



Governance

review

Since 2004, the Office of the Chief Operating Officer (COO) has provided a strategic support function to coordinate the managerial functions and operations of the department. This office drives and oversees the implementation of the department's strategic goals and provides functional and operation support to the Director-General. In this way, the department is able to work towards integrated and cooperative environmental governance.

The functional role of this office relates to coordination and administration by overseeing the financial management of the department, planning, coordination and information management, and business performance, as well as the department's social responsibility programmes and projects.

Corporate governance

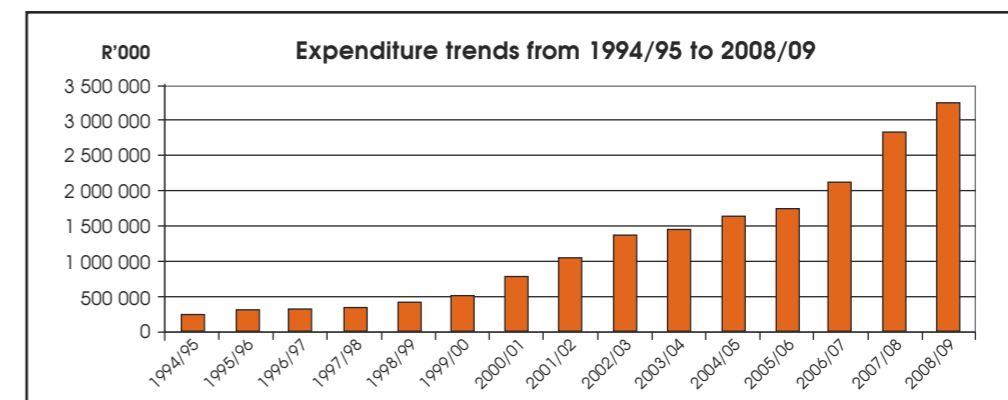
Since 1999, government departments have reported their financial performance and position in terms of the Public Finance Management Act (PFMA) (Act 1 of 1999). This has provided a framework for corporate governance, which makes provision (in terms of the new Treasury Regulations) for a comprehensive reporting facility by government entities, including new accounting principles such as accrual accounting. It also makes provision for the establishment of an Audit Committee, an internal audit and management accounting function, a risk management unit, as well as frameworks for year-end reporting. This includes the disclosure of items such as fraud and wasteful expenditure, on the basis of which the Auditor-General expresses an opinion.

The department has the enviable reputation of having produced clean financial statements with no qualifications for the department since the promulgation of the PFMA in 1999. This indicates that expenditure of taxpayers' money is well controlled and in line with the requirements of the act. In terms of the PFMA, the Accounting Officer

has the authority to delegate authority to ensure sound financial management, and such systems of delegation are in place. These relate to both financial delegation and supply chain delegation. The PFMA also requires government departments to table strategic plans, based on their mandates, which form the basis of all business planning and budgeting for the year. Any shortfalls or omissions will have a ripple effect throughout the organisation. DEAT's strategic plan is workshopped extensively with the Portfolio Committee and the National Council of Provinces (NCOP) each year before being finalised, in order to ensure broad political buy-in. The department's performance is then measured against the achievement of its goals and objectives, as contained in the strategic plan.

Over the past 15 years, the department's budget has grown in line with the scope and importance of its mandate. From a budget of R325.6 million in 1995, the department was allocated a budget of R3.2 billion in the 2008/09 financial year. The escalation of the budget is not only related to the growth of the department over the past decade and a half, but also to the expansion of its responsibilities in order to meet its mandate. Additional functions that have required increased funding include the department's social responsibility activities, international tourism marketing activities, additional capital projects such as the Antarctic research station and the purchase of research vessels, as well as infrastructure developments in preparation for 2010.

