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National Assembly

Committee Report

The Portfolio Committee on Public Works (National Assembly) having briefed by the National Department of Public Works and Public Entities dated 7 March 2006 report as follows.

Report of the Portfolio Committee on Public Works on the briefing by the Department of Public Works, the Independent Development Trust (IDT) and the Construction Industry Development Board (CIDB) on their Annual Report on 9 November 2005

The structure of this report is as follows:

- Glossary
- Introduction
- Findings
- Department programmes
- IDT
- CIDB
- Recommendations

Glossary

BEE	Black Economic Empowerment
CETA	Construction Education and Training Authority
CIDB	Construction Industry Development Board
DDG	Deputy Director General
DORA	Division of Revenue Act
EPWP	Expanded Public Works Programme
IDT	Independent Development Trust
ISRDP	Integrated Sustainable Rural Development Programme
MFMA	Municipal Finance Management Act
NQF	National Qualification Framework
NPWP	National Public Works Programme
NDPW	National Department of Public Works
PFMA	Public Finance Management Act
SALGA	South African Local Government Association
SETA	Sector Education and Training Authority
SMME	Small Medium and Micro Enterprises

1. Introduction

INTRODUCTION

The Report gives an analysis of the 2004/05 Annual Report of the National Department of Public Works (NDPW) Independent Development Trust (IDT) and Construction Industry Development Board (CIDB).

The Committee as required by the Constitution of the Republic of South Africa (1996), must ensure that the Department of Public Works and Entities reporting to it carries out their mandates and responsibilities viz: -

- Policy implementation at all spheres of government.
- Monitor progress on service delivery and meeting of targets by the department as enunciated in the state of the nation address by the State President, the budget speech by Minister of Finance and, the Minister of Public Works' strategic plan and budget vote speech.
- Strengthening of the intergovernmental and interdepartmental relations.
- Management and maintenance of state asset.
- Monitor the Integrated Sustainable Rural Development Programmes (ISRDP)
- The support that Entities provides to the Department with regard to implementation of programmes.

OVERVIEW

The main focus of the briefing was on the performance of the department in key areas of its responsibilities as set out hereunder:

- The provision and management of land and accommodation to national departments and public institutions,
- To give strategic leadership to the construction and property industries,
- To co-ordinate and monitor the implementation of the EPWP and,
- Adherence and conformity to the requirements of the Public Finance Management Act of 1999 (PFMA), Division of Revenue Act (DORA) and Municipality Finance Management Act (MFMA).
- Support of Entities to the Department

2. Mandate of the Committee

The Constitution of the Republic of South Africa mandates Parliament through House Committees to exercise the oversight function over the Executive, pass legislation and monitor the implementation of such legislation and encourage public participation.

Guided by the Rules of Parliament promulgated in terms of the Constitution to play an oversight role on the Ministry, Department and the Entities. The Committee has to scrutinise the annual report of the Department in order to see if the funds allocated have been spent correctly as per their strategic plans. To this end the Committee will exercise a rigorous monitoring role in such a way that it contributes towards the improvement in the quality of life of all South Africans.

3. Responsibilities of the Department

The Department carries its mandate by providing land and accommodation to national departments and institutions, manages such land and accommodation, is custodian of national government immovable assets, provides strategic leadership to the construction and property industries and coordinates the implementation of Expanded Public Works Programme (EPWP).

Departmental Programmes:

Administration

- The Department developed an in-house fraud prevention capacity through resourcing a directorate within the unit that deals with fraud awareness and investigations.
- The Department was rated 3rd in terms of dealing with fraud and corruption cases.
- Department is at an advanced stage of implementing the new procurement procedures.
- The Department is revising all data pertinent to promotion of SMMEs and BEE due to incidents of fronting emanating from an investigation of companies awarded contracts in the year under review.
- The Department established a Supply Chain Management Unit in line with Treasury requirements, which is accountable for the design, implementation, monitoring and evaluation of the procurement policy and its procedures framework.

