

# 4: CONSTITUTIONAL DEVELOPMENT

## AIM

*The aim of the Department of Constitutional Development is to develop and implement the Constitution and to develop provincial and local government.*

## EXPENDITURE ESTIMATES

**Table 4.1 Expenditure by programme**

R million	Expenditure outcomes			Preliminary outcome	Medium term expenditure estimates		
	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02
Administration	23,0	26,5	21,1	18,0	19,6	19,6	20,2
Constitutional development <sup>1</sup>	9,7	12,7	10,2	17,1	16,6	17,4	17,1
Local government <sup>1,3</sup>	1 068,6	510,6	1 063,2	3 022,2	3 070,3	3 321,7	3 509,8
Auxiliary and associated services <sup>2</sup>	87,6	11,9	16,9	87,9	94,2	77,4	80,6
<b>Total</b>	<b>1 188,9</b>	<b>561,7</b>	<b>1 111,4</b>	<b>3 145,2</b>	<b>3 200,7</b>	<b>3 436,1</b>	<b>3 627,7</b>

<sup>1</sup> Spending by programme has been reclassified where possible to correspond to the current programme structure.

<sup>2</sup> Authorised losses added: 1997/98 R0,8 million.

<sup>3</sup> Local government equitable share added: 1998/99 R1 024; 1999/00 R1 673; 2000/01 R2 480, 2001/02 R2 580.

Following restructuring of the Department, *Constitutional planning* and *Intergovernmental relations* were incorporated into *Constitutional development*. *Local government affairs* is now *Local government*.

- ◆ *Administration* comprises financial management, personnel and provisioning administration, legal and other office support services and the formulation of policy by the Minister and management of the department.
- ◆ *Constitutional development* entails management, co-operative governance, and constitutional, provincial and traditional affairs.

- ◆ *Local government* involves, on a local government level, development and support, finance, infrastructure and planning, disaster management, equitable shares and the Masakhane Campaign.
- ◆ *Auxiliary and associated services* includes communication services; contributions to the Training Fund for Local Government Affairs and the Represented Political Parties Fund; and support for the Municipal Demarcation Board and the National House of Traditional Leaders.

**Table 4.2 Economic classification of expenditure**

R million	Expenditure outcomes			Preliminary outcome 1998/99	Medium term expenditure estimates		
	1995/96	1996/97	1997/98		1999/00	2000/01	2001/02
Current							
Personnel expenditure <sup>1</sup>	25,8	28,1	26,1	31,8	29,6	32,9	34,0
Other current expenditure	102,2	25,2	45,2	62,6	57,5	53,4	54,6
Transfer payments	1 059,3	505,3	1 037,7	2 346,1	2 415,8	2 552,5	2 705,8
Capital	1,6	3,1	2,3	—	—	—	—
Transfer payments	—	—	0,1	703,0	696,0	796,4	832,5
Acquisition of capital assets	—	—	—	1,7	1,8	0,9	0,8
<b>Total</b>	<b>1 188,9</b>	<b>561,7</b>	<b>1 111,4</b>	<b>3 145,2</b>	<b>3 200,7</b>	<b>3 436,1</b>	<b>3 627,7</b>

<sup>1</sup> Departmental personnel expenditure includes employer's contributions to pension funds at a rate of 17 per cent of basic salary in 1998/99 and 15 per cent of basic salary in subsequent years.

## POLICY DEVELOPMENTS

### Co-operative governance

A draft discussion document on co-operative governance and intergovernmental relations is being distributed for comment. The printing costs of the final document are estimated at R80 000 in 1998/99, for which donor funds have been secured.

A comprehensive functional audit of existing intergovernmental structures is being planned to establish strengths and weaknesses and to determine a model for effective and efficient structures and institutions. An estimated R800 000 will be required in 1998/99 and 1999/00.

National supervision of provincial administration is the subject of a discussion document and the draft Bill will undergo an extensive consultation process before submission to Cabinet and Parliament.

A series of occasional papers on intergovernmental relations is being published to share information and stimulate debate on the dynamic policy development process. Donor funding was secured for 1998/99 and from 1999/00 approximately R360 000 a year has been budgeted for this purpose.

**Traditional affairs**

A three-year policy development process has been initiated on traditional affairs. It will include an audit of traditional leaders, their remuneration and legal situation, structural relationships, relationships with other spheres of government and the status and role of Provincial Houses and the National House of Traditional Leaders. The process will also focus on indigenous minority groups like the Griqua, Nama, Khoi, San and the Koranas.

**Constitutional affairs**

The consultative process on the Commission for the Protection of the Rights of Cultural, Religious and Linguistic Communities includes special debates in the provincial legislatures and in Parliament. A National Consultative Conference in September 1998 was attended by representatives from a range of cultural, religious and linguistic communities. A comprehensive policy document incorporating these inputs will be submitted to Parliament during 1999 to form the basis for the required legislation.