The department's expenditure trends over the past 15 years can be illustrated as follows:

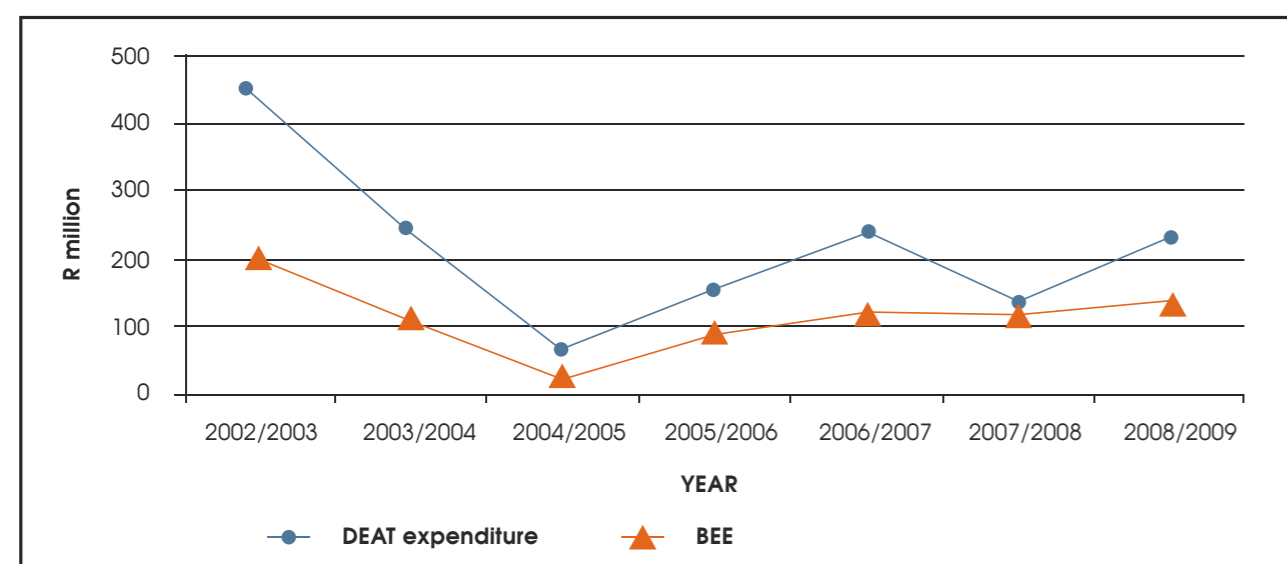


Black economic empowerment

With the promulgation of the Preferential Procurement Policy Framework Act (PPPFA) (Act 5 of 2000), government departments have developed individual preferential procurement policies and implementation plans in order to advance the procurement of products and services from historically disadvantaged individuals. The department has consequently reviewed all its procurement processes to favour black economic empowerment (BEE) initiatives and the development of small, medium and micro-enterprises (SMMEs). Part of the review process included the development of a database of BEE companies and SMMEs that are used for the procurement of services and goods. The department's expenditure on the services and goods of BEE service providers and suppliers over the past seven years can be summarised as follows:

consulting the BEE database). The service received from BEE companies was inferior and no meaningful long-term contracts were awarded to BEE companies. There was no BEE development plan, and no BEE scientist companies to provide scientific equipment. Expenditure with state institutions, such as universities and the CSIR, formed part of the total spend.

There are, however, positive features. There was a clear delegation of power. Top management clearly supported the procurement of goods and services, and procurement legislations, acts and policies were adhered to. The challenges for the department in respect of procurement are to achieve a 58% increase in BEE spend for 2008/09 by awarding long-term contracts to BEE suppliers, monitoring performance and spending trends, and setting aside certain goods and services for BEE suppliers.



The sharp decline in BEE expenditure in 2004/05 can be attributed to the fact that there was no proper planning in the department for goods and services. There was no BEE policy to guide supply chain management, and no commitment from programme managers to work towards increasing BEE spend. The 80/20 and 90/10 points were too little to increase meaningful BEE contribution. Suppliers were not accredited, and there were cases of BEE fronting. Users were not following procurement procedures (for example, they were not

Managers should recommend BEE suppliers for purchases up to R100 000. Expenses in the case of state institutions should be separated from annual spend on the procurement of goods and services.