Provision of Land, Accommodation and Maintenance

- Government-wide Immovable asset Bill has been initiated and will be passed in Parliament in the next financial year (2006/ 2007).
- The Department has developed a high-level Asset Management Plan for clients in compliance with the PFMA and Government-wide immovable asset management policy.
- A healthy relationship has been developed with clients enabling a high standard of co-operation.
- The Department has successfully completed various capital and maintenance projects executed at various Regional offices on behalf of client departments.
- The feasibility study for the new Head Office of Foreign Affairs was concluded and submitted to the National Treasury for approval.

National Public Works Programme

- The programme created 176 000 job opportunities in its first year (2004/ 05).
- The infrastructure sector alone created about 174 800 jobs during the 2004/05 financial year.
- Tender guidelines for labour intensive infrastructure projects were approved by national Treasury and SALGA, and were ultimately distributed to all provinces and municipalities.
- The DPW assisted the social sector with the preparation of an EPWP social sector plan.
- R643 million was spent in 1 280 projects in the Environment and Culture sector culminating in 58 790 jobs.
- DPW worked with the Services SETA to put in place the New Venture Creation learnership at NQF Level 2.

- In the year under review, 120 learner emerging enterprises were engaged in 62 projects with a total value of R31 million, under the economic sector pilot programme in Limpopo (Sakhasonke).
- A monitoring and evaluation framework for the EPWP was developed with the assistance of the Human Sciences Research Council in consultation with all relevant stakeholders.
- The Construction and Property Charter process will be finalised in June 2006.
- The strategy for the upgrading and enhancement of the NDPW's Immovable Asset Register was launched.
- The Department of Public Works launched the Property Industry Transformation Charter process in November 2004.

Recommendations

Administration:

- The Committee therefore recommends that the Department introduce an internship programme, which will be in partnership with tertiary institutions in realisation of the turn around strategy.
- The Committee commends that the department has contracted young built environment and deployed them to the regional offices to verify the asset register information.
- The Department must improve the capacity of the project managers to monitor the work of consultants
- The litigation process on outstanding debts must be processed within the prescribed period to avoid such debts being prescribed.

Land, Accommodation and Maintenance:

- The Committee recommends that the initiative of vesting process done by the Departments of Land Affairs, Public Works, Provincial and Local Government and Housing must be met as per time frames suggested.
- The Committee recommends that a common approach by the departments of Public Works, Provincial and Local Government, Land and Housing consolidating a disposal strategy/ plan be put in motion.
- The Committee further proposes that a moratorium be declared on the disposal of state land until a joint consolidated disposal framework as proposed above has been finalised
- The Committee commends the appointment of the DDG: Asset Management.
- The Committee proposes that the Department must call up on all people illegally occupying state properties and land (without titled deeds, deeds of sale, certificate to occupy and or any other legal instrument) to declare the occupancy thereof within a reasonable period of time and failure to do so comply be punishable by law.

NPWP

- The EPWP needs to be continuously monitored and evaluated on an ongoing basis
- The uncoordinated implementation of the Expanded Public Works Programs is a reflection of the inability and/or failure of the departments to interpret the

Programme; the Committee therefore recommends that the Department of Public Works coordinate the national workshop with all affected departments.

- Whilst the Committee commends the Departments on ensuring the compliance with DORA, it recommends that the Department should go for alternative funding that will bring all other sectors at par with the DORA conditions on infrastructure.
- The Committee recommends that the Local Government SETA and CETA to embark on a joint venture on training of municipal officials and emerging contractors on EPWP. This recommendation is informed by the fact that the training on the EPWP overlaps between two departments
- The provinces and municipalities must ^{Provide} Provincial and Municipal Infrastructure Grants for maintenance of the projects as per the guidelines of DORA
- The NDPW must continually monitor and evaluate all the flagship projects and submit a report to Parliament on quarterly basis.
- The Committee commends provinces that have shown initiatives to augment the EPWP projects in provinces

Financial Matters

Adherence to Public Finance Management Act

During the 2004/ 05 financial year, the Department received a total allocation of R5 513 909 billion. The R5.5 billion included a special allocation of R598 million advanced during the year to pay off arrear municipal rates and services. This allocation was made on the basis of claims submitted to the Department of Local Government. Out of R5 513 909 billion the Department spent R5.304 billion recording an under spending of R208.9 million, which translates to 3.8% of the total budget. The R208.9 million was said to be the remainder of the R598 million which was earmarked for arrear municipal rates and services.

