

S.C. 19, 2016

**REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON
THE FINDINGS BY THE AUDITOR GENERAL ON
THE 2014 APPROPRIATION AND FUNDS ACCOUNTS FOR THE MINISTRY OF
JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS**

**Presented to and debated and adopted by the National Assembly
Tuesday 4th October 2016**

1.0 INTRODUCTION

As part of its oversight mandate, the Public Accounts Committee examined the findings of the Auditor-General on the 2014 Appropriation Account for the Ministry of Justice, Legal and Parliamentary Affairs; Attorney-General's Office Administration Fund, 2013; Constituency Development Fund (CDF), 2010; Constitution Parliamentary Select Committee (COPAC), 2013; and the Deeds and Companies Office Fund, 2013. It is of great concern to the Committee that accounts for the Funds being administered by the Ministry were lagging behind which makes it difficult to follow up on some of the issues raised in the Audit Reports. Some of the officials might have either moved to some other Government departments or have left the service of Government thereby making it impossible to hold officials accountable for the use of public resources. The Committee is also concerned that the set of accounts for the CDF received a disclaimer opinion from the Auditor-General while the other sets received a qualified opinion. A disclaimer opinion means that there were significant uncertainties regarding the appropriateness of parts or all of the financial reports and this is the worst scenario case.

The Report, therefore, covers the findings raised by the Auditor-General on the Accounts, responses thereto by the Accounting Officer, observations and recommendations of the Committee. The Committee's recommendations require the Ministry and other relevant authorities to take appropriate action within specified timelines.

2.0 OBJECTIVES OF THE ENQUIRY

Section 299 of the Constitution of Zimbabwe Amendment No. 20 of 2013 states as follows:

- Parliament must monitor and oversee expenditure by the State and all Commissions and institutions and agencies of Government at every level, including statutory bodies, Government controlled entities, provincial and metropolitan councils and local authorities, in order to ensure that-
- all revenue is accounted for;
- all expenditure has been properly incurred; and
- any limits and conditions on appropriations have been observed.

Section 309 (2) (a) of the Constitution provides for the functions of the Auditor General as follows:

1. to audit the accounts, financial systems and financial management of all departments, institutions and agencies of Government, all provincial and metropolitan councils and all local authorities.

National Assembly Standing Order No. 16 provides for the Public Accounts Committee to examine the sums granted by Parliament to meet public expenditure and such other accounts laid before the National Assembly.

It is therefore, the duty of the Public Accounts Committee to report whether such public funds have been managed and expended as authorised by Parliament. In this context, the Committee examined the Appropriation and Fund Accounts for the Ministry of Justice, Legal and Parliamentary Affairs as reported by the Auditor-General in her Annual Report for the financial year ended December, 31, 2014.

3.0 METHODOLOGY

The Committee held an oral evidence session with Mrs V. Mabiza, the Permanent Secretary and an Accounting Officer for Ministry of Justice, Legal and Parliamentary Affairs and other senior officials within the Ministry. It requested written evidence which was then analysed and further form the basis of the Report.

4.0 FINDINGS, OBSERVATIONS AND RECOMMENDATIONS BY THE COMMITTEE

4.1 2014 APPROPRIATION ACCOUNTS FOR THE MINISTRY OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

4.1.1 Outstanding Travel and Subsistence Advances Totalling \$507 829

The Ministry, since 2010, has been failing to recover outstanding travel and subsistence advances in violation of Treasury Instruction 1505. This matter has been raised since 2010 to no avail. In 2013, the figure was at \$530 318, which means the Ministry only managed to recover \$22 489 during the year 2014. The Permanent Secretary, Mrs Mabiza, acknowledged the observation and confirmed that no recoveries were instituted from 2010 up to the time she joined the Ministry in 2013. She advised the Committee that the system had collapsed and she had to put the systems in place. In 2015, the Ministry recovered \$4 500 and from January to May 31, 2016 it recovered \$5 959.53 giving a total of \$10 459. 53 over a period of seventeen months.

The Committee was further informed that the former Director of Finance and Administration in the Ministry had, at some point, instructed the Salary Services Bureau (SSB) to cease deductions for officials with outstanding advances. A schedule submitted to the Committee showed that some deductions commenced from April 2016 for 76 officials out of a total of 441 with varying outstanding advances. When the Ministry appeared before the Committee, the Accounting Officer gave an impression that deductions were effected on every owing officer yet further written submissions showed that it was only a handful. She also highlighted that deductions were increased from \$50 to between \$100 and \$500 depending on the level of the official. Evidence presented showed that only one individual with an outstanding amount of \$2 360 had his or her deduction pegged at \$100. The rest were contributing less than \$100. Surprisingly, a sample of those owing huge amounts, tabulated below, save for, Nguruve V. whose deduction was \$50 per month, showed that deductions were not yet effected.

