internal audit function. One of the Audit Committee's primary functions is to inform the Department of possible risks and ensure that it implements corrective action in order to minimise its exposure to financial loss. The effects of the lack of an effective internal audit function and Audit Committee are evident given the Department's poor expenditure management during the 2000/01 and 2003/04 financial years.*

*The Auditor-General found that the Department had failed in the 2000/01 and 2001/02 financial years, to adhere to all relevant reporting requirements. In these two years, the Department had often failed to produce supporting documentation to substantiate financial transactions. In certain instances the "validity, accuracy and completeness of documentation" could not be guaranteed.*

*While the PSAM has not seen any monthly or quarterly reports produced by the Department, in the absence of a functional internal audit unit or audit committee it is not possible to ascertain whether these reports are actually produced, and, if they are, whether they meet with reporting requirements. It is deeply concerning that in the absence of audit oversight, no internal review of the Department's monthly and quarterly reporting takes place.*

#### **Regulatory Requirements**

In terms of the legislative framework, the accounting officers of all government departments need to provide ongoing reports on their progress in implementing their strategic plans and their expenditure of budgeted funds to their executive authorities and relevant treasuries. This reporting system provides the basis for a monitoring framework which enables the department's internal audit unit to identify potential risks in the expenditure of funds and management of departmental resources.<sup>1312</sup> This, in turn,

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<sup>1312</sup> Public Finance Management Act, 1999, Section 38(1)(a)(ii). Internal audit units are required to have a three-year strategic plan and their objectives should be based on an assessment of key areas of risk for the Department concerned. See: Guide For Accounting Officers: Public Finance

allows the department's audit committee to advise departmental managers on the effective running of its programmes and activities.<sup>1313</sup> In order to ensure that this system works effectively departments are required by legislation to produce monthly financial reports and quarterly performance reports. They are also required to produce comprehensive annual reports and reports on their use of conditional grants. The strictures contained in these various reporting requirements can be summarised as follows:

#### *Monthly Financial Reports*

The accounting officers of provincial departments should submit a report to their MEC within 15 days of the end of each month.<sup>1314</sup> A copy should also be sent to the provincial treasury concerned. These monthly reports then form the basis of a statement of revenue and expenditure for the Revenue Fund for which the provincial treasury is responsible. This statement is then published in the Government Gazette on a quarterly basis.<sup>1315</sup> All monthly reports should contain the following information:

- Actual revenue and expenditure (by programme)<sup>1316</sup>

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Management Act, National Treasury, Oct. 2000, Section 6 Corporate Management and Internal Controls, pp. 31-32.

<sup>1313</sup> Ibid, pp. 32-34. The Audit Committee is required to ensure effective communication between a department's internal audit unit and its management. It should, *inter alia*, examine the performance of the internal audit unit, review the effectiveness of a department's internal controls, monitor management's response to identified weaknesses, evaluate the performance of management, and consider the quality of financial information produced by the department. See Treasury Regulations, 2001, Section 3.2.

<sup>1314</sup> Section 40(4)(b) and (c) of the Public Finance Management Act, Act 1 of 1999 (as amended) requires monthly financial reports. This section must be read with the applicable Treasury Regulations. The following Treasury Regulations apply for the applicable periods: Treasury Regulation 18.2.1 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 covers the period 1 June 2000 to 9 April 2001. Regulation 18.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 18.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005.

<sup>1315</sup> The National Treasury, Best Practice Guideline, on In Year Management, Monitoring and Reporting states that these monthly reports should be made public on a quarterly basis through publication in the Government Gazette. It reads 'The reports will focus attention on performance against budget *and* against service delivery plans, and will alert managers where remedial action is required. In addition, reports will be consolidated and published monthly for National Departments and quarterly for Provinces in the national Government Gazette, in line with international best practice.', Introduction, p.4, July 2000. Treasury Regulation 18.1.2 directs that: 'A provincial treasury must submit a statement to the National Treasury on actual revenue and expenditure with regard to its revenue fund before the 22nd day of each month in the format determined by the National Treasury. Such a statement must include a certificate to the effect that the information supplied has been verified by the head official of the provincial treasury. The information supplied must be based on information submitted to the provincial treasury by provincial accounting officers in terms of section 40(4)(c) of the Act'. Section 32(2) of the PFMA then determines that: 'After the end of a prescribed period, but at least quarterly, every provincial treasury must submit to the National Treasury a statement of revenue and expenditure with regard to the Revenue Fund for which that treasury is responsible, for publication in the national Government Gazette within 30 days after the end of each prescribed period.'

<sup>1316</sup> Section 40(4)(b) and (c) of the Public Finance Management Act, Act 1 of 1999, read in conjunction with Treasury Regulation 18.2.1(a) of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 for the applicable period; alternatively Treasury Regulation 18.1.1

- Performance in implementing service delivery plans<sup>1317</sup>
- Projections of revenue and expenditure until the end of the year<sup>1318</sup>
- Information on the spending on conditional grants and the extent of compliance with the conditions imposed<sup>1319</sup>
- Information on all transfers<sup>1320</sup>
- An explanation of any material variances and a summary of steps that are taken to ensure that the projected expenditure and revenue remain within the budget<sup>1321</sup>

#### *Quarterly Performance Reports*

Provincial departments should submit a report to their MEC within 15 days of the end of each quarter.<sup>1322</sup> These reports should contain the following information:

- Performance against budget and service delivery programme, including programme specific performance indicators.<sup>1323</sup>
- Quarterly financial information

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of Government Notice R.345 of Government Gazette 22219 of 9 April 2001 which directs that the accounting officer must also comply with the reporting requirements of the annual Division of Revenue Act; alternatively Treasury Regulation 18.1.1 of Government Notice R.740 of Government Gazette 23463 of 25 May 2002 which also requires that the accounting officer comply with the reporting requirements of the annual Division of Revenue Act.

<sup>1317</sup> National Treasury, Best Practice Guideline, on In Year Management, Monitoring and Reporting, Introduction, p.4.