Department attributed the under spending on municipal rates and services to the following:

- Delays on the part of municipalities to provide credible information to support their claims.
- Capacity constraints more especially in smaller municipalities, which led to failure to submit claims on time.

The Department has made an application to National Treasury to roll over R100 million of the unspent funds to the next financial year in anticipation that municipalities may still be able to submit bonafide claims. Generally the Department performed well in terms of spending its budget in that almost all the funds allocated to the department were spent with the exception of the funds that were discussed above. It is also important to mention that the department has managed its expenditure within the approved allocation.

Report of the Auditor-General

The report of the Auditor-General states that the financial statements fairly present, in all material respects, the financial position of the Department of Public Works of the financial year 2004/ 2005 and the results of its operations and cash

flows for the year then ended, in accordance with South African Statements of Generally Accepted Accounting Practice and in a manner required by the Public Finance Management Act, 1999 (Act no.1 of 1999) (PFMA). However the report highlighted the following issues:

Weakness on debtor collection system:

- Regarding rental debtors the following weaknesses still exist
 - Inadequate control over rental debtors
 - Interests were not levied for the full period under review
 - At year end there were rental debtors to the value of R13 933 944
- Audits conducted at regional offices indicated that it was not always possible to verify the assets from the register to the location due to incompleteness of the asset registers and lack of proper identification of the assets.

Governance

- Lack of the independent checks and management reviews within the Department has been noted.
- Lack of independent checks results in policies and procedures as implemented by not management not adhered to.
- The capacity of the internal audit section at national and provincial level is paramount. The Committee call upon the Department to report to Parliament before ~~the end of the next financial year~~ as to how they have addressed this matter. 2006/2007

Recommendations on Financial Matters

- It is commendable that the Department has adhered to the PFMA in their budgeting and as a results avoided over expenditure.
- The Committee is still concerned about the unauthorised expenditure and expects the Department would address this anomaly by the end of the next financial.
- Whilst the Committee acknowledging that the Department ensures that user departments are informed about their liabilities, the department does not indicate as to how they are dealing with outstanding debts.
- The Department does not show how is it going to monitor departments when they prematurely vacate the premises. The Department must develop a yearly review of leases as a monitoring mechanism.
- The capacity of the internal audit section at national and provincial level is paramount. The Committee call upon the Department to report to Parliament before the end of the next financial year as to how they have addressed this matter
- The Department must assist the smaller municipalities to manage their claims submissions

Independent Development Trust (IDT)

- The IDT plays a crucial role in three government's flagship development initiatives: the Integrated Sustainable Rural Development Programme

(ISRDP), the Expanded Public Works Programme (EPWP) and Project Consolidate.

- The IDT also makes a critical contribution in three specific areas of the national development agenda: poverty reduction, the development of community capacity, and the reduction of infrastructure backlogs.
- The IDT manages a range of programmes known as 'special projects', on behalf of the National Department of Public Works (NDPW). In addition, the IDT manages projects for other departments, such as the Department of Social Development (viz. the Poverty Relief Programme) and the Department of Provincial and Local Government (viz. the Programme Design Document).
- The IDT continues to play a pivotal role in the attempts of government to address the challenges of national development agenda.
- In the year under review the IDT has exceeded its performance targets in most key performance areas, and has done so in a way, which has been marked by good corporate governance, responsible financial management and effective performance management.