The department's procurement policies will also have to be adapted to make provision for the Broad-based Black Economic Empowerment (B-BBEE) Act and the Codes of Good Practice. However, these first have to be aligned with the PPPFA.

Cooperative governance

Legislative developments since 1994 have introduced the far-reaching notions of environmental rights and environmental justice, and introduced a framework for integrated environmental management through cooperative governance.

Since the inclusion of the environmental right in South Africa's Constitution, the fundamental approach to environment is a rights-based one. The notion of environmental justice is implicit in South Africa's constitutional environmental right. Key components of environmental justice are the fair distribution of environmental hazards across society, equal access to natural resources, and social transformation towards meeting human needs and enhancing quality of life. Thus the notion of 'environmental' justice is fundamentally concerned with social and economic justice as well, and becomes vital for linking environment, development and poverty eradication.

The era prior to 1994 was characterised by a high degree of fragmentation between authorities responsible for environmental management, as well as a lack of coherent mechanisms to promote cooperative environmental governance. The promulgation

of NEMA established a system of procedures and institutions aimed at promoting cooperative environmental governance, coordinating the environmental responsibilities of all spheres of government, and enabling civil society to take action to protect their environmental rights.

Meaningful participation by all sectors of society is crucial for effective environmental governance. Providing for public participation and input gives society a voice and provides legitimacy to decision-making processes, whereas failing to provide for public input can lead to conflict and resistance. The department has made concerted efforts to ensure that mechanisms for enhanced stakeholder relations are in place and are maintained for engagement with various spheres of government, as well as with other stakeholder groupings.

Cooperative governance and sound intergovernmental relations are constitutional principles. In terms of Chapter 3 of the Constitution, government departments must work together for the overall functioning of the state and the wellbeing of all the people of the country by ensuring that service delivery is efficient, economic, effective, transparent and accountable. As such, all spheres of government must cooperate with



The department hosts the Cleanest Town Competition, which forms part of the annual competition among local municipalities.

one another by performing their functions in a manner that does not encroach on the functional and institutional integrity of another sphere of government. They must assist and support one another, consult each other on matters of common interest, coordinate their actions and legislation with one another, and avoid legal proceedings against each other. The Intergovernmental Relations Framework Act (Act 13 of 2005) establishes a framework for national government, provincial governments and local governments to promote and facilitate intergovernmental relations, and provides for mechanisms and procedures to facilitate the settlement of intergovernmental disputes.

Planning and coordination

Successful environmental governance depends largely on the extent to which environmental issues are effectively integrated into and addressed by all three spheres of government (national, provincial and local). In South Africa, environmental management has a developmental focus. National government bears overall responsibility for the sector, creating a national framework and setting national norms and standards. Its role includes building the capacity of local government for environmental management. In terms of the Constitution, the environment is a concurrent function that is shared between national and provincial government. The past 15 years have therefore seen the establishment of several cooperative governance mechanisms.

The National Environmental Advisory Forum (NEAF) was established to inform and advise the Minister on matters concerning environmental management and governance. This forum comprised representatives from labour, community-based organisations, non-governmental organisations and business and played a crucial role in strengthening partnerships between the state and civil society. The challenge with NEAF was that members did not directly represent their respective stakeholder community and they were individually appointed, even though there was recognition of their roles in their

respective communities. This necessitated an amendment to NEMA, giving powers to the Minister to establish alternative, more representative structures for voices of stakeholders to be heard.