<sup>1318</sup> Sect 40(4)(c)(ii) of the Public Finance Management Act, Act 1 of 1999 (as amended) as read with Treasury Regulation 18.2.1(b) of Government Notice R.556 of Government Gazette 21249 of 31 May 2000 for the applicable period;

<sup>1319</sup> Division of Revenue Act, 2002, Section 16(1)(a) and (d). Section 16(1)(a) states that 'the relevant receiving officer must, in respect of an allocation transferred to - (a) a province, and as part of the report contemplated in section 40(4)(c) of the Public Finance Management Act, within 15 days after the end of each month, submit a report to the relevant provincial treasury, the relevant provincial executive authority and the transferring national officer.'

<sup>1320</sup> National Treasury, Best Practice Guideline, In Year Management, Monitoring and Reporting, Monthly Reports, p. 9, July 2000.

<sup>1321</sup> Public Finance Management Act, 1999, Sect 40(4)(c)(iii).

<sup>1322</sup> See further in this regard: Regulation 5.3.1 and 5.3.2 of Government Notice R.556 of Government Gazette 21249 of 31 May 2000, which cover the period 1 June 2000 to 9 April 2001. Regulation 5.3.1 of Government Notice R.345 of Government Gazette No 22219 of 9 April 2001 covers the period 9 April 2001 to 27 May 2002 while Regulation 5.3.1 of Government Notice R.740 of Government Gazette No. 23463 of 25 May 2002 covers the period 27 May 2002 to 15 March 2005. In addition, the Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 4 – Reporting and Accountability, at page 9 directs that departments must produce reports which can 'be used by managers to develop plans, evaluate alternative courses of action and, where necessary, institute corrective actions.'

<sup>1323</sup> Ibid. See also the Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000. This Guide states that 'While the Act focuses on financial reporting, as financial data are leading indicators of performance, the accounting officer must also include non-financial indicators, which are produced quarterly. These non-financial indicators are often department or programme specific, and should be stipulated in the performance agreement between the accounting officer and executive authority, and endorsed by the portfolio committee in the relevant Legislature. The monthly monitoring reports will be consolidated and published in the National Government Gazette, in line with international best practice.' See Section 2 – Accountability Cycle, p. 7.

- An explanation of underspending/overspending and proposed corrective actions<sup>1324</sup>

### *Annual Reports*

The Accounting Officer for provincial departments should submit an annual report to their MEC by 31 August each year. The MEC should table this report in the provincial Legislature by 31 August. The annual report should contain the following information:

- An account of the activities of the department for the year against the measurable objectives set out for each of the department's programmes<sup>1325</sup>
- An account of the department's performance against predetermined objectives<sup>1326</sup>
- A copy of the departments audited financial statements<sup>1327</sup>
- A copy of the Auditor-General's comments on these financial statements<sup>1328</sup>
- A report by the department's Audit Committee<sup>1329</sup>
- A report on misconduct and corrective action within the department<sup>1330</sup>

### *Reports on Conditional Grants*

The Accounting Officer for a provincial department that has received a conditional grant should submit a report to the provincial Treasury, the department's MEC, and the Director-General of the national department which transferred the grant, within 15 days of the end of each month. This report should contain the following information:

- The amount of the conditional grant
- Expenditure for the month (and until the end of the year)
- An account of the department's compliance with the conditions of the grant
- An account of problems encountered and steps taken to deal with these problems<sup>1331</sup>

## **Findings**

### Audit Committee and internal audit unit<sup>1332</sup>

The role of the internal audit is to be an "independent appraisal function" within the Department which exists to monitor and evaluate its performance during the financial year. The internal audit exists in order to review the efficiency and adequacy of internal controls within the Department and to appraise the Department of any weakness it finds in this regard. It is mandated to advise the Department on ways to address any deficiencies that it identifies in order to ensure the efficient and effective use of

<sup>1324</sup> Treasury Regulations, 2001, Sect 5 (3)(1).

<sup>1325</sup> Public Finance Management Act, 1999, Sect 40(1)(d) in conjunction with Sect 27(4). Sect 5 (2)(3) of the Treasury Regulations, 2001, state that 'The strategic plan must form the basis for the annual reports of accounting officers as required by sections 40(1)(d) and (e) of the Act.'

<sup>1326</sup> Ibid, Sect 40(3)(a)

<sup>1327</sup> Ibid, Sect 40(1)(d)(ii)

<sup>1328</sup> Ibid, Sect 40(1)(d)(iii)

<sup>1329</sup> Treasury Regulations, 2001, Sect 3.1.10.

<sup>1330</sup> Public Finance Management Act, 1999, Sect 40 (3) (b)(i) and (ii)

<sup>1331</sup> The specific conditions applying to the use of conditional grants vary from year to year. The above conditions are drawn from Sect 16.1 of the Division of Revenue Act, No.5, 2002.

<sup>1332</sup> See further in this regard section 38(1)(a)ii of the PFMA as read with Treasury Regulation 3.2.



resources.<sup>1333</sup> It is also mandated to review the quality of the Department's in-year monitoring. The audit unit has to prepare a document outlining its procedure for monitoring the Department, a three year strategic plan, an operational plan and a quarterly report which measures the performance of the audit unit against its strategic plans. These plans have to be prepared in consultation with, and must be approved by, the Department's audit committee.<sup>1334</sup>

It is the responsibility of the accounting officer to appoint an audit committee.<sup>1335</sup> The audit committee is guided by written terms of reference that deals with its membership, authority and responsibilities. The committee has to review the effectiveness of the Department's internal control systems as well as the effectiveness and efficiency of the internal audit unit. One of the main functions of this committee is to review the adequacy, reliability and accuracy of financial information provided by the Department, and monitor how it responds to concerns and issues that have been raised by the internal audit unit.<sup>1336</sup>