The following summarises the achievements of the IDT during the period under review in this regard:

1. The IDT received an unqualified audit for the third year in succession from the Auditor-General, which affirms the integrity and commitment with which the organisation has acted on its mandate.
2. In 2004/05, the IDT set up over 344 new community structures and also project managed amongst others, the construction of hundreds of infrastructure projects across the country.
3. The IDT made a significant impact on the reduction of infrastructure backlogs across the country through the following:
 - Construction of 75 schools in the Eastern cape Schools Building Programme.
 - Hlabisa Hospital in KwaZulu/ Natal.
 - 10 of 25 Schools in KwaZulu/ Natal are complete.
 - Repair and renovations to 4 libraries completed.
4. Guided by the main aim of bringing its services closer to its clients the IDT has proactively increased its contact with stakeholders in an attempt to ensure that it meets the delivery needs of communities and government.
5. The IDT has grown its portfolio to over R1-billion during the last two financial years.
6. The IDT has contributed to poverty reduction through the channelling of programme funds into local communities through employment, and the procurement of local contractors and emerging service providers. In the Zivuseni Programme in Kwazulu-Natal, for example, 49% of the projected expenditure was directly channelled into local communities via stipends of R800 per month to the more than 35 000 people employed in the programme, for a maximum period of three months each; in the Eastern Cape School Building Programme, 15% of funds channelled to 9 985 people employed as local labour resources; in the Asisebenze Programme in Mpumalanga, 24% of programme costs were directed at the 1 022 local people employed.
7. The IDT has also contributed to building the capacity of community members participating in infrastructure programmes. Training has been provided for

local labour in skills such as carpentry, masonry and painting e.g. Asisebente programmes in Mpumalanga.

8. IDT as an entity of the National Department of Public Works has been instrumental in conceptualising its implementation plan for the infrastructure component of the Expanded Public Works Programme (EPWP), and has signed agreements to support the delivery of various EPWP components at national and provincial levels.
- 9 Building institutional capacity and harnessing additional resources to enhance the impact and sustainability of the IDT's initiatives.
- 10 Improving budgetary controls, procurement procedures and better programme accounting controls.

Recommendations:

- The IDT must report its performance to the Committee with regard to its support to the Department on the maintenance programme
- Challenges remains in the conclusion of agreements and the implementation of programmes.

3. Construction Industry Development Board (CIDB)

- The Construction Industry Development Board is a statutory body appointed by the Minister of Public Works to provide leadership for industry growth, reform and improvement (CIDB Act 38 of 2000).

Aims and Objectives of the CIDB:

- To transform and restructure of the construction industry
- To regulate and develop a framework that builds the construction delivery capacity for South Africa's social and economic growth.

Key functions and responsibilities:

- Restructuring and transformation of construction industry
- Empowerment of the historically and disadvantaged marginalized communities
- Improved industry standards of performance (quality, employment, skills, safety, health).
- To develop procurement best practice guidelines
- Empowering SME contractors
- To develop a construction charter:

National Construction Register Services

- The CIDB Act 38 of 2000 mandates the CIDB to establish the National Register of Contractors
- Facilitates public sector procurement, delivery and risk management
- Supports contractor development
- Promotes better performance - improved quality, safety, health and environment.
- To categorise contractors in accordance with their capability:
- To drive improving performance of contractors

- Promote client practices that shape a transforming, healthy and sustainable industry

D. Recommendations

The Committee recommends that in future IDT, CIDB and CBE submit to Parliament the strategic plans at the beginning of ^{each} the financial year. This is to ensure that the achievements as detailed in the Annual Report are benchmarked against the promised outputs as stated in the Strategic Plan.

Report to be considered

Common Remedies

- o Action
- o Defence
- o Interdict

The way that these remedies are worked out refers to civil procedure which is a branch of procedural law [or Adjectival (force rights Law)]
Procedure throughout.

04/02/06

SOURCES OF SA LAW Lecture 1

Introduction: Material: Kleyn & Viljoen P43-44

Question: What are Sources

- Place where it originates from (origin)
- Place where it can be found (location)

Two types

- PRIMARY SOURCES
 - * Legislation
 - * Case law
 - * Common law
 - * Customary law
- SECONDARY SOURCES
 - * Journal Articles
 - * Text books
 - * Electronic medium (Internet / websites)

QUESTION: What is a codified (written) legal system?