Another mechanism to facilitate environmental governance was the Committee for Environmental Coordination (CEC). This was an interdepartmental committee, established by NEMA, to promote the integration and coordination of environmental functions by the relevant organs of state, and, in particular, to promote the achievement of the purpose and objectives of environmental implementation and management plans. It facilitated discussion on environmental issues between the various spheres of government. To assist the CEC in performing its function, subcommittees on law reform and biodiversity were established, as well as on environmental management plans and implementation plans.

The National Environment Laws Amendment Bill (Bill 66 of 2008) has since repealed these advisory committees to avoid the duplication of existing structures. They have been reformed into non-mandatory chapters, which are not as prescriptive, and address specific needs under NEMA.

The South African government is structured into a series of clusters and forums to promote and facilitate cooperative governance and relationships among the respective spheres of government. Four ministerial Cabinet clusters promote programme integration at national and provincial level. These include the Economic Investment and Employment cluster, the Governance and Administration cluster, the International Relations, Peace and Security cluster, the Justice, Crime Prevention and Security cluster, and the Social cluster. DEAT is represented on all the clusters to ensure improved cooperation on developmental issues. In terms of Ministerial Cabinet Committees, it is formally represented on the Economic Cabinet Committee and the International Relations, Peace and Security Cabinet Committee.

Additional mechanisms that ensure cooperative governance are the Ministerial Technical Committee for the Environment (MINTEC) and the Ministerial Technical Committee for Tourism (MIPTECH).

MINTEC is a structure set up to facilitate coordination between DEAT and the provincial authorities on environmental affairs. Several working groups meet regularly to discuss and advise on issues of biodiversity and heritage, impact management, pollution and waste management, and planning and reporting. Its activities have included the development and implementation of the Five-Year Strategic Plan for the Environmental Sector (2008 to 2013), which sets out the priorities for the sector going forward: both from a departmental perspective, as well as collaboration with the provincial departments responsible for the environment and the department's public entities at both national and provincial level.

MINTEC supports Environment MINMEC – the forum comprised of the Minister of Environmental Affairs and Tourism and Members of the Executive Council (MECs). It is chaired by the Director-General of Environmental Affairs and Tourism, and is further constituted of the portfolio heads of departments in the various provinces. They consider all matters that require Environment MINMEC decision and agree at a technical level before matters are tabled at Environment MINMEC. MIPTECH provides a similar function to the Tourism MINMEC. It is chaired by the Director-General of Environmental Affairs and Tourism, and is further constituted of the portfolio heads of department in the various provinces, as well as South African Tourism and the provincial tourism authorities. The activities of MIPTECH, together with the provincial tourism authorities, have been focused on the development and implementation of the Tourism Growth Strategy.

Through these structures, the environmental and tourism mandate have gained considerable recognition at both cluster level and at Cabinet level, and the department is

involved in several strategic projects within the Government Programme of Action (GPoA), such as tourism development and climate change policy response. The Director-General of Environmental Affairs and Tourism has continuous one-on-one bilateral engagements with her colleagues from other departments on a regular basis to facilitate consideration of the portfolio needs in the plans and implementation of the mandate of other departments.

National and provincial government departments are required to prepare environmental management plans (EMPs), while departments (including those at provincial level) are required to prepare environmental implementation plans (EIPs). The purposes of these plans are to coordinate and harmonise environmental policies, plans, programmes and decisions among departments so as to minimise the duplication of procedures and functions and to promote consistency in the exercising of functions that could affect the environment. They give effect to the principle of cooperative governance, secure the protection of the environment across South Africa as a whole and prevent unreasonable actions by provinces in respect of the environment that may affect the economic or health interests of other provinces or the country as a whole.

EMPs focus on policies and mechanisms to ensure that other bodies comply with departments' environmental management mandates, while EIPs focus on ways in which general policies and functions take account of environmental management. They are prepared every four years, and represent important ways of addressing the fragmented nature of environmental management in South Africa, both horizontally among departments and vertically among spheres of government.