Over the four financial years, from 2000/01 to 2003/04, the Department has failed to maintain a reliable and effective Audit Committee and internal audit function. In 2000/01 the Auditor-General pointed out that "no internal audit function was visible at the department and no evidence could be found that internal audit reports were issued during the year under review."<sup>1337</sup> The Auditor-General noted that this failure took place despite the fact that a Chief Director had been employed in the Premier's Office to ensure the implementation of an internal audit function for the entire Provincial Administration.<sup>1338</sup> This problem was also identified by the Auditor-General in the 2001/02 financial year.<sup>1339</sup> According to the Auditor-General "no evidence could be found that internal audit reports were issued during the financial year under review, despite the appointment of a Chief Director for internal audit by the Provincial Administration (Office of the Premier) and the allocation on an internal audit team to the department."<sup>1340</sup>

By the end of the 2002/03 financial year, the Department had appointed an internal audit unit which fell under the control of the province's shared Audit Committee.<sup>1341</sup> However, the Auditor-General noted that despite the fact that the Shared Internal Audit unit as well as an Audit Committee had been established in 2000, the charters governing these units, as required by the Treasury Regulation 3.1.8 and 3.2.5, were only approved in November 2002.<sup>1342</sup> The Auditor-General noted that this meant that the Internal Audit functioned without an Annual Plan for eight months of the 2002/03 financial year.<sup>1343</sup> According to the Department's 2003/04 Annual Report, the Audit Committee only commenced its activities "after the conclusion of the 2003/04 financial year."<sup>1344</sup> In

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<sup>1333</sup> Guide For Accounting Officers: Public Finance Management Act, National Treasury, Oct. 2000, Section 6 Corporate Management and Internal Controls, p. 31.

<sup>1334</sup> Ibid, p. 32.

<sup>1335</sup> Treasury Regulation 3.1

<sup>1336</sup> Treasury Regulations for departments, trading entities, constitutional institutions and public entities, issued in terms of the PFMA, National Treasury, See further in this regard Regulation 3.1.

<sup>1337</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, section 3.1, p. 53.

<sup>1338</sup> Ibid.

<sup>1339</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, section 5.6, p. 62.

<sup>1340</sup> Ibid.

<sup>1341</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, section 5.4, p. 61.

<sup>1342</sup> Ibid.

<sup>1343</sup> Ibid.

<sup>1344</sup> Eastern Cape Department of Social development, Annual Report, 2003/04, pp. 60-61.

addition, the Auditor-General noted that the internal audit unit only functioned for six months of the financial year. He stated that this constituted non-compliance with Treasury Regulation 3.2.7 and section 38(a)(ii) of the PFMA.<sup>1345</sup> It is concerning that the Department has been incapable, or unwilling, to ensure the existence of a functioning internal audit unit or audit committee for the years under review. It shows an alarming disregard for the oversight process and raises questions about the Department's willingness to be held accountable for its actions.

In the 2002/03 financial year, the Audit Committee initially expressed its satisfaction with the content and quality of the Department's monthly and quarterly reports.<sup>1346</sup> The Committee stated that it was "satisfied with the content and quality of monthly and quarterly reports prepared and issued by the Accounting Officer and the department."<sup>1347</sup> Despite this, the Audit Committee appeared to contradict itself when it also raised strong concerns about the quality of these reports. The Committee pointed out that the monthly reports did not have reliable information to explain variances for over and under expenditure. The Committee also noted that the variances did not reflect the true financial picture position of the Department. In addition, the Committee pointed out that programme managers were not committed to the submission of these reports.<sup>1348</sup> According to the Committee "variances for over and under expenditure are still vague without adequate explanation on reasons for fluctuations,"<sup>1349</sup> while "revenue projections are not always done accurately."<sup>1350</sup> This apparent contradiction in terms of the Department's reporting for the 2002/03 financial year, is somewhat bizarre and would appear to raise questions about the Department's attention to detail.

The Audit Committee's report for 2002/03 also noted steps taken by the Department to deal with a number of long-standing reporting issues. These included the creation of an electronic filing system to database and archive supporting documents for audit purposes, and the submission to the provincial Treasury, via the Joint Management Team,<sup>1351</sup> of a list of all the vacant critical posts within the Department.<sup>1352</sup> In addition, the Committee alarmingly noted that the shared internal audit unit's queries were not addressed adequately by the Department, especially those relating to internal control weaknesses.<sup>1353</sup> The Committee does not provide any further details regarding internal controls but goes on to say that a number of weaknesses had been reported previously but they had not been addressed by the Department.<sup>1354</sup>

In 2003/04 the Audit Committee claimed that it could not fully comply with its responsibilities because it had only commenced its duties after the conclusion of the

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<sup>1345</sup> Ibid, p. 78.

<sup>1346</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 50.

<sup>1347</sup> Ibid.

<sup>1348</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, pp. 49-50.

<sup>1349</sup> Ibid, p. 49.

<sup>1350</sup> Ibid.

<sup>1351</sup> The Joint Management Team came into effect as a result of the Interim Management Team's investigation into the province. This team was made up of departmental management and representatives of senior officials from the Department of Public Service and Administration and the National Department of Social Development. See the Eastern Cape Department of Social Development, Annual Report, 2002/03, p. 53.

<sup>1352</sup> Ibid.

<sup>1353</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, pp. 49-50.

<sup>1354</sup> Ibid.

2003/04 financial year.<sup>1355</sup> The Department received an unqualified audit opinion<sup>1356</sup> from the Auditor-General, which would imply that the Auditor-General was satisfied with the Departments financial reporting for the 2003/04 financial year.

