



**REPUBLIC OF NAMIBIA**



**REPORT OF THE AUDITOR-GENERAL ON THE ACCOUNTS OF THE  
OFFICE OF THE ATTORNEY-GENERAL  
FOR THE FINANCIAL YEAR ENDED 31 MARCH 2017**

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**REPUBLIC OF NAMIBIA**



**TO THE HONOURABLE SPEAKER OF THE NATIONAL ASSEMBLY**

I have the honour to submit herewith my report on the accounts of the Office of the Attorney-General for the financial year ended 31 March 2017 in terms of Article 127(2) of the Namibian Constitution. The report is transmitted to the Honourable Minister of Finance in terms of Section 27(1) of the State Finance Act, 1991, (Act 31 of 1991) to be laid upon the Table of the National Assembly in terms of Section 27(4) of the Act.

A handwritten signature in black ink, appearing to read "Junias Etuna Kandjeke".

**JUNIAS ETUNA KANDJEKE  
AUDITOR-GENERAL**

**WINDHOEK, February 2018**



## DEFINITIONS

<p><b>Types of Audit Opinions:</b></p>	<p><b>Unqualified Opinion.</b> In an unqualified report, the auditors conclude that the financial statements of your O/M/A's present fairly its affairs in all material aspects.</p> <p><b>Qualified Opinion.</b> An auditor's report is qualified when there is either a limitation of scope in the auditor's work, or when there is a disagreement with management regarding application, acceptability or adequacy of accounting policies.</p> <p><b>Disclaimer Opinion.</b> Auditor's do not express an opinion on the financial position of a firm because they have not completed an examination of its accounts or the examination is not broad enough in scope to enable them to form an opinion.</p> <p><b>Adverse Opinion.</b> The Financial statement of an O/M/A's do not fairly present its actual financial position and the required information was either not disclosed, or (if disclosed) was inadequately disclosed or was inaccurate.</p>
<p><b>Treasury:</b></p>	<p>Financial authority in public service. (The department of Government that has control over the collection, management and disbursement of public revenue).</p>
<p><b>Vote:</b></p>	<p>Represents an Office/Ministry/Agency.</p>
<p><b>Appropriation Act:</b></p>	<p>Estimate of expenditure and revenue for a particular financial year presented to the National Assembly, the Act passed by Parliament.</p>
<p><b>Appropriation Account:</b></p>	<p>Government Income and Expenditure statement, showing on receipt side the estimated budgeted amounts and on expenditure side the actual expenditure amounts and the difference thereof.</p>
<p><b>Standard sub-division:</b></p>	<p>Government balance account, showing balances incurred on each account/activity.</p>
<p><b>Suspension:</b></p>	<p>Reduction on budget (Treasury may from time without or suspend any amount in an estimate of expenditure).</p>
<p><b>Virement:</b></p>	<p>Moving of budgeted funds from one account to another account within the same budget of the same office/ministry/agency. The utilization of a saving under one main division/sub division of a vote to defray an excess under another existing division of the same vote.</p>
<p><b>Unauthorised Expenditure:</b></p>	<p>Expenditure that exceeds the amount appropriated (budgeted) for a vote, main division or subdivision.</p>
<p><b>Underexpenditure:</b></p>	<p>Saving on the budget.</p>
<p><b>Miscellaneous Revenue:</b></p>	<p>All revenue collected and not having a specified revenue code.</p>
<p><b>Tender Board Exemptions:</b></p>	<p>To free from an obligation (Tender Board Regulations) to which others are subjected.</p>
<p><b>Commitments:</b></p>	<p>Funds reserved to acquire goods or services from a supplier.</p>
<p><b>Suspense accounts:</b></p>	<p>Is an account opened in the books of Government that records movement of transactions of a temporarily nature, for example salary deductions of housing instalments.</p>
<p><b>S&amp;T Advance Suspense Account:</b></p>	<p>A suspense account reflecting the outstanding subsistence and travel advances.</p>



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**REPORT OF THE AUDITOR-GENERAL ON THE  
ACCOUNTS OF THE OFFICE OF THE ATTORNEY-GENERAL  
FOR THE FINANCIAL YEAR ENDED 31 MARCH 2017**

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**1. REPORT ON THE FINANCIAL STATEMENTS**

**1.1 INTRODUCTION**

This report on the accounts of the Office of the Attorney - General for the financial year ended 31 March 2017 is presented to the National Assembly in accordance with the terms of Article 127(2) of the Constitution of the Republic of Namibia and provisions set out in the State Finance Act, 1991(Act 31 of 1991), as amended.