**Local government development**

The Local Government Transition Act was promulgated in 1994. In 1994/95 municipalities were restructured to deracialise municipal boundaries, and municipal elections were held in terms of the Local Government Transition Act in 1995/96. A White Paper on Local Government was launched in March 1998, providing a blueprint for the final phase of the local government transition. This gave rise to the following legislation which provides for the rationalisation of municipalities into more developmental and financially viable administrative units, better placed to align their activities with other spheres of government:

- ◆ The Local Government Demarcation Act of 1998.
- ◆ The new Local Government: Municipal Structures Act of 1998.
- ◆ The Local Government: Municipal Systems Bill.

The Local Government Municipal Demarcation Act provides for an independent National Demarcation Board to determine municipal boundaries, as required by the Constitution.

Steps to wind up pre-1994 structures and repeal old Acts include:

- ◆ Repeal of the Remuneration of Town Clerks Act of 1984 in 1996.
- ◆ Repeal of the Profession of Town Clerks Act of 1988 in 1996.
- ◆ Proposed repeal of the Local Government Affairs Council Act of 1989 and the disestablishment of the Council during 1999.
- ◆ Municipal Accountants Act of 1988. This Act will be repealed once legislation dealing with municipal treasuries is in place.

**Local government finance**

The White Paper on Local Government of 1997/98 established a framework for an improved municipal financial system. Most policy work will be undertaken this year, while in 2000/01 and 2001/02 guidelines and manuals will be developed on the implementation of these policies. The municipal finance policy studies will require approximately R1,5 million in 1999/00 and 2000/01, which are expected to be funded by donors.

**Equitable share to local government**

From 1 July 1998, the Department of Constitutional Development has been responsible for implementing and administering the equitable share for local government. Data assembly and modelling are done on a quarterly basis to determine the allocation for each of the 843 municipalities. The Department also handles challenges to the grant distribution and prepares an annual report at the end of the municipal financial year in June.

Provinces are transferring the functions and staff on R293 towns to municipalities.

**R293 towns**

R293 towns are local authorities which operated in former homeland areas. In 1998/99, an amount of R951 million was allocated to provinces for services and staff in R293 towns. Government has decided to phase-out these funding arrangements and incorporate the share going to R293 towns into the equitable share going to local government. It was intended that the R293 funds would be incorporated into the equitable share during 1999/00. However, provinces are experiencing problems transferring staff to local authorities. Hence, the amounts allocated to subsidise services in R293 towns will go directly to these towns while the salary component of the R293 grant will remain with provinces until they are able to transfer staff to municipalities. Conditional grants allocated to provinces for R293 staff in 1999/00 amounts to R463 million and a further R40 million as an incentive grant to assist provinces to transfer these staff.

**Distribution of the local government equitable share**

The present system of transfers to local government is targeted and formula driven. The main transfers to municipalities comprise:

A municipal basic services transfer, to enable poor residents in all local government jurisdictions to receive access to basic municipal services. The basic approach involves estimating the number of people in poverty (household income less than R800 per month in 1998 prices) and the current annual cost of providing basic services for each person.

A municipal institutions transfer, for those jurisdictions currently lacking the administrative capacity to raise their own revenue or lacking the basic infrastructure necessary to function as local authorities. This transfer pays for a minimum level of resources to provide and maintain basic facilities for the operation of local government (such as community centres and an office for elected officials).

**Rural water schemes**

Operating subsidies on rural water schemes from the Department of Water Affairs and Forestry (DWAF) will also be incorporated into the equitable share from 2000/01. Operating subsidies from the Department of Land Affairs to municipalities for the establishment of Land Development Objectives are to be included in the equitable share during 2001/02.

**Property valuation and rating**

The Department is examining policy options for regulating property taxation to ensure some national uniformity. Guidelines and manuals will be developed to assist municipalities in property valuation, rating and collection practices.

**Project viability**

Project viability was launched in 1995 to monitor the short-term liquidity of municipalities, including payment levels, arrears and the effectiveness of credit control and collection:

- ◆ Approximately 76 per cent of municipalities respond to the quarterly survey.
- ◆ 202 management audits have been conducted.
- ◆ 16 Project viability questionnaires have been issued since 1995.

Project viability was subsequently extended to include intervention and support measures to municipalities experiencing financial difficulties. This year, the intervention programme will accelerate to stabilise municipalities with financial difficulties prior to the amalgamation and restructuring process.

**Masakhane campaign**

The object of the Masakhane campaign is to improve the delivery of services and to promote a culture of payment among the beneficiaries of these services.

**Disaster management**

The White Paper on Disaster Management promotes a policy on disaster management at all spheres of government. In March 1997, Cabinet resolved that a dedicated National Disaster Management Centre should be established.

**Fire Brigade Board**

The continued existence and possible re-composition of the Fire Brigade Board will be investigated by a working group consisting of the Department of Constitutional Development, the South African Local Government Association and other relevant role-players.

**Consolidated Municipal Infrastructure Programme**

The Consolidated Municipal Infrastructure Programme (CMIP) is one of Government's key programmes for providing access to basic services to all South Africans. It involves subsidies for bulk infrastructure in poor communities and complements the housing subsidy for urban residents. About two-thirds of the CMIP involves housing, 20 per cent rehabilitating existing infrastructure, 10 per cent special cases and the remainder capacity building.