### Reporting

When commenting on the Department's Annual Report for the 2000/01 financial year, the Auditor-General found that the Department had failed to produce a "significant number of documents in support of expenditure incurred."<sup>1357</sup> The documentation that could not be produced included "batches to substantiate payments, batches and/or supporting documentation confirming the validation of transactions and batches to support the validity of transactions in various social securities suspense accounts."<sup>1358</sup> In 2001/02 the Auditor-General again found that "a significant number of supporting documentation deemed necessary to confirm the validity, accuracy and completeness of transaction in ledger and expenditure accounts could not be produced."<sup>1359</sup> According to the Auditor-General's report, this non-submission of documentation was repeatedly brought to the attention of the accounting officer. However, nothing was apparently done to address this problem. The Auditor-General stated that this constituted a case of financial misconduct in terms of section 81 of the PFMA.<sup>1360</sup> In addition, in the absence of an internal audit function and effective Audit Committee, the validity, accuracy and availability of supporting documents cannot be monitored which compromises the Department's ability to carry out effective monitoring of expenditure. It is encouraging to note that the Auditor-General did not draw attention to the quality of the Department's supporting documentation when carrying out his audits for the 2002/03 and 2003/04 financial years.

### **Recommendations**

*Audit committee and internal audit unit: The Department needs to ensure that it maintains an effective and reliable Audit Committee, and fully operational internal audit unit. This will enable the Department to properly monitor its expenditure and internal control environment and will ensure that its monthly and quarterly reports are properly reviewed. Both the internal audit unit and the Audit Committee should be informed by an effective annual audit plan.*

## **5.4 Legislative Breaches and Financial Misconduct**

### **Summary**

*As already indicated, departments are required to fulfil their obligations to citizens in accordance with a multitude of regulations and peremptory pieces of legislation, with the Public Finance Management Act being arguably the most onerous statute in this*

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<sup>1355</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 60.

<sup>1356</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, section 3, p. 74.

<sup>1357</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, section 2.2.2.2, p. 51.

<sup>1358</sup> Ibid.

<sup>1359</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, section 3.1, p. 57.

<sup>1360</sup> Ibid, section 3.1 continued, p. 58.

regard.<sup>1361</sup> The PFMA's object is to "secure transparency, accountability, and sound management of the revenue, expenditure, assets and liabilities of institutions" in order to:

- modernise the system of financial management in the public sector,
- enable public sector managers to manage, but at the same time be held more accountable;
- ensure the timely provision of quality information; and
- eliminate the waste and corruption in the use of public assets.<sup>1362</sup>

Despite these objectives, the information which is contained within this submission on the Eastern Cape Department of Social Development demonstrates a plethora of instances where there has been either an inability, ignorance of or non-adherence to legislation such as the PFMA. The disclaimers and often repetitive conclusions made by the provincial Auditor-General serve to further emphasize the recurrent obstacles that continue to negatively affect service delivery by this Department.

The PFMA directs that certain action or inaction which falls short of the prescribed requirements is to be addressed by way of disciplinary action where necessary, and in some instances by way of criminal proceedings should the circumstances require.<sup>1363</sup> Despite the lucid provisions of the PFMA and accompanying Treasury Regulations, there appears to be a dearth of disciplinary action flowing from overt contraventions of the aforesaid legislation by this Department, even when such contraventions are stated explicitly by the Auditor-General.

## Regulatory Requirements

The PFMA states that an accounting officer for a government department commits an act of financial misconduct (and may be liable on conviction to a fine or imprisonment) if she/he wilfully or negligently makes or permits unauthorized, irregular, fruitless or wasteful expenditure or if she/he fails to comply with one of the following provisions:<sup>1364</sup>

- If she/he fails to ensure that her/his department has an efficient and effective system of financial and risk management and internal control,<sup>1365</sup> a system of internal audit under the direction of an audit committee,<sup>1366</sup> and an appropriate procurement and provisioning system.<sup>1367</sup>
- If she/he fails to take effective steps to collect all money due to the department,<sup>1368</sup> or to prevent unauthorized, irregular, fruitless or wasteful expenditure.<sup>1369</sup>

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<sup>1361</sup> The Public Finance Management Act, Act 1 of 1999, as amended from time to time.

<sup>1362</sup> Introduction to the PFMA, as obtained from the National Treasury website through the following link: <http://www.treasury.gov.za/legislation/acts/pfma/default.htm> . Accessed on 9 February 2006 at 15h10.

<sup>1363</sup> For comprehensive details in this regard, the reader is respectfully referred to Chapter 10 of the PFMA, in particular sections 81 through to 86, as amended from time to time.

<sup>1364</sup> Public Finance Management Act, 1999, section 81(1)(a) read with section 86(1). Section 86(1) states that the accounting officer's non compliance with one of the provisions listed in this section must be committed wilfully or 'in a grossly negligent way' in order to constitute a potential criminal offence.

<sup>1365</sup> *ibid* section 38(1)(a)(i)

<sup>1366</sup> *ibid* section 38(1)(a)(ii)

<sup>1367</sup> *ibid* section 38(1)(a)(iii)

<sup>1368</sup> *ibid* section 38(1)(c)(i)

- If she/he fails to take effective disciplinary steps against any departmental official who commits an act which undermines the financial management or internal control systems of the department or who makes or permits an unauthorized, irregular, or fruitless and wasteful expenditure.<sup>1370</sup>
- If she/he fails to ensure that the provisions of DORA are complied with when transferring funds, or if she/he fails to ensure that entities outside of government to whom it intends transferring funds have effective, efficient and transparent financial management and internal control systems.<sup>1371</sup>
- If she/he fails to take effective steps to prevent overspending by the department or within one of its main programmes.<sup>1372</sup>
- If she/he fails to keep full and proper records of the financial affairs of the department or if she/he fails to submit all reports, returns, notices and other information to the provincial Legislature, her/his MEC, the provincial treasury or the Auditor-General.<sup>1373</sup>
- If her/his annual report and audited financial statements do not fairly present the state of affairs of the department, its financial results and its performance against its predetermined objectives or its financial position at the end of the financial year.<sup>1374</sup>

## Finding

The table which appears below serves to illustrate breaches of the PFMA by the Eastern Cape Department of Social Development, identified by the Auditor-General, during the period between 2000 and 2004. This table does not represent an exhaustive list and we respectfully request that the Commission consider more thoroughly the conduct of the public servants concerned (as more fully documented in management letters, special forensic reports and other more detailed documentation which appears to fall outside the public domain) against the benchmark set by legislation such as the PFMA.