PORTFOLIO COMMITTEE ON COMMUNICATIONS

DRAFT PROGRAMME: FIRST TERM 2006
30 JANUARY – 31 MARCH 2006

DATE	TIME	AGENDA	VENUE
Monday, 16 January- Thursday, 2 February 2006		Committees/Training	Parliament
Fri, 3 February 2006		State of the Nation Address	Parliament
Tue, 7 to Thu, 9 February 2006		Debate on the State of the Nation Address	Chambers
Wed, 15 Feb 2006		Budget speech and Introduction of Division of Revenue Bill	Parliament Chambers
Mon, 06 March 2006		Chairperson's Workshop: Budget	Parliament
Tue, 07 March 2006	14:00- 15:30 15:30 15:45- 17:00	Consideration of the Committee Programme (2006), Committee Budget for 2006 and the Business Plan. Consideration of draft reports on annual reports. TEA BREAK Budget briefings: Universal Service Agency: Briefing on Budget and Strategic Plan 2006/7: ➤ Consideration of Budget ➤ Consideration of Strategic Plan Deliberations and Questions	V227, Old Assembly Building

<p>Wed, 8 March 2006</p>	<p>09:00-11:00</p>	<p>Budget briefings:</p> <p>SA Post Office: Briefing on Budget and Strategic Plan 2006/7:</p> <ul style="list-style-type: none"> ➤ Consideration of Budget ➤ Consideration of Strategic Plan 	<p>V227 Old Assembly Building.</p>
<p>Mon, 13 March 2006</p>	<p>09:00 09:15 10:30 10:45-12:00 12:00</p>	<p>Budget briefings:</p> <p>Sentech: Briefing on Budget and Strategic Plan:</p> <ul style="list-style-type: none"> ➤ Consideration of Budget ➤ Consideration of Strategic Plan <p>TEA BREAK</p> <p>Icasa: Briefing on Budget and Strategic Plan 2006/7</p> <ul style="list-style-type: none"> ➤ Consideration of Budget ➤ Consideration of Strategic Plan <p>Deliberations and Questions</p>	<p>Old Assembly Chamber</p>
<p>Tue, 14 March 2006</p>	<p>14:00-17:00</p>	<p>Budget briefings:</p> <p>Government Communication and Information System: Vote 7 Briefing on Budget and Strategic Plan: 2006-7</p> <ul style="list-style-type: none"> ➤ Consideration of Budget Vote ➤ Consideration of Strategic Plan <p>TEA BREAK</p> <p>IMC: Briefing on Budget and Strategic Plan:</p> <ul style="list-style-type: none"> ➤ Consideration of Budget Vote ➤ Consideration of Strategic Plan <p>MDDA: Briefing on Budget and Strategic Plan:</p> <ul style="list-style-type: none"> ➤ Consideration of Budget Vote ➤ Consideration of Strategic Plan <p>Deliberations and Questions</p>	<p>Room 1, Ground Floor, 120 Plein Street.</p>

Wed, 15 March 2006	09:00-13:00	SABC: Briefing on Budget and Strategic Plan 2006/7 > Consideration of Budget > Consideration of Strategic Plan Deliberations and Questions	To be confirmed.
Fri, 31 March 2006	09:00-13:00	Vote 27: Department of Communications: Briefing on Budget and Strategic Plans: 2006/7 Consideration of Budget Vote 27 Consideration of Strategic Plan Deliberations on draft report on Budget hearings on Vote 27 and Vote 7 Nemisa: Briefing on Budget and Strategic Plans: Consideration of Budget and Strategic Plan 2006/7. Deliberations and Questions	M46, Ground Floor, Marks Bldg

Mr MK Lekgoro, MP
Chairperson

Signature _____
 Date: _____

For Approval:

Mr. GQM Doidge MP
House Chairperson: Committees

Signature: _____
 Date: _____

Additional Information:

1. Legislation before the committee.

To date no new legislation had been referred to the Committee.

2. List of all instruments referred to the committee for consideration and report, their status and when the committee intends to finalise them:

Committee completed its work

3. List of all outstanding reports on trips and when the committee intends to adopt them.

Draft reports on annual reports, 2005

4. Adoption of reports on the Annual Reports of the Department of Communications and GCIS and their entities for 2005

Draft reports on annual reports will be deliberated upon on and adopted for publication in the first term of 2006

5. Adoption of the Committee's Annual Report for 2005?