



THE DEPARTMENT OF JUSTICE &
CONSTITUTIONAL DEVELOPMENT

THIRD PARTY FUNDS ANNUAL REPORT
2013-2014

Access to Justice for All



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA





Access to Justice for All

Over the past 20 years, we have changed the face of justice from oppressive to empowering.



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
THIRD PARTY FUNDS
FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014

CONTENTS

1. REPORT OF THE ACCOUNTING OFFICER	4
2. REPORT OF THE AUDIT COMMITTEE	12
3. AUDITOR-GENERAL'S REPORT TO PARLIAMENT	14
4. ANNUAL FINANCIAL STATEMENTS.....	17

REPORT BY THE ACCOUNTING OFFICER TO THE EXECUTIVE AUTHORITY AND PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA ON THE ANNUAL FINANCIAL STATEMENTS FOR THIRD PARTY FUNDS FOR THE FINANCIAL YEAR ENDED 31 MARCH 2014

1. GENERAL REVIEW OF THE STATE OF FINANCIAL AFFAIRS

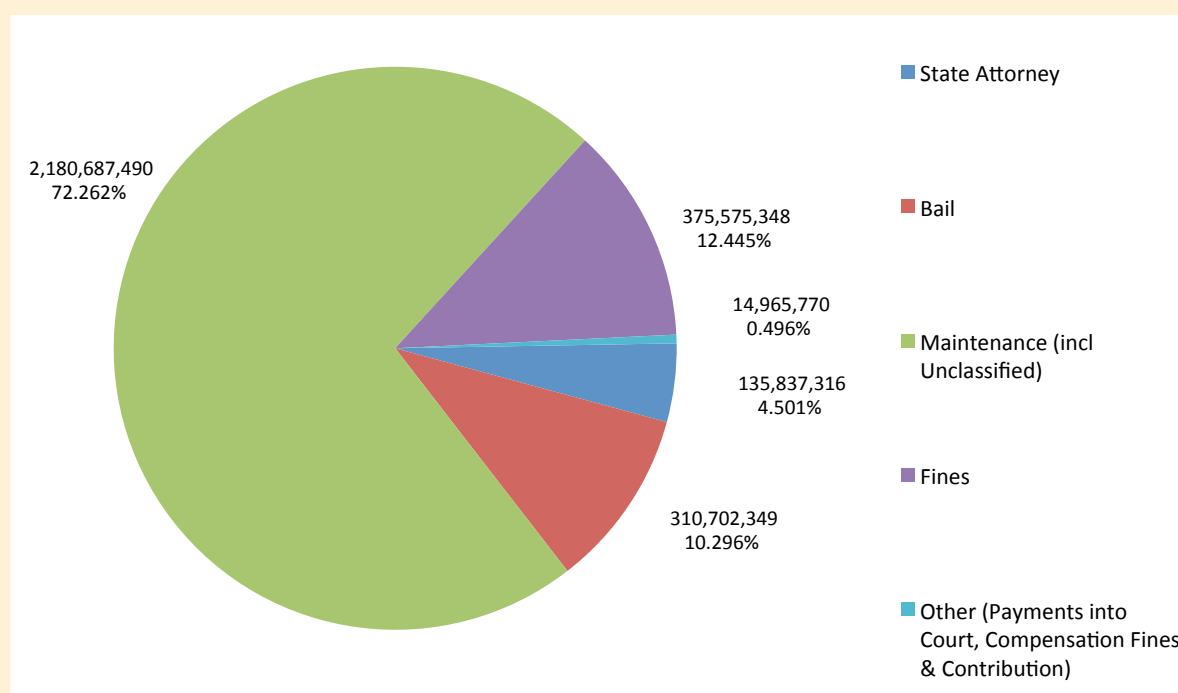
1.1 BACKGROUND

The Department of Justice and Constitutional Development (Department) administers funds on behalf of third parties. The purpose of Third Party Funds (TPF) is to manage maintenance beneficiary monies (local, foreign and future), collect fines on behalf of government institutions (national, provincial, local and other authorities), the safe-keeping of bail monies on behalf of accused persons, the safe-keeping of payments into court, the collection of debts on behalf of government institutions through the State Attorney, as well as monies related to conveyance matters which the State Attorney deals with on behalf of government institutions.

In 2010, in response to the significant risks identified by various oversight authorities relating to the administration of TPF, the Department initiated a Transformation Plan for TPF.

The significant growth in volume and value of transactions (approximately 9, 5 million transactions to the value of R 3 billion are processed through TPF on an annual basis), as well as the distribution of service points (501 bank accounts with four clearing banks), rendered the existing technology, accounting and operational processes as well as the skills-base at regional and national level inadequate to effectively manage and account for TPF.

The following table reflects the total departmental payments for 2013/14 in respect of the TPF portfolio to various beneficiaries (individuals, government departments, etcetera):



The Justice Deposit Account System (JDAS) and the State Attorney System (SAS), utilised for the administration of TPF, were designed as case administration systems with payments and receipts recording functionality, but no financial accounting system with the prescribed accounting and financial reporting capabilities. The Basic Accounting System (BAS) currently utilised in government for recording of transactions for accounting purposes is also inadequate to directly deal with the sheer volume and administrative requirements thereof. Transactions are

recorded at court level on JDAS and SAS and then bulk payments are made to the Department's (Vote) Account to be recorded on BAS as departmental revenue where relevant, while individual payments to local and other authorities and to maintenance beneficiaries are made as per orders issued by the courts.