The table identifies in column 1, a conclusion made by the Provincial Auditor-General during the course of his audit of the Department. This conclusion is in most instances a direct quote from the applicable audit report. There are of course stylistic or grammatical variances in these conclusions when a comparison is made between various audit reports which draw the same conclusion, albeit stated somewhat differently. The following Auditor-General's conclusions assist in illustrating this variance, despite the words nevertheless having the same effect or import:

“The following remarks are indicative of serious deficiencies in the internal checking and control measures, with regard to the department's financially related activities. Furthermore, the possibility of monetary losses due to the lack of sound financial management cannot be excluded. In view of the foregoing, it must be emphasized that it is the Accounting Officer's responsibility in terms of section 38 of the PFMA, to ensure that the department has and maintains,

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<sup>1369</sup> *ibid* section 38(1)(c)(ii)

<sup>1370</sup> *ibid* section 38(1)(h)(i) and (ii)

<sup>1371</sup> *ibid* section 38(1)(i) and (j)

<sup>1372</sup> *ibid* section 39(2)(a)

<sup>1373</sup> *ibid* section 40(1)(a) and (f)

<sup>1374</sup> *ibid* section 40(3)(a)

effective, efficient and transparent systems of financial and risk management and internal control.”<sup>1375</sup>

Whilst in another audit report it is stated as follows<sup>1376</sup>:

“The following remarks are indicative of serious deficiencies in the internal checking and control measures, with regard to the department’s financially related activities. Furthermore, the possibility of monetary loss due to the lack of sound financial management cannot be excluded. In view of the foregoing, it must be emphasized that it is the accounting officer’s responsibility to protect its financial interests and indirectly the citizens interests, by watching over its finances with the utmost circumspection and within the provisions of the law.”<sup>1377</sup>

Where there are variations of a particular conclusion made by the Auditor-General, we have indicated as much in the corresponding footnote by using the abbreviation “WTTSE” which means “*words to that similar effect*”. Column 2 of the table notes the financial year in which the conclusion was made, whilst column 3 records the provincial department which was the subject of the conclusion.

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<sup>1375</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2001, as contained in the Department of Welfare Annual Report for 2000/01, at page 54, paragraph 3.2.

<sup>1376</sup> Bold text is used purely to highlight the variance.

<sup>1377</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 5 – Department of Roads and Public Works for the year ended 31 March 2001, as contained in the Department of Roads and Public Works Annual Report for 2000/01, at page 38, para.3.1.

<b>Auditor-General's conclusion.</b>	<b>Financial year</b>	<b>Department</b>
"The failure to provide this office with documentation, records and information that was required is...considered to be financial misconduct in terms of section 81 of the PFMA and is reported as such."	2001/2002	Welfare <sup>1378</sup>
The following remarks are indicative of serious deficiencies in the internal checking and control measures, which have also previously been reported, with regard to the department's financially related activities. The possibility of monetary losses due to the lack of sound financial management cannot be excluded. In view of the foregoing, it must be emphasized that it is the Accounting Officer's responsibility in terms of section 38 of the PFMA, to ensure that the department has and maintains, effective, efficient and transparent systems of financial and risk management and internal control:"	2000/2001 2001/2002 2002/2003 2003/2004	Welfare <sup>1379</sup> Welfare <sup>1380</sup> Social Development <sup>1381</sup> Social Development <sup>1382</sup>
"National Treasury Regulations paragraph 17.2.1 requires the retention of all financial information in its original form. Section 41 of the PFMA stipulates that submission of all information, returns, documents, explanations and motivations to the Auditor-General as required. In addition to the non-compliance with the National Treasury Regulations and the PFMA, the non-submission of documentation required for audit purposes results in the limitation of the scope of the audit."	2000/2001	Welfare <sup>1383</sup>

<sup>1378</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2002, as contained in the Department of Welfare Annual Report for 2001/02, at p.58.

<sup>1379</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2001, as contained in the Department of Welfare Annual Report for 2000/01, at p.54, para.3.2. WTTSE

<sup>1380</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2002, as contained in the Department of Welfare Annual Report for 2001/02, at p.60.

<sup>1381</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Social Development for the year ended 31 March 2003, as contained in the Department of Social Development Annual Report for 2002/03, at p.59. WTTSE

<sup>1382</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Social Development for the year ended 31

The following two tables provide details of MEC's and HOD's that we believe were incumbent within the department between 1994 and 2004. In some instances we have been unable to confirm exact dates.

MEC	Period in Office	Source document
Trudy Thomas	1996-1997	Annual Report 1996/97 <sup>1384</sup> , Daily Dispatch, 8 Jan 1998 <sup>1385</sup>
Mandisa Marasha	1997-1998	Daily Dispatch, 8 January 1998 <sup>1386</sup> Daily Dispatch, 30 January 1998 <sup>1387</sup>
Ncumisa Kondlo	2000-2002	Daily Dispatch, 22 October 2000 <sup>1388</sup> , The Herald, 21 November 2002 <sup>1389</sup>
Neo Moerane Mamase	2003-2005	Daily Dispatch, 10 December 2002 <sup>1390</sup> , 23 January 2006 <sup>1391</sup>

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March 2004, as contained in the Department of Social Development Annual Report for 2003/04, at p.75. WTTSE

<sup>1383</sup> Report of the Auditor-General to the Provincial Legislature of the Eastern Cape Province on the Financial Statements of Vote 4 – Department of Welfare for the year ended 31 March 2001, as contained in the Department of Welfare Annual Report for 2000/01, at p.51, para.2.2.2.2.

<sup>1384</sup> See Department of Health and Welfare, Province of the Eastern Cape, Annual Report, 1996/97

<sup>1385</sup> 'Round three for provincial pension tenders,' Daily Dispatch, 8 January 1998

<sup>1386</sup> <http://www.dispatch.co.za/1998/01/08/PAGE5.HTM>

<sup>1387</sup> Ibid.