Local government is seen as a pillar of service delivery. In terms of the Municipal Systems Act (Act 32 of 2000), municipalities have to prepare integrated development plans (IDPs),

which are coordinated by the Department of Provincial and Local Government. These are not just local plans of action, but government-wide strategic plans of action for integrated development. For this reason, DEAT has played an increasing role in supporting local government, including the development of environmental guidelines to merge environmental sustainability with the IDPs of local government.

DEAT has also provided strategic support to municipalities through the development of the Local Government Support Implementation Plan, which is aligned to the Five-year Local Government Strategic Agenda. IDP analysis sessions have been held with all the provinces except the Western Cape. In most of the provinces, the analysis was conducted using the five municipal key performance areas: spatial rationale, service delivery and infrastructure, local economic development, financial viability, and governance and institutional arrangements. This led to the development of assessment clusters, which addressed specific issues. An environmental sector cluster has also been formed to analyse the IDPs using a template specific to DEAT, which was developed in consultation with provincial counterparts, and interested and affected parties.

The qualitative analysis of IDPs included an analysis of natural resources, environmental governance, policy and other legislative requirements, including sector plans and how the IDP embraces national and provincial local government initiatives. Interventions that have been made as a result of this process include human resources support to local government, piloting the National Municipal Biodiversity Programme in selected district municipalities, developing relevant guidelines to help municipalities develop sector plans, the establishment of the Community-based Natural Resource Management toolkit, together with capacity-building workshops that are conducted with interested and affected communities and relevant stakeholders.

Provincial environmental IDP toolkits have been developed to help local, metropolitan and district municipalities to identify links between the wise use of resources, such as clean air, soil, water and vegetation, and improved quality of life for citizens, and outline how municipalities can incorporate environmental issues into the IDP process. These toolkits include details about ecosystems particular to specific provinces that may be useful to municipal managers and planners.

Business performance

The department's operations in terms of service delivery have improved markedly with the introduction of the Performance Management System. The signing of performance contracts by management, submission of quarterly performance reports and quarterly evaluations has contributed to improved performance. These processes have enabled the department to improve public access to information, examine appropriate ways of giving feedback on client service standards through its various programmes, more clearly reflect the different elements of *Batho Pele* in its business plans, incorporate ways of measuring and improving public service standards, and give clear recognition to high achievers and reward good performance.

Following a review of the department's Performance Management System in 2006, it was decided to implement a Balanced Scorecard Performance Management System to provide improvements and more effective performance management. The benefit of the new system is alignment of organisational performance with that of the individuals' ability to cascade the various work areas to the different levels of contribution within the organisation, improved measurability of indicators and targets, as well as clarity of reporting and improved ability to easily identify problem areas using the perspective and dashboard system. The intention is to automate the system so as to enable management to obtain real-time data and also ensure effective information management.

The objective of this system was to change the performance management culture across the department to achieve high delivery. The balanced scorecard approach will enhance the performance management of the entire department from a compliance mode to a higher performance mode.

Sections 20(2)(c) and 28(1)(c) of the Public Audit Act provide that an audit report must reflect an opinion or conclusion relating to the performance of the auditee against