This inadequacy of systems to cope with the management of TPF had the following significant impact:

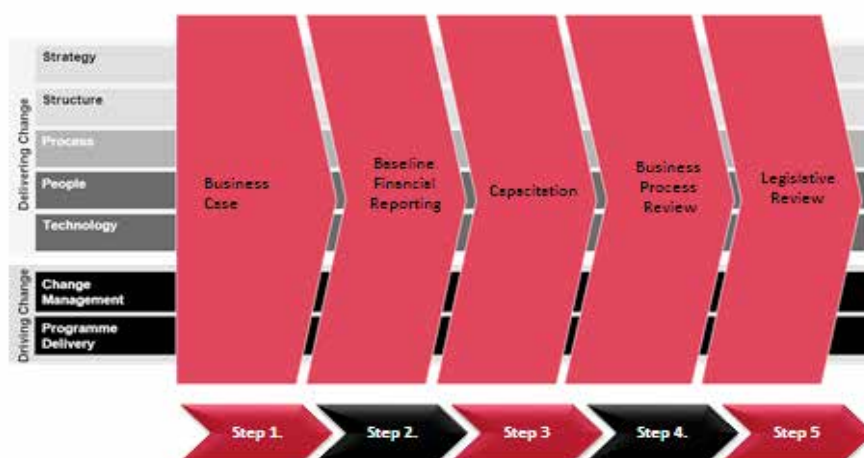
- a) Non-reporting and incomplete reporting on management of resources of the most vulnerable groups in our communities, i.e. mostly people with no bank accounts or those who prefer cash pay-outs at courts receiving cash payments at courts on a monthly basis;
- b) Inability to prepare financial statements for TPF in the past and the resultant audit qualification of the vote as a result of limitations in determining revenue due to the National Revenue Fund (NRF);
- c) Poor service delivery: extended timelines for effecting payment from day of receipt; and
- d) Recorded losses including overpayments and dishonoured cheques (R74 million currently).

In the context of the challenges above the Department needed to reconsider operational procedures, address the internal control weaknesses; improve the reliability of recorded administrative and financial data, resourcing options for the management of TPF as well as stabilising staff establishment related to TPF.

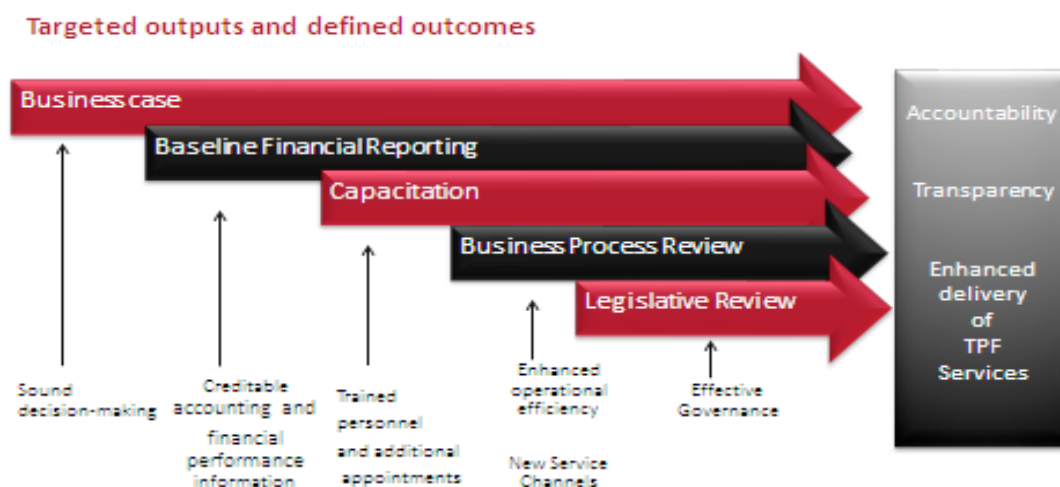
The guiding principles over the medium term for the TPF Transformation Plan were:

- a) Utilising public sector resources (personnel, systems and processes) in the management and operation of TPF;
- b) Ensuring value for money appropriated by parliament for executing the function;
- c) Subscribing to departmental strategic objectives for enhanced access to justice services and improved quality of service;
- d) Partnerships with the banking sector, public entities and private sector with proven capacity in cash management and cash transfer;
- e) Compliance with legislative prescripts in relation to the management, control and reporting on TPF;
- f) Subscription to Batho Pele Principles in relation to service execution to beneficiaries;
- g) Effective communication to beneficiaries on the detail of the frequency and quality of service;
- h) Encouraging direct payments between beneficiaries and obligors (defendants) through the banking system; and
- i) Encouraging departments, agencies and local authorities to start taking responsibility for their own revenue previously held by courts.

The Transformation Plan for TPF addresses the re-engineering of the business model relating to Policy, Process, Technology, People and Data as pictured below:



The following figure depicts the targeted programme and activity outputs and outcomes for TPF:



1.2 THE BUSINESS CASE FOR THE EFFECTIVE FUTURE MANAGEMENT OF TPF

The Department concluded a comprehensive business case and options analysis for the future management of TPF.