<sup>1388</sup> 'Pensions the final nail in Marasha coffin,' Daily Dispatch, 30 January 1998.

<sup>1389</sup> 'EC Welfare Dept want to "clean" pension database,' Daily Dispatch, 22 October 2000.

<sup>1390</sup> Mbeki axings rock Bisho,' The Herald, 21 November 2002

<sup>1391</sup> [http://www.theherald.co.za/herald/2002/11/21/news/n01\\_21112002.htm](http://www.theherald.co.za/herald/2002/11/21/news/n01_21112002.htm)

<sup>1392</sup> 'R6.6 m fast tracks child grants,' Daily Dispatch, 10 December 2002.

<sup>1393</sup> 'Mamases in court for day of reckoning,' The Herald, 23 January 2006.



HOD	Period in Office	Source document
Unknown	1994-1998	
Mlungisi Makalima	1998-2001	Daily Dispatch, 19 July 2001 <sup>1392</sup>
Namhla Dekeda	2002-2003	Daily Dispatch, 11 September 2002 <sup>1393</sup> , The Herald, 7 November 2003 <sup>1394</sup>
Kalipile Mabentsela	2004-present	Daily Dispatch, 2 March 2004 <sup>1395</sup>

## Recommendation

In light of the discussions above, the PSAM submits the following recommendation:

*The legislation and supporting regulations which are documented throughout this submission are peremptory and do not allow for selective adherence by public servants. If the provincial administration of the Eastern Cape is to address compliance deficiencies within its own staff, this automatically requires that Departments take steps to address non-compliance particularly where it is of a systemic nature. The Auditor-General's recurrent findings illustrate that there is inadequate adherence to such legislation.*

*Executing authorities and accounting officers within provincial departments need to enforce the provisions of the PFMA and other legislation without fear or favour. If accounting officers in particular fail to comply with their legislative duties in a wilful or negligent manner, such failure should result in disciplinary action being taken against them.*

## **5.5 Accountability to Oversight bodies**

### Summary

*The Auditor-General has repeatedly raised concerns about the Department's weak financial management. This is illustrated by the fact that the Department of Social Developed was issued with six disclaimers between 1996/97 and 2003/04 by the Auditor-General. In similar fashion, the Department's Standing Committee has raised a number of concerns year on year. The problems that have consistently been raised by both the Auditor-General and the Standing Committee are the Department's high*

<sup>1392</sup> 'Makalima prepares for post in Argentina,' Daily Dispatch, 19 July 2001

<sup>1393</sup> 'EC gets social services head', Daily Dispatch, 11 September 2002

<sup>1394</sup> 'Another Bisho Head suspended', The Herald, 7 November 2003

[http://www.theherald.co.za/herald/2003/11/07/news/n11\\_07112003.htm](http://www.theherald.co.za/herald/2003/11/07/news/n11_07112003.htm)

<sup>1395</sup> 'Top govt post for Mabentsela,' Daily Dispatch, 2 March 2004

<http://www.dispatch.co.za/2004/03/02/Easterncape/cpost.html>

*vacancy rate, its poor internal controls and the inconsistent spending of its budget. The fact that these problems have repeatedly been raised by the Auditor-General and the Department's Standing Committee between 2000/01 and 2003/04, indicate either an unwillingness or inability to address concerns raised by these oversight institutions.*

## **Regulatory Requirements**

In terms of the Constitution the Office of the Auditor-General must audit and report annually on the 'accounts, financial statements and financial management' of all government departments. These reports must then be submitted to the provincial Legislature.<sup>1396</sup> One of the key functions of the Auditor-General is to ensure that government departments are properly managed and that their resources 'are procured economically and utilised efficiently and effectively.'<sup>1397</sup>

The various portfolio committees of the Provincial Legislature are then tasked with scrutinising the content of department's annual reports and investigating queries raised in the Auditor-General's report. According to the Constitution, the Legislature and its committees are tasked with exercising oversight of executive authorities in the province and their corresponding government departments.<sup>1398</sup> In carrying out this function a provincial Legislature or any of its committees may 'summon any person to appear before it' and 'require any person or government institution to report to it.'<sup>1399</sup>

The following table lists the audit opinions that the Department had received from the Auditor-General between 1996/97 and 2003/04. It also provides the actual expenditure figures for the Department during each financial year.

<b>Financial Year</b>	<b>Actual Expenditure<sup>1400</sup> (R000's)</b>	<b>Audit Opinion<sup>1401</sup></b>
1996/1997	3 450 749	Disclaimer
1997/1998	3 759 373	Disclaimer
1998/1999	3 634 356	Disclaimer
1999/2000	3 855 536	Disclaimer
2000/2001	4 067 474	Disclaimer
2001/2002	4 663 013	Disclaimer
2002/2003	6 425 476	Qualified
2003/2004	8 444 747	Unqualified
<b>Total</b>	<b>34 445 188</b>	

<sup>1396</sup> Constitution of the Republic of South Africa, section 188(1) and (3).

<sup>1397</sup> Auditor-General Act, 1995, section 4(d).

<sup>1398</sup> Constitution of the Republic of South Africa, section 114(1) and (2).

<sup>1399</sup> Ibid, section 115(a) and (b).

<sup>1400</sup> Intergovernmental Fiscal Review, National Treasury, 2000, table C7.3, Eastern Cape Department of Social Development, Annual Report, 2000/01, section 4.3, p. 67; 2001/02, p. 77; 2002/03, p. 65; 2003/04, p. 84.