NAME OF OFFICIAL	OUTSTANDING ADVANCES US\$
Hon. P. Chinamasa	19 390.00
Zambada S.	18 339.00

Nyambuya W. N.	18 033.36
Zakeyo M.	16 225.00
Nguruve V.	13 746.00
Chigumadzi T.	13 415.00
Gadzai H.	12 204.12
Suntile S.	10 371.00
Mukwindidza P.	9 102.00
Mukarakate I. A.	9 065.64
Chindewere R.	8 513.00
Mutambarade A	8 360.00
Madziaenda D.	8 015.00
Mwananyoka A.	7 525.00
Nyamubarwa D.	7 136.99
Sadindi S.	7 002.00
Chikwana	6 820.00
Mutewera P.	6 401.00
Rukodzi B. B.	6 262.00
Kanengoni G.	6 047.84
Sibanda P.	5 848.00
Makhaza J.	5 768.00
Malandu A.	5 753.83
Chimhande K. G.	5 592.00
Ranga M.	5 184.00
Muza M	5 094.00

4.1.1.1 The Committee noted with concern that there was laxity in recovering the outstanding advances by the Ministry. At the current rate of recovery, it will take the Ministry forever to recover the outstanding advances. It, therefore, recommends the Ministry to effect realistic deductions ranging from \$100 to \$500 for every individual owing, taking into account the outstanding amount and the grade. This should be implemented by September 30, 2016.

4.1.1.2 The Committee further noted that the former Director of Finance had acted irresponsibly by instructing the SSB to cease deduction and as such, the Civil Service

Commission should initiate disciplinary proceedings against the official by September 30, 2016.

4.1.2 Unsupported payments made by Treasury to the City of Harare on behalf of the Ministry amounting to \$167 246

The Ministry initially professed ignorance of the payment made on its behalf by Treasury. Upon insistence by the Committee for the Ministry to obtain source documentation supporting the payment, the Accounting Officer then advised the Committee that the City of Harare had later on, confirmed the payment by Treasury. The matter was therefore resolved to the Committee's satisfaction.

4.1.3 Unrecovered Excesses on Cell-phone Advances amounting to \$128 379

The audit observed that in violation of Treasury Circular No. 1 of 2010 and Cabinet Circular No. 9 of 2010, the Ministry did not recover outstanding amounts in the Cell-phone Debtors account totalling \$128 379. Some of the amounts have been due since 2011. Due to poor maintenance of accounting records, the Ministry failed to relate recoveries to specific accounting periods. As reported by the Committee in the previous report on the Ministry, a new system had since been introduced to curb excesses. For the outstanding debts incurred before the system, the Accounting Officer advised the Committee that deductions had been effected through SSB and amounts totalling \$17 000 and \$11 799 were recovered in 2014 and 2015 respectively. In a further follow up response, the Ministry indicated that the Ministry had recovered \$8 781.29 from January to May, 2016 leaving a balance of \$106 718.68. From a schedule of debtors availed to the Committee, out of a total of 105 officials, recoveries were only being made on 42 officials.

4.1.3.1 The Committee noted that there were some improvements in recovering the outstanding amounts. If deductions were instituted for all the officials on the debtors list, the amount could have been reduced significantly by now. The Committee recommends that the Ministry should institute deductions on all officials on the debtors list by September 30, 2016.

4.2 ATTORNEY-GENERAL'S OFFICE ADMINISTRATION FUND 2013

4.2.1 Unsupported expenditure totalling \$45 788

Audit observed that the Fund incurred unsupported expenditure totalling \$45 788. During the year 2012, the Fund also incurred a total of \$218 216 which was not supported by source documents. As a result, the audit was unable to determine whether the expenditure incurred was a proper charge against the Fund. Under such a weak control environment, chances are high that public resources may be misappropriated. The Accounting Officer informed the Committee during oral evidence that of the \$45 788, they managed to validate expenditure amounting to \$10 133 and supporting documents were available for inspection. For the remaining \$33 788, an amount of \$19 613 was confirmed to have been incurred for grooming, entertainment, domestic and foreign travel for the Office of the Attorney-General. The funds were advanced to officers. About \$16 042 was for payment of goods and services which were provided for the Forum for Africa and China Cooperation (FACC) meeting hosted by Zimbabwe in 2013. However, in the absence of supporting documents to validate the expenditures highlighted, it is not possible to conclude that the expenditures were properly made against the Fund. The Permanent Secretary also informed the Committee that her Ministry had failed to secure source documents from suppliers of goods and services for FACC. The Committee therefore could not rule out the possibility that public funds were misappropriated.