I have audited the accompanying financial statements of the Office of the Attorney-General for the financial year ended 31 March 2017. These financial statements comprise the following statements submitted for the year then ended:

- Appropriation account;
- Standard subdivisions;
- Departmental revenue;
- Notes to the financial statements; and
- General information.

The appropriation account was submitted timeously by the Accounting Officer to the Auditor - General in terms of Section 13 of the State Finance Act, Act 31 of 1991.

The financial statements, notes to the financial statements and general information supplied by the Accounting Officer are attached as Annexure A.

**1.2 MANAGEMENT'S RESPONSIBILITY FOR THE FINANCIAL STATEMENTS**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Section 12 & 13 of the State Finance Act, Act 31 of 1991 and legislation, and for such internal control as management determines it necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

**1.3 AUDITOR'S RESPONSIBILITY**

My responsibility is to express an opinion on these financial statements based on the audit. I conducted the audit in accordance with International Standards for Supreme Audit Institutions (ISSAIs). These standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

## **Powers and duties**

Section 25(1) (c) of the State Finance Act, 1991, provides that the Auditor-General should satisfy himself that:

- (a) All reasonable precautions have been taken to ensure that all monies due to the State are collected, and that the laws relating to the collection of such monies have been complied with;
- (b) All reasonable precautions have been taken to safeguard the receipt, custody and issue of and accounting for, the State's assets, such as stores, equipment, securities and movable goods; an
- (c) The expenditure has taken place under proper authority and is supported by adequate vouchers or other proof.

In addition, Section 26(1) (b) (iv) of the State Finance Act, 1991, empowers the Auditor-General to investigate and report on the economy, efficiency and effectiveness of the use of the State's resources.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for the qualified audit opinion.

### **1.4 KEY AUDIT FINDINGS**

#### **1.4.1 Unauthorised expenditure**

The unauthorised expenditure mentioned below occurred during the financial year and is reported as such in terms of Section 27(6)(a) of the State Finance Act, Act 31 of 1991:

- (i) The total budget of the Office of the Attorney-General exceeded with a total amount of N\$ 22 054 152.37 (18.53% of the total budget) which is unauthorised in terms of Section 6 (a) (i) of the State Finance Act, Act 31 of 1991.
- (ii) Three (3) main divisions were exceeded with a total amount of N\$ 22 511 935.65 which is unauthorised in terms of Section 6 (a) (ii) of the State Finance Act, Act 31 of 1991.
- (iii) Although Treasury approval was obtained to utilise certain expected savings for the defrayal of expenditure through virements during the year, five (5) operational subdivisions were exceeded with a total amount of N\$ 23 925 605.01 which is unauthorised in terms of Section 6(a)(iii) of the State Finance Act, Act 31 of 1991.

The total unauthorised expenditure exceeded the materiality level of N\$ 2 820 892.

It is recommended that the Accounting Officer should put measures in place to avoid over-spending and ensures that planned activities are implemented within the approved budget. Furthermore, if specific activities are expected to exceed the budgeted funds due to unforeseen circumstances, funds should be viremented from activities where savings are expected.

#### **Management comment**

In his response on the draft report, the Accounting Officer indicated that the short fall happened due to the insufficient budget allocation on the vote. The Office was aware of the shortfall and the letter dated 27 May 2016 was communicated to the Ministry of Finance to cut the over-expenditure.

#### **1.4.2 Stocktaking reports**

The Accounting Officer reported that stocktaking was conducted during the financial year under review. However, the reports submitted by the Accounting Officer were not authorized by Treasury, as they were submitted late which is contrary to Treasury Instruction KA 0901, which states that *“the Accounting Officer should submit the stocktaking reports to Treasury for approval as soon as possible after stocktaking or in any case within 30 days after the end of the financial year concerned”*.

It is recommended that the Accounting Officer should comply with Treasury Instruction KA 0901.

#### **Management comment**

In his response on the draft report, the Accounting Officer indicated that the Office accepts the finding and will ensure compliance with the applicable Treasury instructions.