<sup>1401</sup> Reports of the Auditor-General on the Financial Statements of Vote 4-Welfare of the Eastern Cape Provincial Administration for the years ended, 1996/97 (PR 61/1999); 1996, 1997, 1998 and

## Findings

Between 1996/97 and 2001/02 the Department of Social Development received six consecutive disclaimers from the Auditor-General.<sup>1402</sup> Although the Department's performance improved during the 2002/03<sup>1403</sup> and 2003/04<sup>1404</sup> financial years to a qualified and unqualified audit opinion respectively, there are two particular issues that have repeatedly been raised by the Auditor-General over the past eight years.

Firstly, the Auditor-General has continued to raise the issue of weak internal controls, particularly in terms of social grant payments, which were, up until the 2004/05 financial year the Department's most significant expense.<sup>1405</sup> For example:

- At the end of the 1996/97 financial year, the Auditor General stated "Internal control over the processing of applications for pensions and social grants was inadequate. The functions of compiling, examining and approval of applications had not been assigned to specific officers with the result that responsibility could not be fixed."<sup>1406</sup>
- At the end of the 1999/00 financial year he commented that "Documentation which formed an integral part of the application in respect of disability, old age, child support, maintenance, foster care and care dependency applications was not always properly completed and /or available."<sup>1407</sup>
- In 2001/02 the Auditor-General stated, "a significant amount of files could not be produced to confirm existence of beneficiaries, which could be attributed to the lack of proper registries to control the movement of files."<sup>1408</sup>
- This issue was raised again in the Department's 2003/04 Annual Report when the Auditor-General found that "proof of the existence of beneficiaries is not obtained regularly, certified identity documents are not always available on file, grants are approved but not always verified, limited computer generated ID numbers appear on the system and documentation of re-assessment of disability after the initial approved period could not always be produced for audit purposes." The Auditor-

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1999 (PR XX/2000); 2000 (PR 67/2001) and Eastern Cape Department of Social Development, Annual Reports, 2000/01, section 2.3.1 and 2.3.2, p. 53; 2001/02, section 4, p. 60; 2002/03, section 4, p. 59; 2003/04, section 3, p. 74.

<sup>1402</sup> See Report of the Auditor-General on the Financial Statements of Vote 4-Welfare of the Eastern Cape Provincial Administration for the years ended, 1996/97 (PR; 1996, 1997, 1998 and 1999; 2000 and Eastern Cape Department of Social Development, Annual Report, 2001/02, section 4, p. 60.

<sup>1403</sup> Eastern Cape Department of Social Development, Annual Report, 2002/03, section 4, p. 59.

<sup>1404</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, section 3, p. 74.

<sup>1405</sup> See Report of the Auditor-General on the Financial Statements of Vote 4-Welfare of the Eastern Cape Provincial Administration for the year ended, 1996/97; 1996, 1999, 1998 and 1999; 2000; Eastern Cape Department of Social Development, Annual Reports, 2001/02, section 3.2, p. 58; 2002/03, section 5.2(a), p. 60; 2003/04, section 4(a), p. 75.

<sup>1406</sup> Report of the Auditor-General on Vote 4-Department of Welfare of the Provincial Administration of the Eastern Cape for 1996/97, section 2.2.2.6(a), p. 2.

<sup>1407</sup> Report of the Auditor-General on the Financial Statements of Vote 4- Welfare of the Eastern Cape Provincial Administration for the year ended 31 March 2000, section 2.2.2.6(f)(i)(a), p. 8.

<sup>1408</sup> Eastern Cape Department of Social Development, Annual Report, 2001/02, section 3.2(a), p. 58.

General further stated that “in the absence of proper internal control measures the possibility of monetary loss cannot be excluded...”<sup>1409</sup>

This lack of control was observed by the Interim Management Team (IMT) which highlighted the Auditor-General's comments concerning the Department's lack of financial management, poor internal controls and administrative capacity.<sup>1410</sup> According to the IMT, controls were deemed to be especially weak at district offices, which were said to be hampered by a lack of skilled staff and incapacity.<sup>1411</sup> The effect of the lack of control over social security files is illustrated by the fact that the Department has, as has previously been demonstrated, been repeatedly taken to court by social grant applicants, some of whom have waited years for their grants to be processed.<sup>1412</sup>

The second issue that has been repeatedly raised by the Auditor-General is the Department's weak control over personnel records. For example, the Auditor-General stated at the end of the 1996/97 financial year that “the majority of the personnel, leave and housing files requested for the purpose of auditing salaries, home owners' allowances, leave and bursaries could not be submitted. As a result the Auditor-General could not establish whether relevant laws, rules and regulations had been complied with.”<sup>1413</sup> The issue of control over staff expenditure (which included staff debt and advances) has, in fact, been raised by the Auditor-General every year between 1996/97 and 2003/04.<sup>1414</sup> In 2000/01 the Auditor-General stated that “approval that employees qualify for housing allowances could not in all instances be produced.”<sup>1415</sup> The Auditor-General further stated that the “recalculation (of leave) had not been performed as required by paragraph 2b of the directive on leave absences as issued by the Department of Public Service.”<sup>1416</sup> In the 2003/04 financial year, the Auditor-General found that “the personnel leave records were found to be unsatisfactory, as the information was not always timeously captured on the PERSAL system.”<sup>1417</sup>

A further issue that has previously been highlighted in this submission is the Auditor-General's repeated concerns over the Department's inability to maintain adequate control over its assets.<sup>1418</sup>

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<sup>1409</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, section 4.3(a), p. 75.

<sup>1410</sup> Report: Work of the Interim Management Team: Eastern Cape, November 2002-March 2004, section 10.1.5 (b), p. 122.

<sup>1411</sup> Report: Work of the Interim Management Team: Eastern Cape, November 2002-March 2004, section 10.1.5 (b), p. 123.

<sup>1412</sup> See, PSAM research report, Ligitation and the crisis of the administration of social grants in the Eastern Cape, Stacey-Leigh Joseph, October 2005, section 4, p. 19-23.

<sup>1413</sup> Report of the Auditor-General on Vote 4-Department of Welfare of the Provincial Administration of the Eastern Cape for 1996/97, section 2.2.1.5(a), p. 2.