The following options were considered in the business case:

Option 1: Maintaining the status-quo

Option 2: Outsourcing the function through a Public Private Partnership (PPP)

Option 3: Enhanced Public Sector-managed TPF

Based on the analysis and assessment in the business case, the Department opted for option 3, i.e. Enhanced Public Sector-managed TPF. The decision was primarily based on the financial cost in the context of the economic climate, affordability of an outsourced arrangement through a PPP and the substantial labour relations implications with estimated staff redundancy and possible consequent lay-offs. The selected option entailed substantial investment in staff training, reviewing and enhancing of business processes, procurement of limited staff capacity and legislative reforms to ensure an appropriate governance framework for TPF.

1.3 BASELINE FINANCIAL REPORTING OF TPF

As previously stated, the nature and volume of transactions as well as the distribution of service points poses a challenge for the Department, given the required level of sophistication of systems.

The Department has submitted Annual Financial Statements (AFS) for TPF for the past number of financial years. These annual financial statements received a disclaimer of opinion from the Auditor-General due to the challenge to work with historical financial years, the problem of opening balances, amalgamation of various previous administrations in 1994, historical issues within the TPF environment and the reasons as alluded to in the report produced by the Auditor-General.

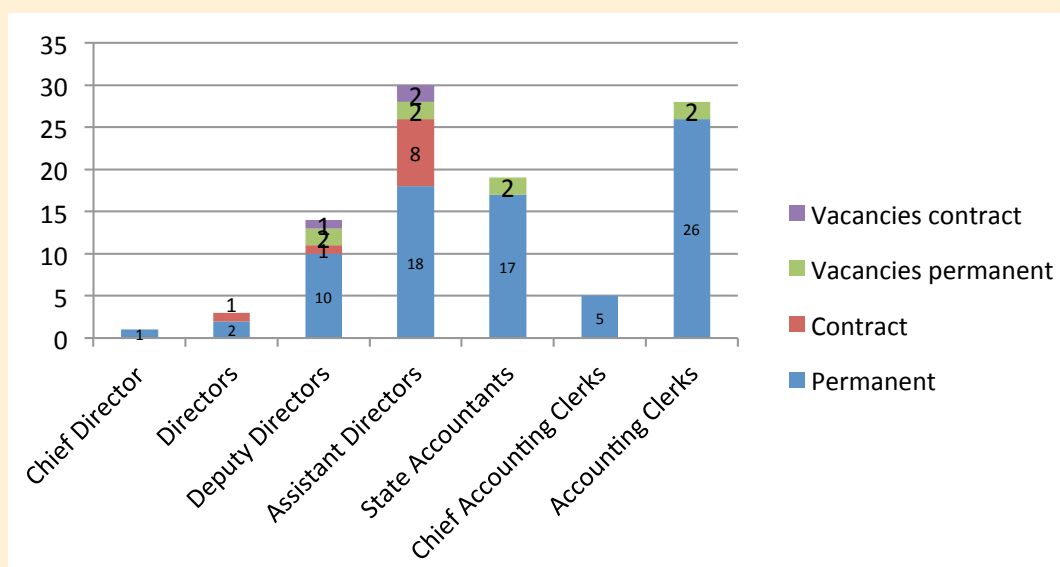
Despite the negative audit outcomes, the submission of these financial statements timeously heralded in a new era in TPF management. For the first time, the Department was able to determine the extent of financial shortages, improvements required in areas of financial administration, the inherent management and control weaknesses within the TPF environment, and subsequently developed the necessary action plans to address these shortcomings.

In the current financial year, attempts were made to address the shortcomings contributing to the negative opinion of the Auditor-General and therefore the reason for the restatement of figures as disclosed in the Notes to the Financial Statements.

1.4 CAPACITATION

A major area of intervention in the TPF environment was the expansion of capacity and the increase of financial skills and monitoring activities. Specific activities to enhance the quality assurance processes during the period under review related to:

- a) Further training to court-level and regional TPF staff members
- b) A total of 811 court-level staff members were provided with practical training during the 2013/14 financial year. This supplemented the 2012/13 financial year when 479 court-level staff, Court Managers, supervisory staff and other TPF practitioners were trained.
- c) A further 253 staff members at Financial Operations Manager and regional levels were trained on accounting methodologies, the process of effective daily and monthly reconciliations and the preparation of financial statements for TPF during the 2013/14 financial year. Further training and guidance were provided on system errors investigations and resolution.
- d) Funding was secured for 45 finance practitioners at middle management and technical levels for additional dedicated financially qualified personnel in regional TPF units. As at 31 March 2014, 39 of these posts were filled with permanent staff.
- e) The total staff complement of officials focusing solely on TPF at both regional and national levels (both on contract and permanent levels) as at 31 March 2014, are indicated below:



1.5 BUSINESS PROCESS REVIEW

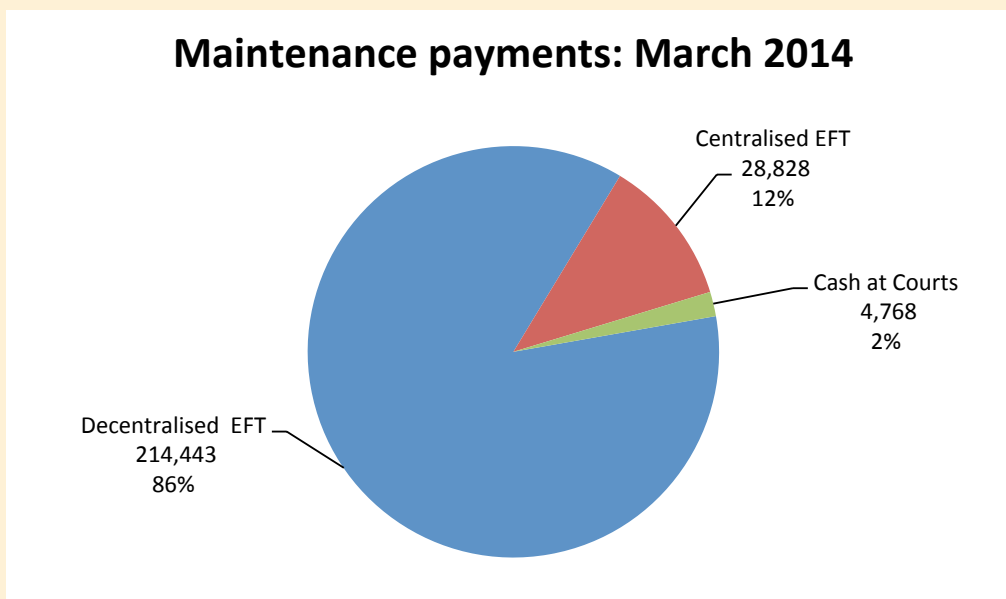
As part of business process improvement and enhancing service delivery with enhanced performance measuring capability, the Department:

- a) Reviewed policy and procedures;
- b) Standardised and mapped processes, including audit trails, daily reconciliations and operational performance indicators ensuring adequate segregation of duty; and
- c) Introduced a decentralised EFT payment system in courts with reduced cycle times. As at 31 March 2014, 390 courts were processing EFT payments locally. In respect of the remaining courts, EFT payments are processed at the National Office.

The narrative of the TPF financial instructions was simplified into flow-chart booklets and posters, and each court now displays such a poster to support court staff in efficiently and effectively fulfilling their functions relating to TPF transactions.

The decentralised EFT payment system resulted in the reduction of the payment cycle from 10 days to within 24 and 48 hours after the beneficiary has been identified. The immediate benefits were reduction in turnaround times, savings on printing and faxing costs, transactions costs, the cost of daily physical collection of bank statements at courts and the improvement of direct control over activities by Court Managers.

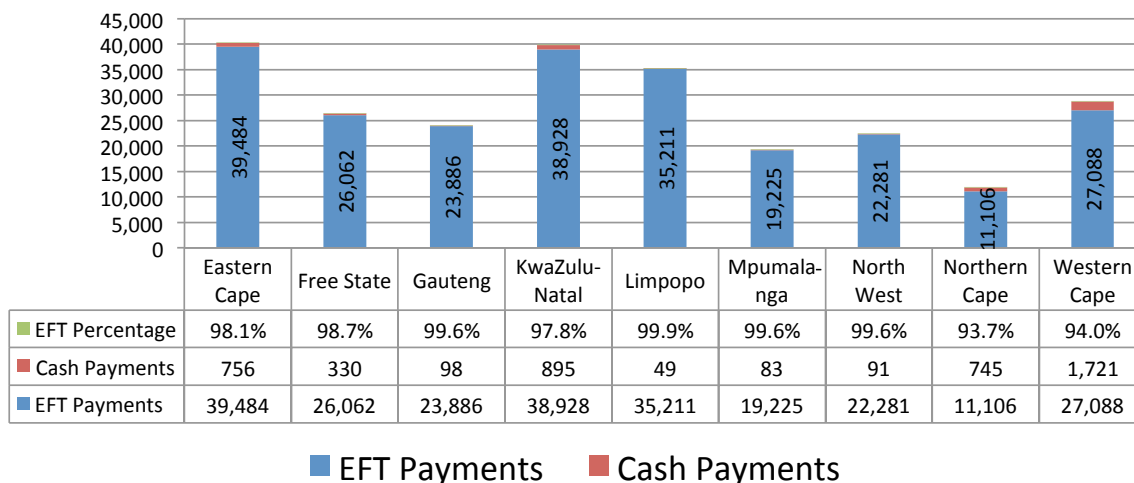
The graph below indicates the relationship of centralised EFT payments versus localised EFT payments and cash payments made in respect of maintenance for March 2014:



In essence, 98% of maintenance beneficiaries are now receiving maintenance payments on a monthly basis *via* the EFT and bank system (243 271 of 248 000 monthly payments). Some reasons for maintenance beneficiaries still relying on cash as a means of payment are lack of access to banking facilities in rural communities, high withdrawal costs, and the convenient location of courts versus bank locations.

The following graph reflects the distribution of monthly maintenance payments across the respective provinces at the end of the 2013/14 financial year:

March 2014 - EFT vs Cash Payments



1.6 LEGISLATIVE REVIEW

The Department is considering, in consultation with all relevant stakeholders, possible new legislation and amendments to existing legislation to enhance the governance of Third Party Funds relating to the following:

- a) Administration of TPF. The Department already formulated a draft Justice Administrated Fund (JAF) Bill that is currently being put through the governance processes for approval before being submitted to Cabinet and thereafter Parliament. The Bill has been extensively consulted with internal stakeholders and has also been forwarded to the Director-General: National Treasury for information. No comments have thus far been received from National Treasury in this regard. The Bill will shortly be forwarded to the Minister of Finance for his comments and inputs.
- b) Direct beneficiary payments (Maintenance Act). Currently, legislation does not exist to force employers who deduct maintenance monies from their employees to provide TPF with correctly referenced payment schedules. This creates an administrative challenge for TPF in allocating the monies to the correct beneficiaries, resulting in delays in the payment of these monies to the beneficiaries. The Department is considering amendments to the Maintenance Act, 1998 to resolve this practise and/or addressing this in the Regulations that will be issued in terms of the Justice Administrated Fund Act (JAF), when enacted.
- c) Payment of schedule 3 admission of guilt fines (notices only) directly to Local Authorities (Criminal Procedure Act). The collection of these fines places a massive administrative challenge on the Department, its systems and its staff.
- d) Electronic refund of bail monies (Criminal Procedure Act). The Criminal Procedure Act is currently silent on the manner in which bail payments are received and paid to accused persons and this limits collections and payments to be on a cash basis.