#### **1.4.3 Virements**

The following virements at their respective main divisions as reflected in the Appropriation Account do not agree with the virements approved by Treasury. This resulted in misstatement of the main divisions in the Appropriation Account. Circular D12/2016 of the Auditor-General requires the approved virements to be compared with the virements reflected on the General Ledger to ensure that they are in agreement and any differences should be explained:

<b>Main Division</b>	<b>Virements as per appropriation account</b>	<b>Approved virements</b>	<b>Difference</b>
	N\$	N\$	N\$
<b>02- Administration &amp; Support Service</b>	(5 780 847)	(5 693 847)	(87 000)
<b>03- Provision of Legal Service</b>	1 746 405	1 647 405	99 000
<b>05- Public Prosecution</b>	2 707 544	4 707 544	(2 000 000)

It is recommended that the Accounting Officer should comply with Treasury Instruction DE 0401 which stipulates that *“Accounting Officer shall keep a meticulous record of virements which were granted in respect of their votes, as, after the books have been closed for the financial year concerned they must indicate the effect on the estimated amounts on the appropriation accounts (whether an increase or decrease).”*

It is further recommended that the differences in virements be explained by the Accounting Officer.

### **Management comment**

In his response on the draft report, the Accounting Officer indicated that the Office always verifies to make sure that the appropriation account agrees with the approved virement. Unfortunately the Ministry of Finance reversed funds which resulted in the difference for virementation.

### **1.5 ACKNOWLEDGEMENT**

The assistance and co-operation of the management and staff of the Office of the Attorney-General during the audit is appreciated.

### **1.6 BASIS FOR QUALIFIED AUDIT OPINION**

My opinion has been qualified due to the following:

- Unauthorised expenditure Paragraph 1.4.1
- Stocktaking reports Paragraph 1.4.2

### **1.7 QUALIFIED AUDIT OPINION**

I certify that I have audited the financial statements of the Office of the Attorney-General for the financial year ended 31 March 2017 in accordance with the terms of Article 127(2) of the Namibian Constitution and Section 25(1) of the State Finance Act, 1991 (Act 31 of 1991).

In my opinion, except for the remarks mentioned in paragraph 1.6 – Basis for qualified audit opinion, the financial statements present fairly, in all material respects, the financial position of the Office of the Attorney-General as at 31 March 2017 and its financial performance and its receipts and payments for the year then ended in accordance with Section 12 and 13 of the State Finance Act, 1991.



**JUNIAS ETUNA KANDJEKE**  
**AUDITOR-GENERAL**

**WINDHOEK, February 2018**

## 1. AUDITED FINANCIAL STATEMENTS

## 1.1 Appropriation account

2016/2017						2015/2016
Service	N\$	Authorized expenditure	Actual expenditure	Variations		Actual expenditure
				Under-expenditure/ (Excess)	Percentage	
	N\$	N\$	N\$	N\$	%	N\$
<b>01. Office of the Attorney</b>						
<b>General:</b>						
Original budget	3 531 000.00					
Less: Virement	(220 978.00)					
Less: Suspension	(708 229.10)	2 601 792.90	2 291 299.22	310 493.68	11.93	2 209 033.97
<b>02. Central</b>						
<b>Administration:</b>						
Original budget	11 933 000.00					
Less: Virement	(5 693 847.00)					
Less: Suspension	(847 252.26)	5 391 900.74	5 244 611.14	147 289.60	2.73	1 719 088.05
<b>03. Rendering Legal</b>						
<b>Advice to the President and Government:</b>						
Original budget	18 461 000.00					
Plus: Virement	1 647 405.00					
Less: Suspension	(921 185.21)	19 187 219.79	23 241 994.82	(4 054 775.03)	(21.13)	20 503 165.29
<b>04. Civil Litigation:</b>						
Original budget	24 293 000.00					
Plus: Virement	1 559 876.00					
Less: Suspension	(330 785.00)	25 522 091.00	30 574 433.55	(5 052 342.55)	(19.80)	26 083 295.35
<b>05. Public Prosecution:</b>						
Original Budget	62 522 000.00					
Plus: Virement	4 707 544.00					
Less: Suspension	(942 101.11)	66 287 442.89	79 692 260.96	(13 404 818.07)	(20.22)	71 398 419.13
<b>Total</b>		<b>118 990 447.32</b>	<b>141 044 599.69</b>	<b>(22 054 152.37)</b>	<b>(18.53)</b>	<b>121 913 001.79</b>