During 1999/00 several projects will be piloted to improve effective delivery of rural infrastructure programmes.

The Department is engaged in a major initiative to leverage private sector investment in municipal infrastructure. This includes a number of pilot projects for municipal service partnerships and the establishment of the Municipal Infrastructure Investment Unit at the Development Bank to provides technical support to municipalities engaging private sector partners.

The newly established Municipal Infrastructure Task Team (MITT) comprises representatives of all the government and quasi-government agencies providing physical infrastructure. It aims to achieve co-ordination among all programmes, not through uniformity but through harmonisation of policies and procedures for implementation. One example is CMIP's adoption of the geographical targeting system used by the Department of Public Works for the Community Based Public Works Programme (CBPWP).

Through the Municipal Infrastructure Programme (MIP), the Extended Municipal Infrastructure Programme (EMIP) and CMIP, 2 000 projects have been approved since the 1994/95 financial year. Of these, 1 650

have been completed, providing 186 955 person-months of employment and involving 1 965 black-owned SMMEs. In addition 105 083 persons received accredited and 304 716 non-accredited training on infrastructure projects.

### **Integrated Development Planning**

Since 1994 this Department has championed integrated development planning. Its 1996/97 *User-friendly Guide on Integrated Development Planning for Local Authorities* clearly set out, for the first time, the national government's approach to integrated development planning. This was developed further in the 1998 White Paper on Local Government.

In 1998 the Decentralised Development Project (DDP) was established in conjunction with the German Technical Co-operation (GTZ). It is undertaking a pilot study of integrated development planning in selected municipalities. Its Integrated Development Planning Process Manual provides specific planning tools and techniques for municipalities.

### **Local Economic Development**

Over the last four years the Department has developed a range of initiatives to promote, advocate and identify an appropriate role for local economic development (LED) in local government. In 1997 it published a LED Guide for municipalities which discussed alternative approaches to LED and highlighted crucial elements of developmental local government. This was followed in 1998 by a set of ten case studies on LED and poverty alleviation.

The Department is currently engaged in a LED regulatory study to examine existing regulatory and legal constraints to LED. It will identify national, provincial and generic local government legislation and regulations that inhibit or undermine LED.

### **Training Fund for Local Government Bodies**

In terms of the Skills Development Act, the Local Government Training Fund is to be utilised for capacity building. It will provide financial support for Project Viability, and in non-financial terms contribute to personnel administration, labour relations, general administration and various specific municipal functions. Municipal officials and councillors require capacity building.

- ◆ Since 1995/96 Parliament has appropriated R29,1 million towards the Local Government Training Fund.
- ◆ Another R11,1 million and R6,9 million were allocated to the Training Board for Reconstruction and Development Programme (RDP) projects in 1995/96 and 1997/98.
- ◆ Since 1995, 112 237 people have attended 8 121 courses for local government development.

## DISCUSSION OF PROGRAMMES

### Programme 1: Administration

	Budget estimate	Adjusted appropriation	Preliminary outcome	Medium term expenditure estimates		
R million		1998/99		1999/00	2000/01	2001/02
1998 Budget	18,7	18,2	18,0	20,0	20,5	–
<b>1999 Budget</b>	–	–	–	<b>19,6</b>	<b>19,6</b>	<b>20,2</b>

### Programme 2: Constitutional development

	Budget estimate	Adjusted appropriation	Preliminary outcome	Medium term expenditure estimates		
R million		1998/99		1999/00	2000/01	2001/02
1998 Budget	15,5	17,3	17,1	16,4	17,5	–
<b>1999 Budget</b>	–	–	–	<b>16,6</b>	<b>17,4</b>	<b>17,1</b>

*Constitutional development* deals with Constitutional affairs, co-operative governance, provincial affairs and traditional affairs. The outputs of the programme are to implement the Constitution through effective co-ordination and facilitation of the various role-players as well as to promote provincial development planning.

### Programme 3: Local government

	Budget estimate	Adjusted appropriation	Preliminary outcome	Medium term expenditure estimates		
R million		1998/99		1999/00	2000/01	2001/02
1998 Budget	2 922,4	3 059,3	3 022,2	3 140,7	3 536,7	–
<b>1999 Budget</b>	–	–	–	<b>3 070,3</b>	<b>3 321,7</b>	<b>3 509,8</b>

The programme *Local Government* has to give effect to the new vision for local government contained in the Constitution and the Local Government White Paper of 1998. The outputs include the co-ordination of training and capacity building programmes; the co-ordination of the Masakhane Campaign and to promote integrated development planning and local economic development by municipalities.

### Programme 4: Auxiliary and associated services

	Budget estimate	Adjusted appropriation	Preliminary outcome	Medium term expenditure estimates		
R million		1998/99		1999/00	2000/01	2001/02
1998 Budget	83,4	89,0	87,9	71,4	77,2	–
<b>1999 Budget</b>	–	–	–	<b>94,2</b>	<b>77,4</b>	<b>80,6</b>