The Department initiated discussions with SALGA, the Magistrates' Commission, the Office of the Chief State Law Advisor and National Treasury in order to raise awareness of the challenges and the impact thereof on vulnerable communities.

2. IMPORTANT POLICY DECISIONS AND STRATEGIC ISSUES FACING THIRD PARTY FUNDS

Other than the legislative review processes mentioned above, the following strategic decisions for implementation over the medium term are currently being considered or are in the process of implementation:

- a) Reduction in the number of bank accounts utilised to administer TPF and centralising certain accounting functions.
- b) Purchasing an off-the-shelf accounting package to be customised accordingly. A Request for Bid (RFB) was issued during November 2013, with a closing date of 13 December 2013 through the State Information Technology Agency (SITA). The RFBs received were subsequently evaluated in March 2014 and a recommendation has been made to SITA for their consideration. Once a service provider has been appointed, the Department estimates that it will take between 12 and 18 months to develop and test the system, after which full implementation at all service points will be done over the subsequent 12 months.
- c) Ring-fencing and writing-off of historical

shortages and losses. When the new accounting package is introduced, the Department will ensure that only validated financial information is recorded and transferred into the new system. Financial information in JDAS 4 and SAS will be ring-fenced, investigated, cleared and write-offs done in collaboration with National Treasury.

- d) Promote direct maintenance payments. To eliminate or reduce the number of maintenance payments that flow through our courts and to ensure that beneficiaries have access to their monies in a shorter space of time. This process entails the obligor (whether an individual defendant or his/her employer) having to deposit monies directly to the bank account of the beneficiary. After consultation with the Chairperson of the Magistrates' Commission, all regions have initiated projects, in consultation with the local judiciary, whereby the bulk of new maintenance orders issued are direct payment orders, and where existing orders are reviewed and re-issued as direct payment orders. This process, however, takes time as all stakeholders have to agree to this process and/or have to be informed thereof.

Statistical information for the financial year regarding these regional projects (where initiated), is as follows:

Region	New orders issued as direct payment orders	Existing orders converted to direct payment orders
Free State	3 838	2 202
Gauteng	6 757	638
KwaZulu-Natal	1 458	291
Limpopo	2 075	542
Mpumalanga	2 259	1 909
Northern Cape	0	211
North West	3 578	2 295
Western Cape	3 337	0

- e) New emerging challenges for TPF is a ruling by National Treasury that State Attorney monies and all categories of fines (excluding compensation fines) should be administrated on the Vote Account of the Department, as these are viewed as government monies, as well as a ruling by National Treasury regarding the retention period of unclaimed monies,

which it has determined should be kept by the Department for 30 years before being paid to the National Revenue Fund (NRF). Due to system weaknesses and obvious risks, the Department has requested the National Treasury to review and/or provide the Department with an exemption with regard to the implementation of the determinations.

3. SERVICES RENDERED BY THIRD PARTY FUNDS

Tariff policy

No fees are charged for the services rendered in respect of TPF, in particular for the maintenance paid to the most vulnerable in society.

However, a 10% commission (to a maximum of R300 per collection) is levied in respect of debt collected by the State Attorney on behalf of government departments. The commission is paid over to the National Revenue Fund. This commission is collected in terms of section 65J of the Magistrates' Court Act (Act No. 32 of 1944), as amended.

In addition, TPF utilises all interest earned in respect of amounts kept in its bank accounts, to offset bank charges.

4. CORPORATE GOVERNANCE ARRANGEMENTS

The governance processes of the Department are driven by the Executive Committee (EXCO) under the guidance of the Accounting Officer and the Minister of The Department of Justice and Correctional Services. Corporate governance is placed as one of the significant responsibilities of EXCO in line with King III requirements. To enable the Accounting Officer and EXCO to discharge their responsibilities and duties, certain responsibilities have been delegated to the following sub-committees:

- a) Policy Development and Coordinating sub-committee
- b) Strategy and Operations sub-committee
- c) Anti-fraud and Risk Management sub-committee
- d) Audit and Finance sub-committee
- e) Human Resources sub-committee
- f) Corporate Governance sub-committee
- g) Service Delivery and Communications sub-committee
- h) Information and Communication Technology Steering committee

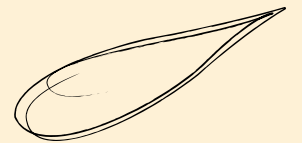
The governance structures are reviewed regularly to incorporate developments and new trends within

the Department and in the public sector. EXCO is accountable for the processes of risk management. The Audit and Risk Management Committees fulfil the role of oversight at different levels. EXCO takes the initiative to ensure that all its members are leading and directing the operations and service delivery initiatives in a manner that is consistent with ethical standards. All the Departmental actions are governed by ethical principles which are contained in the Fraud Prevention Plan and Code of Ethics and Business Conduct of the Department.