## 1.2 Standard subdivisions

Subdivision	2016/2017			2015/2016
	Authorised expenditure	Actual expenditure	Under-expenditure/ (Excess)	Actual expenditure
	N\$	N\$	N\$	N\$
<b><u>Operational:</u></b>				
<b>Current expenditure: Personnel</b>				
001. Remuneration	85 297 320.84	106 679 775.64	(21 382 454.80)	87 134 488.64
002. Employer's contribution to GIPF	9 607 968.00	11 790 370.94	(2 182 402.94)	9 698 591.96
003. Other conditions of service	2 645 096.00	2 372 178.15	272 917.85	1 927 193.99
005. Employer's contribution to social security	221 000.00	(65.29)	221 065.29	146.29
<b>Total</b>	<b>97 771 384.84</b>	<b>120 842 259.44</b>	<b>(23 070 874.60)</b>	<b>98 760 420.88</b>
<b>Current expenditure: Goods and other services</b>				
021. Travel and subsistence expenses	5 264 894.83	4 920 210.90	344 683.93	6 300 567.13
022. Materials and supplies	1 276 504.00	1 266 828.65	9 675.35	1 642 263.05
023. Transport	-	-	-	45 852.70
024. Utilities	748 813.00	742 051.37	6 761.63	49 392.98
026. Property rental and related charges	2 180 531.00	2 180 530.32	0.68	-
027. Other services and expenses	11 615 651.65	11 043 640.16	572 011.49	11 560 459.71
<b>Total</b>	<b>21 086 394.48</b>	<b>20 153 261.40</b>	<b>933 133.08</b>	<b>19 598 535.57</b>
<b>Current expenditure: Membership fees and subscriptions</b>				
041. International	105 000.00	21 411.00	83 589.00	22 639.29
042. Domestic	27 668.00	27 667.85	0.15	-
<b>Total</b>	<b>132 668.00</b>	<b>49 078.85</b>	<b>83 589.15</b>	<b>22 639.29</b>
<b>Total: Current expenditure</b>	<b>118 990 447.32</b>	<b>141 044 599.69</b>	<b>(22 054 152.37)</b>	<b>118 381 595.74</b>
<b>Capital Expenditure:</b>				
<b>Operational: Acquisition of assets</b>				
101. Furniture and office equipment	-	-	-	531 406.05
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>531 406.05</b>
<b>Total: Operational</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>531 406.05</b>
<b><u>Development:</u></b>				
105. Feasibility studies, design and supervision	-	-	-	3 000 000.00
<b>Total: Development</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>3 000 000.00</b>
<b>GRAND TOTAL</b>	<b>118 990 447.32</b>	<b>141 044 599.69</b>	<b>(22 054 152.37)</b>	<b>121 913 001.79</b>

### 1.3 Departmental revenue

Revenue for the year is as follows:

Revenue head	Estimate	Actual revenue 2016/2017	More/(Less) than estimated	Actual revenue 2015/2016
	N\$	N\$	N\$	N\$
Legal Fees	2 000	545 722.64	543 722.64	1 162 025.46
Miscellaneous	-	143 771.50	143 771.50	(26 639.51)
<b>Total</b>	<b>2 000</b>	<b>689 494.14</b>	<b>687 494.14</b>	<b>1 135 385.95</b>

### 1.4 Notes to the financial statements

#### 1.4.1 Departmental Revenue: Explanation of deviations of variances exceeding N\$ 200 000

##### (i) Legal Fees

Legal fees are collected in respect of collections by the Directorate Civil Litigation on outstanding debts due to the State. Collection fees of 10% to a maximum of N\$ 250 per payment are charged on each of the collections which are made to settle such debts.

#### 1.4.2 Appropriation account: Explanations of variations exceeding 2% between the authorized and actual expenditure

##### (i) Underexpenditure

##### **Main Division 01: Office of the Attorney-General (N\$ 310 493.68 – 11.93%)**

The underexpenditure was caused by lesser expenditure on salaries and due to lesser travelling as anticipated by the Honorable Attorney-General.

##### **Main Division 02: Central Administration (N\$ 147 289.60 – 2.73%)**

The underexpenditure was caused by lesser expenditure on salaries and daily subsistence allowances.