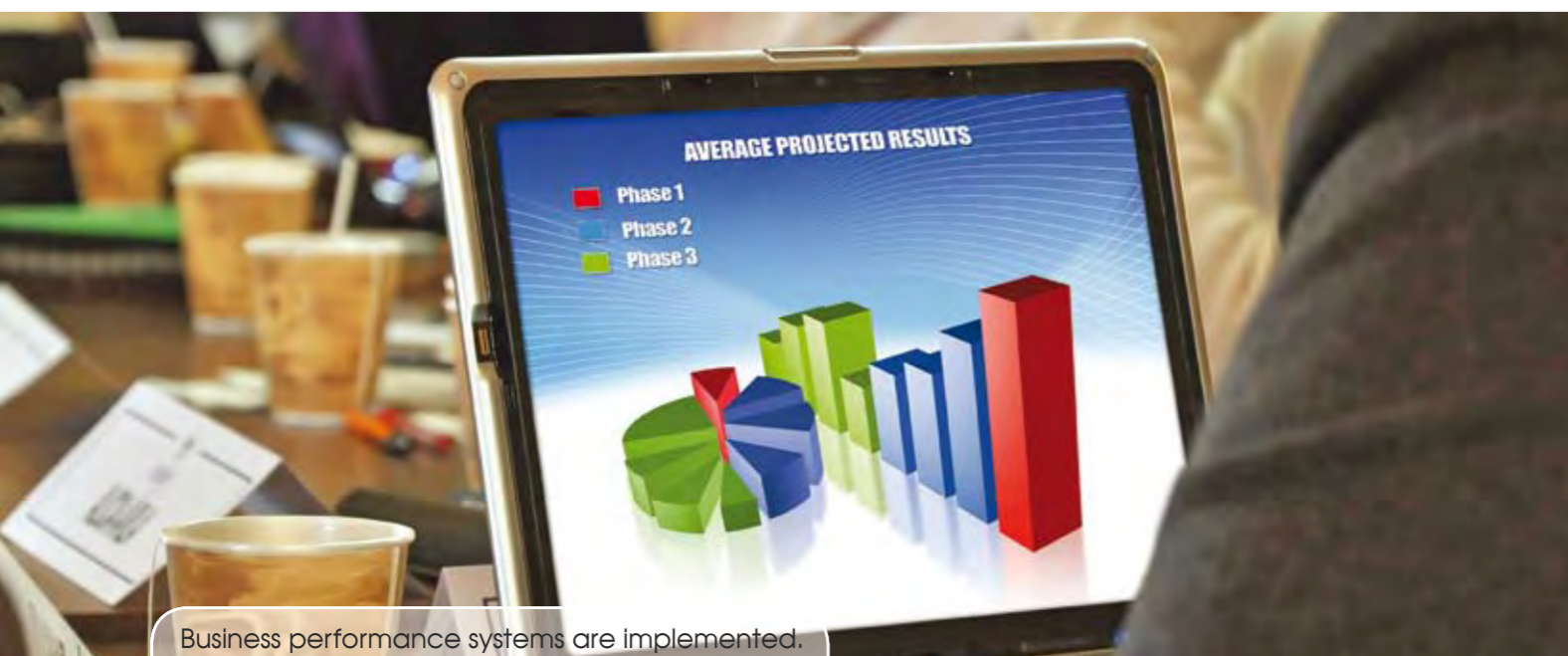
predetermined objectives. The Auditor-General, as the supreme audit institution (SAI) of South Africa in line with its constitutional mandate, will be formally auditing organisational performance with the intention to express official opinion, starting from the 2009/10 financial year.

Over the past few years, the department has spent a considerable amount of time building a robust performance management system that will ensure effective performance of the organisation. This includes the incorporation of the organisational performance management function into the internal audit and risk management scope of work. Tests conducted during the 2007/08 audit by the Auditor-General indicate that there is a sound and effective performance management system in place.

Public entities oversight

The Minister of Environmental Affairs and Tourism is the executive authority for the following public entities, as listed in Schedule 3A of the Public Finance Management Act, 1999, as amended: South African National Parks, South African Tourism, South African National Biodiversity Institute, Marine Living Resources Fund and ISimangaliso Wetlands Park Authority. Although each of these has a board that serves as accounting authority, the Director-General of Environmental Affairs and Tourism remains accountable for the overall appropriated budget and the Minister is accountable to the public on the performance of these entities.

In this regard, the department has entered into a protocol agreement with each of the entities covering all aspects around governance and performance matters. This has paid off, as each entity started the 2008/09 financial year with unqualified audit reports and, in some instances, with clean audits. Going forward, there may be a need to improve on the protocol, given the new good governance principles and recommended practices emanating from the draft King III Report.



Business performance systems are implemented.