The Fraud Prevention Plan and the Whistle-blowing Policy were approved after proper consultation within the Department. The Anti-fraud and Risk Management Committee will monitor the progress in terms of the implementation of the plan and Whistle-blowing Policy.

5. APPROVAL

The Annual Financial Statements set out on pages 18 to 28 have been approved by the Accounting Officer.



MS N SINDANE

DIRECTOR-GENERAL: DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

31 July 2014

REPORT OF THE AUDIT COMMITTEE

We are pleased to present our report for the financial year ended 31 March 2014.

1.1 AUDIT COMMITTEE MEMBERS AND ATTENDANCE

The Audit Committee consists of the members listed below and is required to meet at least four times per annum as per its approved terms of reference. During the year six meetings and two special meetings were held and one member resigned as indicated below.

Name of members	Number of meetings attended	Number of special meetings attended	Status
Mr. Motsamai Karedi (Chairperson)	5	2	Reappointed – 23 January 2013
Mr. Cedric Boltman	5	2	Reappointed – 23 January 2013
Ms. Besky Ngunjiri	5	1	Appointed – 24 February 2012
Ms. Keneilwe Moloko	1	0	Appointed – 24 February 2012 Resigned 28 January 2014
Mr. Wilson Ramabulana	5	2	Reappointed – 23 January 2013
Ms. Livhuwani Vuma	6	2	Appointed – 24 February 2012
Mr. Andy Sello	6	2	Appointed – 9 January 2013

The Department of Justice and Constitutional Development's Internal Audit Unit is also responsible for the auditing of Third Party Funds.

1.2 AUDIT COMMITTEE RESPONSIBILITY

The Audit Committee reports that we have adopted appropriate formal terms of reference as per the Audit Committee Charter, which regulates the Committee's affairs and have also discharged our responsibilities as contained therein.

1.3 THE EFFECTIVENESS OF INTERNAL CONTROL

The Third Party Fund's controls and system processes have been historically inadequate which lead to breakdown of key controls. The Fund does not have formal controls over IT systems to ensure reliable and accurate financial reporting for preparation of reliable financial statements.

The accounting system that the TPF is using is more of an administrative system and it has inherent limitations.

Management has put plans in place to address the current situation. The Audit Committee is satisfied with the plans and strategies to turn around weaknesses in the TPF control environment.

The Internal Audit unit has discharged its responsibilities as per the internal audit plan approved by the Audit Committee for the year.

The audit action plans were continuously followed-up by Internal Audit and periodically reviewed by the Audit Committee.

1.4 QUALITY OF IN-YEAR MANAGEMENT AND MONTHLY/QUARTERLY REPORT

These have not been forthcoming due to the historic challenges however we are satisfied with the proposed interventions and commitments by the Accounting Officer of The Department to ensure monthly and quarterly reports are prepared. We will monitor progress in this regard.

1.5 EVALUATION OF FINANCIAL STATEMENTS

We have reviewed and discussed the annual financial statements with the management and also reviewed the Department's compliance with legal and regulatory provisions and were satisfied that where shortcomings were identified, management has addressed them.

1.6 AUDITOR-GENERAL'S REPORT

The Audit Committee concurs and accepts the conclusions of the Auditor-General on the annual financial statements and is of the opinion that the audited annual financial statements be accepted and read together with the report of the Auditor-General.



MR M KAREDI

CHAIRPERSON OF THE AUDIT COMMITTEE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

31 JULY 2014

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THIRD PARTY FUNDS

REPORT ON THE FINANCIAL STATEMENTS

INTRODUCTION

1. I was engaged to audit the financial statements of the Third Party Funds set out on pages 18 to 28, which comprise the statement of financial position as at 31 March 2014, the statement of cash flows for the year then ended, as well as the notes, comprising a summary of significant accounting policies and other explanatory information.

ACCOUNTING OFFICER'S RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

AUDITOR-GENERAL'S RESPONSIBILITY

3. My responsibility is to express an opinion on the financial statements based on conducting the audit in accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA), the general notice issued in terms thereof and International Standards on Auditing. Because of the matters described in the basis for disclaimer of opinion paragraphs, however, I was unable to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

BASIS FOR DISCLAIMER OF OPINION RECEIVABLES

4. Included under receivables, as disclosed in note 3 to the financial statements, are shortages debtors. I was unable to obtain sufficient appropriate audit evidence regarding the shortages debtors as the Fund did not have adequate systems in place to

maintain records of such receivables and I was also unable to confirm the shortages debtors by alternative means. Consequently, I was unable to determine whether any adjustments to the current and restated corresponding figures stated at R69 116 545 (2013: R63 147 441) in the financial statements were necessary.

THIRD PARTY FUND PAYABLES

5. I was unable to obtain sufficient appropriate audit evidence for the third party fund payables balances as disclosed in note 5 to the financial statements, as the Fund did not have adequate systems in place to maintain records of accounts payable. I was also unable to confirm the balances by alternative means. Consequently, I was unable to determine whether any adjustments to the current and restated corresponding figures stated at R827 312 032 (2013: R682 711 958) in the financial statements were necessary.