<sup>1414</sup> See Reports of the Auditor-General on the Financial Statements of Vote 4-Welfare of the Eastern Cape Provincial Administration for the years ended, 1996/97 (PR; 1996, 1997, 1998 and 1999; 2000 and Eastern Cape Department of Social Development, Annual Reports, 2000/01, sections 2.2.2.6 and 2.2.2.7, p. 52; 2001/02, section 4, p. 60; 2002/03, section 5.2(e), p. 60; 2003/04, section 4.3(b) and (c), p. 76.

<sup>1415</sup> Eastern Cape Department of Social Development, Annual Report, 2000/01, sections 2.2.2.6 (a), p. 53.

<sup>1416</sup> Ibid, section 2.2.2.7, p. 53.

<sup>1417</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, section 4.3 (b), p. 76.

<sup>1418</sup> See the discussion under Expenditure Management, pp. 14-17.

The Standing Committee on Social Development has also made a number of repeated recommendations regarding problems experienced by the Department. For example, in March 2001 the Committee instructed the Department to appoint appropriate personnel. The Standing Committee remarked that the “appointment of appropriate personnel to key position (sic) is a prerequisite for efficient services and must be undertake (sic) as a matter of urgency.”<sup>1419</sup> Among the problems raised by the Standing Committee at the end of the 2002 and 2003 financial years, were the issues of adequate staffing and staff retention strategies.<sup>1420</sup> After reviewing the Department’s performance in July 2002, the Committee ordered the Department to “engage Treasury around the necessity to employ more social workers to improve the ratio and reduce the critical overload experienced by social workers.”<sup>1421</sup> The Standing Committee reiterated this concern six months later, in January 2003, when it again ordered the Department to “engage Treasury so as to address the issues of less allocation for critical post (sic).”<sup>1422</sup> Problems around the appointment of staff were once again raised in the Committee’s recommendations toward the end of 2003 when it ordered the Department to “rework and declare posts within 21 working days and to interact with Treasury for more funding.”<sup>1423</sup> However, as this submission has demonstrated, the Department continues to have major staffing difficulties.

An important recommendation made by the Committee in December 2003 instructed the Department to “put systems in place to prevent future litigation...”<sup>1424</sup> Both the Auditor-General and Standing Committee have repeatedly noted problems which have led to litigation against the Department. For its part, the Committee expressed its exasperation with the Department’s overall poor state of affairs. It urged the Department to “put its house in order.” The Committee also suggested that those who were not performing should be dealt with accordingly.<sup>1425</sup> Though this is a commendable stance taken by the Standing Committee, it is too vague. The Committee should have clearly identified how it felt the Department should “put its house in order” and take steps itself to identify those individuals responsible for the Department’s continued poor performance. The Department was also ordered to develop a strategy to ensure the retention of social workers, which included improving their conditions of service.<sup>1426</sup>

The problems identified in regard to social grant administration appear to lead, in many instances, to eligible beneficiaries having their grants cancelled or delayed due to poor document management, the loss of documents and documents being processed

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<sup>1419</sup> Resolutions/Recommendations affecting the Department of Welfare, 5 March 2001, sections (4)

<sup>1420</sup> See Resolutions/Recommendations affecting the Welfare, 3 July 2002 and Resolutions/Recommendations affecting the Department of Social Development, 24 January 2003.

<sup>1421</sup> Resolutions/Recommendations affecting the Department of Welfare, 3 July 2002, p. 9, number 5.

<sup>1422</sup> Resolutions/Recommendations affecting the Department of Social Development, 24 January 2003, section 2, p. 1.

<sup>1423</sup> Resolutions/Recommendations affecting the Department of Social Development, 13 October 2003.

<sup>1424</sup> Resolutions/Recommendations affecting the Department of Social Development, 2 December 2003.

<sup>1425</sup> Resolutions of the Standing Committee on Social Development, 21 May 2003, p. 2

<sup>1426</sup> Ibid, p. 1.

incorrectly. It is exactly these kinds of problems which have led to litigation against the Department. This weak control and management environment also creates suitable conditions for fraud and corruption. As the Department readily admitted in its 2003/04 Annual Report, "social security has been characterised by litigations, fraud and corruption, delays in payments and poor customer service."<sup>1427</sup>

The above state of affairs appears to indicate an unwillingness or inability on the part of the Department to deal with the problems identified by oversight bodies. However, it is within the power of the Standing Committee to force the Department to properly address these concerns. According to the rules of the Legislature, the Committee can compel any MEC to explain what steps have been taken to implement recommendations.<sup>1428</sup> In addition, if a resolution or recommendation from the Standing Committee has not been implemented, the relevant MEC must report to the Legislature stating why no action has been taken. Lastly, in order to secure the integrity of the House (the Legislature), the House may, on recommendation from the relevant Standing Committee, instruct an MEC to implement resolutions and recommendations.<sup>1429</sup>

Given the fact that both the Standing Committee and the Auditor-General have made a number of repeated recommendations to the Department over a number of years, the only possible conclusion that can be drawn is that the Department is either unable, or unwilling to implement recommendations from its Committee or address Audit queries.

## **Recommendations**

*Given the Constitutional authority that oversight institutions possess, it is clear that they must assert their powers without fear or favour if they hope to ensure that the Department, particularly its HOD, are called to account for their actions.*

*As a matter of urgency the Department should take steps to ensure that queries raised by the Auditor-General are speedily addressed and recommendations made by the Standing Committee are effectively implemented. This process should be overseen by the Department's Standing Committee.*

*The Auditor-General should carry out a performance audit into the Department's human resource management system in the hope that in doing so the Department is able to identify its weaknesses and develop a coherent human resource management plan.*

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<sup>1427</sup> Eastern Cape Department of Social Development, Annual Report, 2003/04, p. 6.

<sup>1428</sup> Standing Rules of Procedure of the Eastern Cape Provincial Legislature, section 203.

<sup>1429</sup> Ibid, section 204.