4.2.1.1 The Committee recommends that the Ministry should raise surcharges against officials responsible for the expenditures and recover the funds incurred without supporting documentation. This should be implemented by September 30, 2016.

4.2.2 Cash Payments in Violation of the Fund Constitution

The audit observed that cash payments amounting to \$60 108 were made from the Fund in violation of the Fund Constitution which provides for safer methods such as bank transfer system. The Accounting Officer informed the Committee that her Ministry resorted to cash payments from the Fund after Treasury had failed to release funds for foreign travel on time. However, cash payments expose the Fund to misappropriation or loss of cash. The Committee noted with concern that the Fund resources were prone to abuse and are proving to be alternative sources of funding for Ministries whenever they fail to secure releases from Treasury. It also noted that Ministries do not seek Treasury approval but act as they so wish. In the current liquidity crunch, Ministries with Funds to administer are having an unfair advantage over those Ministries without Funds.

4.2.2.1 In the Committee's view, the violation against the Fund Constitution constitute financial misconduct which require authorities to take disciplinary action against offenders. The Committee recommends Treasury to formulate regulations with specific penalties for financial misconduct by December 31, 2016.

4.3 CONSTITUENCY DEVELOPMENT FUND (CDF) 2010

As mentioned earlier on, the accounts of the CDF received a disclaimer of opinion which implies that the auditor could not obtain sufficient appropriate audit evidence to provide a basis for an opinion. Below were the issues raised on the CDF accounts.

4.3.1 Suspense Account

The Ministry did not produce bank certificates for 53 constituencies raising doubt on the accuracy of the bank balance of \$7 964 543 disclosed in the financial statements. The bank statements produced for audit examination accounted for \$4 921 491 leaving a balance of \$3 043 052 unsupported resulting in a suspense account being created for the balance.

The Ministry confirmed that the 53 constituencies had not submitted bank statements at the time of audit. However, the internal audit subsequently audited 44 of the 53 constituencies leaving out nine constituencies which had no bank statements. The Committee was informed that Constituency Committees headed by National Assembly Members of Parliament were responsible for the administration of the CDF funds and the Ministry had no role.

The Ministry officials indicated that they encountered a lot of resistance as they tried to audit some of the constituencies. Considering that these were public funds appropriated through an act of Parliament, the Members of Parliament who resisted the audit of the funds were in violation of the provisions of the Section 80 (3) (a) of the Public Finance Management Act [Chapter 22:19]. The Act requires internal auditors to have free access at all reasonable times to any records, books, vouchers, documents and public resources under the control of the Ministry or reporting unit concerned.

The officials pointed out that they could receive information on projects being implemented on paper and the moment they make an attempt to go and physically check the projects, they were threatened by Members of Parliament. They reported the alleged threats to the then Minister of Constitutional and Parliamentary Affairs but to no avail. This kind of behaviour also puts the name of Parliament, as an oversight institution, in disrepute.

Below is a list of constituencies and the sitting Members of Parliament whose bank statements were not availed for audit.

1. Nkayi North- Honourable S. Nyoni;
2. Shamva South- Honourable N. Goche;
3. Marondera West- Honourable Brig. A. Mutinhiri;
4. Zvimba South- Honourable W. F. Chidhakwa;
5. Zvimba East- Honourable P. Zhuwao;
6. Zvimba North- Honourable I. Chombo;
7. Sanyati- Honourable Mrs F. Chaderopa;
8. Hurungwe North- Honourable Mr P. Chanetsa; and
9. Harare South- Honourable H. M. Nyanhongo.

In the absence of bank statements, there are high chances that public funds were converted to personal use. The Committee noted with concern that the Members of Parliament mentioned above acted irresponsibly by failing to account for public funds given that as elected representatives of the people, they should be exemplary when it comes to accountability in the use of public resources.

4.3.1.1 The Committee recommends that the Speaker of National Assembly, as Head of Parliament should compel the Members and former Members of Parliament to produce the bank statements to support the bank balance in the financial statements by September 30, 2016.

4.3.1.2 The Committee recommends the Committee on Standing Rules and Orders to set up a Privileges Committee to fully investigate the conduct of the MPs and former MPs who abused their privileges as Members of Parliament by threatening officials and posed as a hindrance to the audit process. The Committee should be appointed by 30th September, 2016.