CASH RECEIPTS AND PAYMENTS INCLUDING RELATED RECEIVABLES AND PAYABLES

6. I was unable to obtain sufficient appropriate audit evidence to support individual cash receipts and cash payments, as well as the related payables or receivables due to the status of the accounting records as well as inadequate systems of control in place. Furthermore, discrepancies were identified regarding the classification of receipts and payments. I was unable to confirm the cash and cash equivalents movements and related receivables and payables balances by alternative means. Consequently, I was unable to determine whether any adjustments to the current and restated corresponding figures for cash receipts from third parties of R3 160 187 390 (2013: R2 931 987 182) and cash payments to third parties of R3 017 768 273 (2013: R3 016 521 557) as well as the related receivables and payables as disclosed in notes 3, 4 and 5 to the financial statements were necessary.

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THIRD PARTY FUNDS

REPORT ON THE FINANCIAL STATEMENTS

FINANCIAL INSTRUMENTS DISCLOSURE

7. South African Standard of Generally Recognised Accounting Practice, GRAP 104, *Financial Instruments*, requires an entity to disclose information that enables users of its financial statements to evaluate the nature and extent of risks arising from financial instruments to which the entity is exposed, at the end of the reporting period. The typical risks arising from financial instruments are credit risk, liquidity risk and market risk. None of the disclosure requirements as per GRAP 104 were complied with.

as internal control. The objective of my tests was to identify reportable findings as described under each subheading but not to gather evidence to express assurance on these matters. Accordingly, I do not express an opinion or conclusion on these matters.

DISCLAIMER OF OPINION

8. Because of the significance of the matters described in the basis for disclaimer of opinion paragraphs, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on the financial statements.

PREDETERMINED OBJECTIVES

11. I did not perform an audit of performance against predetermined objectives as the Fund is not required to prepare a report on its performance against predetermined objectives. The Fund does not fall within the ambit of the Public Finance Management Act of South Africa, 1999 (Act No.1 of 1999) and there is no entity-specific legislation that requires reporting on performance against predetermined objectives.

EMPHASIS OF MATTER

I draw attention to the matter below. My opinion is not modified in respect of this matter.

COMPLIANCE WITH LEGISLATION

12. I performed procedures to obtain evidence that the Fund has complied with applicable legislation regarding financial matters, financial management and other related matters. I did not identify any instances of material non-compliance with specific matters in key legislation as set out in the general notice issued in terms of the PAA.

FINANCIAL REPORTING FRAMEWORK

9. As disclosed in note 10 to the financial statements, the National Treasury has exempted the Department of Justice and Constitutional Development from accounting for fines and recoveries made by the state attorney for the reasons indicated. Such transactions are accounted for in the Fund.

INTERNAL CONTROL

13. I considered internal control relevant to my audit of the financial statements and compliance with legislation. The matters reported below are limited to the significant deficiencies that resulted in the basis for disclaimer of opinion included in this report.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

10. In accordance with the PAA and the general notice issued in terms thereof, I report the following findings on performance against predetermined objectives, non-compliance with legislation as well

LEADERSHIP

14. The information systems in place were inadequate to ensure reliable financial reporting in order to assist the leadership to adequately manage and exercise effective oversight regarding the financial operations of the Fund.

FINANCIAL MANAGEMENT

15. Management did not adequately implement proper record keeping in a timely manner to ensure that complete, relevant and accurate information is accessible and available to support financial reporting.
16. Management did not adequately implement controls over daily and monthly processing and reconciling of transactions.
17. Management did not prepare regular, accurate and complete financial reports that were supported and evidenced by reliable information.

OTHER REPORTS

INVESTIGATIONS

18. Various investigations are in progress and are at different stages of the process to probe cash shortages within the environment of the courts where cash is received and paid out. Such shortages identified by management are disclosed in note 3 to the financial statements.

Auditor-General

Pretoria

31 July 2014



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

THIRD PARTY FUNDS
ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL
DEVELOPMENT
FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014

INDEX	Page
Statement of Financial Position	18
Statement of Cash Flows	19
Notes to the Financial Statements	20 -28

THIRD PARTY FUNDS

ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014

STATEMENT OF FINANCIAL POSITION

		2014	2013
		R	Restated R
ASSETS			
Current Assets			
Receivables	3	74,532,151	68,005,685
Cash and cash equivalents	4	747,675,377	613,628,492
Receivable from Department of Justice and Constitutional Development		5,104,504	1,077,781
TOTAL ASSETS		827,312,032	682,711,958
LIABILITIES			
Current Liabilities			
Third Party Fund Payables	5	827,312,032	682,711,958
TOTAL LIABILITIES		827,312,032	682,711,958

THIRD PARTY FUNDS

ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014

STATEMENT OF CASH FLOWS

	2014 R	2013 Restated R
Net cash flow from administration activities		
Receipts from third parties	3,160,187,390	2,931,987,182
Payments to third parties	(3,017,768,273)	(3,016,521,557)
Net movements in shortages as well as maintenance debtor and RD cheques	(6,526,464)	(959,976)
Net movement in system reconciliation	(5,287)	(230,065)
Net movement in consolidated national bank balance	8,608,457	15,031,022
Net interest received and bank charges	(12,634,886)	(10,841,894)
Other adjustments	2,185,949	3,425,004
Net increase / (decrease) in cash and cash equivalents	134,046,885	(78,110,283)
Cash and cash equivalents at the beginning of the year	613,628,492	691,738,775
Cash and cash equivalents at the end of the year	747,675,377	613,628,492

THIRD PARTY FUNDS

ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014 NOTES TO THE ANNUAL FINANCIAL STATEMENTS

1. GENERAL INFORMATION

The primary function of Third Party Funds is the administration of the categories of transactions stated below on behalf of third parties by:

- the identification, creation, maintenance and management of benefactors and beneficiaries;
- the management of the receipts and payments on behalf of benefactors and beneficiaries;
- the accurate accounting of all transactions and safeguarding of administrative documentation; and
- the timeous and accurate reporting of transactions.