##### (ii) Over-expenditure

##### **Main Division: 03: Rending of Legal advice (N\$ 4 054 775.03– 21.13%)**

**04: Civil Litigation (N\$ 5 052 342.55– 19.80%)**

**05: Public Prosecution (N\$ 13 404 818.07– 20.22%)**

The shortfalls happen due to insufficient budget allocation on the above mentioned main divisions. The Office was aware of the shortfalls and a letter dated 27 May 2016 was communicated to the Ministry of Finance to curb the over-expenditure.

## 2. GENERAL INFORMATION

### 2.1 Exemption from normal Tender Board procedures

The Accounting Officer reported approved Tender exemptions amounting to N\$ 20 557 685.00 for the following goods and services for the period under review:

<b>Exemption number</b>	<b>Description</b>	<b>Approved exemptions</b>	<b>Actual expenditure</b>	<b>Difference</b>
		N\$	N\$	N\$
E1/12-20/2016	Travel and subsistence expenses	5 808 000	2 824 040.11	2 983 959.89
	Materials and supplies	871 685	586 497.31	285 187.69
	Utilities	1 368 000	641 586.26	726 413.74
	Property rental and related charges	443 000	358 045.61	84 954.39
	Other services and expenses	12 067 000	9 642 955.89	2 424 044.11
	<b>Total</b>	<b>20 557 685</b>	<b>14 053 125.18</b>	<b>6 504 559.82</b>

### 2.2 Suspense Accounts

The main ledger shows balances on seven (7) of the Office's suspense accounts as at 31 March 2017, of which three (3) had debit balances and four (4) had credit balances:

<b>Description</b>	<b>Debit/(Credit)</b>
	N\$
Receipt suspense	26 142.46
S&T advance suspense account	6 600.00
Rejection account	109 964.04
Magistrate Offices	(1 750 025.69)
Bills Payable	(179 998.21)
Pension Funds: GIPF	(188.52)
Magistrate Deposit account	(8 515 454.06)

### 2.3 Bank Account

The Accounting Officer reported the following closing balance as at 31 March 2017:

<b>Name of Account</b>	<b>Financial Institution</b>	<b>Balance at 31/03/2017</b>
		N\$
Ministry of Justice- POCA	Standard Bank	50 914 056.70



## 2.4 Bursary and Study assistance

The Accounting Officer reported fourteen (14) bursaries/study assistance awarded to staff members and an amount of N\$ 365 048.76 was incurred in respect of financial assistance during the financial year under review.

## 2.5 Vehicles

### 2.5.1 Vehicles on hand

The Accounting Officer reported vehicles on hand for the year under review as follows:

<b>Pool vehicles</b>	<b>Sedans</b>	<b>Pick-ups, Combies Taking</b>
Opening balance as per 1 <sup>st</sup> April 2016	14	12
Acquisition	-	-
Returned	-	-
Balance as per 31 <sup>st</sup> March 2017	14	12

### 2.5.2 Vehicle accidents – Cost of Damages

The Accounting Officer reported three (3) vehicle accidents and an amount of N\$ 47 135 was incurred in respect of repairs of the three (3) vehicles for the financial year under review.

## 2.6 Debt to Government

The Accounting Officer reported that ten (10) staff members owe the Office an amount of N\$ 39 457.57 in respect of daily subsistence and travel allowance for the financial year under review.

## 2.7 Points keeping Stock

The Accounting Officer reported surpluses to the value of N\$ 196 150, shortages/deficiencies amounting to N\$ 30 930, as well as obsolete/worn-out items to the amount of N\$ 175 for the year under review.

## 2.8 Losses

The Accounting Officer reported the following losses during the financial year under review.

<b>Nature of loss</b>	<b>Nature of item involved (e.g. cash, supplies, equipment or other property)</b>	<b>Amount</b>
		N\$
Theft	Lenovo Laptop (ThinkPad edge E540)	6 771.20
Theft	Cellphone	7 825.22
Accident	Vehicle ( GRN 1535)	4 786.35
Accident	Vehicle (GRN 909)	36 106.15
Accident	Vehicle (GRN 40082)	6 242.50
<b>Total</b>		<b>61 731.42</b>

WINDHOEK, 17 October 2017

**ISSASKAR V.K. NDJOZE**  
**ACCOUNTING OFFICER**