4.3.2 Poor Cash Management

It was observed that the majority of constituencies preferred cash transactions instead of cheques and bank transfer systems in violation of section 4.5 of the Fund's Constitution. As a result, CDF funds were exposed to risk of loss or misappropriation.

4.3.2.1 The Committee noted with concern that the introduction of CDF without an enabling legislation had caused problems in terms of the management and accountability of resources under this Fund. Given the importance and the positive impact the Fund has in making the general public relate in a more realistic way to the National Budget, the Ministry, should by November 30, 2016, bring before Parliament a legislative framework to govern CDF.

4.4 CONSTITUTION PARLIAMENTARY SELECT COMMITTEE (COPAC) 2012 AND 2013

The COPAC Fund received a qualified opinion during the two years which implies that there were material weaknesses observed on the sets of accounts for the Fund.

4.4.1 Outstanding Payments to Suppliers of Goods and Services

Treasury Instruction 1204 requires Ministries and Government departments to settle payments with suppliers promptly. The audit observed that the Ministry had outstanding payments to creditors amounting to \$1 649 332 as at September 30, 2013. The figure stood at \$2 390 762 in 2012. The Accounting Officer informed the Committee that the debt was inherited from the former Ministry of Constitutional and Parliamentary Affairs. In a follow up response pertaining to the debt, the Ministry indicated that it had settled \$997 674.12, leaving a balance of \$651 666.43. The submissions further highlighted that the outstanding debt was owed to Vickstrom, \$117 090; CMED, \$284 107.74 and ZBC, \$250 473.69. The Ministry also

indicated that Treasury had not provided funds for the debt in the current budget. A request was made by the Ministry for Treasury to pay off the CMED debt through set off arrangements as the entity had outstanding tax obligations with ZIMRA. It was however, not clear as regards to the other two creditors.

4.4.1.1 The Committee recommends Treasury to settle the debts by December 31, 2016 to avoid litigations emanating from these long outstanding debts.

4.4.2 Motor vehicles issued to COPAC Officials without Treasury Authority

The audit observed that eight motor vehicles with a total value of \$260 752 were retained by three former COPAC Chairpersons and two former secretariat staff without Treasury approval. The Ministry informed the Committee that the motor vehicles were under the direct control of COPAC and distribution was done by COPAC at the end of the Constitution making process. Minutes of the COPAC Management Committee indicated that a decision was indeed made for the three ex-COPAC chairpersons to each retain two vehicles allocated during the Constitution making process. The two ex-secretariat of COPAC were also allowed to retain each a vehicle. Correspondence by the Accounting Officer to Treasury seeking guidance on how to proceed on the issue, dated July 11, 2013 was availed to the Committee. However, Treasury had not been forthcoming in this regard.

4.4.2.1 The Committee recommends that Treasury should regularise the ownership of the eight motor vehicles in terms of Government regulations by September 30, 2016.

4.4.3 Assets unaccounted for

The audit observed that assets with a total value of \$24 381 went missing at various stages of the Constitution-making process. Police reports were made and investigations were still underway at the time of concluding the audit. The Ministry informed the Committee that it took charge of assets that were handed over to them at the time of winding up of COPAC activities and assets reported missing were not known to the Ministry. The Committee noted with concern that the Ministry seemed to have experienced challenges in taking responsibility of assets that were under COPAC and as a result, it will be very difficult to recover assets reported missing. However, COPAC activities were funded by public funds and as a result, there was need for transparency and accountability for such resources in order to inspire confidence by the public.

4.5 DEEDS AND COMPANIES FUND 2013

4.5.1 Loss of Revenue due to Fraudulent Activities

As a result of weak internal systems in revenue collection, the Fund lost a total of \$204 441 due to undervaluation of properties by employees of the Fund at the Bulawayo regional offices. Some employees also processed fake deeds for transfers and mortgage bonds resulting in potential loss of revenue amounting to \$166 518. The Accounting Officer confirmed the fraudulent activities which she attributed to absence of a computerised system. She indicated that the officers involved had manipulated the manually operated system to suit the illegal activities. The Ministry had responded by computerising the Deeds Office and officials implicated were reported to the Police and charged. The Committee was satisfied with the measures taken by the Ministry to address the observation.

5.0 CONCLUSION

The Committee concluded that Funds were generally not properly managed and accounted for and as a result, subjected to manipulation by Fund administrators. There is need for Treasury to seriously review the Funds in existence and see if they were still serving purposes for which they were established. As noted in previous reports, there is generally poor maintenance of

accounting records, an environment which is conducive for fraudulent activities. The Ministry should strengthen control systems around Funds and ensure timeous reporting.