The legal identity of Third Party Funds has not been defined but remains a vital administration function within the Department of Justice and Constitutional Development to deliver on the mandate to provide access to justice for all through improved service delivery.

CATEGORIES AND NATURE OF TRANSACTIONS

Admission of guilt: Fines, mostly traffic fines, where the accused chooses not to defend the matter in court. These funds are paid over to either local or provincial government or the National Revenue Fund at the end of each month.

Bail: Where an accused is granted bail by a judicial officer or a duly authorised official. These funds are retained until a court authorises the return of the funds to the depositor upon completion of the case if the bail conditions have been met, or they are forfeited to the state as a court fine or they are paid over to the National Revenue Fund when the monies remain unclaimed for a period longer than twelve months after it has been authorised to be repaid to the depositor.

Court fines: Fines imposed by a court, which is paid over to the National Revenue Fund at the end of each month.

Maintenance: Funds are received from obligors in accordance with an order of court, which is then paid to beneficiaries/complainant or returned to the obligor

or to the National Revenue Fund if the monies remain unclaimed for a period of longer than eighteen months.

State Attorney Monies: Money collected by the State Attorney on behalf of Government Institutions. The State Attorney also collects a commission on debt collections on behalf of Government Institutions which is paid over to the National Revenue Fund. The State Attorney captures these transactions on the State Attorney System (SAS), which is independent of the Justice Deposit Account System (JDAS) system.

Compensatory Fines: Criminal court orders for a given defendant to pay compensation to a plaintiff.

Deferred Fines: Fines deferred over a period as imposed by a court, which are paid to the National Revenue Fund at the end of each month as Court Fines.

Payments into Court: Civil action where an offer in settlement of a plaintiff's claim is made. These security payments may in certain cases be made without a court order, where a defendant pays into court an amount, without prejudice, as an offer in settlement of a plaintiff's claim in a civil case, pending acceptance by the plaintiff. Unclaimed payments are paid over to the National Revenue Fund when the monies remain unclaimed for a period longer than thirty nine months after it has been authorised to be repaid to the depositor.

Unclassified Monies: Money received that cannot immediately be classified into one of the above categories, originates from an unknown source or maintenance monies received for which the obligor or employer has not yet forwarded the detail beneficiary list. If the origin of these monies cannot be traced or classified within six months, the monies are deposited to the National Revenue Fund.

THIRD PARTY FUNDS

ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014 NOTES TO THE ANNUAL FINANCIAL STATEMENTS

2. ACCOUNTING POLICIES

2.1 BASIS OF PREPARATION

The financial statements have been prepared on a historical cost basis except where stated otherwise in accordance with South African Standards of Generally Recognised Accounting Practice (“GRAP”) except for the areas of departure noted in accounting policy note 2.6, and note 9 to the financial statements. These Standards of GRAP have been applied as required by par. 36 of Government Gazette 37505 of 2 April 2014. The Government Gazette specifies that where applicable legislation is not prescriptive in terms of the financial statements, entities are required to prepare financial statements in accordance with GRAP. These Standards have been applied for the first time in the 2010/2011 financial year.

2.2 APPLICABLE STANDARDS OF GRAP

Directive 5, issued by the Accounting Standards Board determines the GRAP Framework. Only the following Standards are applicable to the operations of Third Party Funds, excluding activities relating to administered funds, as these are not considered transactions with Third Party Funds.

GRAP 1 - Presentation of Financial Statements

GRAP 2 - Cash Flow Statements

GRAP 3 - Accounting Policies, Changes in Accounting Estimates and Errors

Third Party Funds opted not to early adopt GRAP 104 - Financial instruments, as it relates to financial instruments, comprising only to balance held at bank. Principles of IAS 39 (AC 133) had been applied to recognition and measurement of cash and cash equivalents, and receivables and payables.

All other Standards, interpretations and Directives reflected in Directive 5, Annexure C, are not applicable to Third Party Fund’s operations.

2.3 CASH AND CASH EQUIVALENTS

Cash and cash equivalents consist of cash on hand and at the bank at reporting date. Cash equivalents are short term highly liquid investments that are readily convertible to known amounts of cash and which are subject to insignificant risk of changes in value. Cash at bank are held with reputable banking institutions in the name of the Department of Justice and Constitutional Development. Cash equivalents include cash received on behalf of Third Party Funds by other government institutions mandated to receive such monies, which is still in transit. The balance of cash and cash equivalents accrues to third parties.

2.4 THIRD PARTY FUNDS PAYABLES

Third Party Funds payables included in the Statement of Financial Position arise from amounts that are due and payable to the beneficiaries. These amounts are recognised as the difference between amounts received and paid. It is measured at the amount received.

2.5 RECEIVABLES

Receivables included in the Statement of Financial Position arise from amounts that are recoverable from a third party and outstanding deposits. Receivables are measured at the amount of cash receivable. No adjustments are made for impairment due to the nature of the receivables as the Department of Justice and Constitutional Development will stand as guarantor for any amounts owing.

2.5.1 DISHONOURRED CHEQUES

Dishonoured cheques debtors are recognised in the Statement of Financial Position when cheques received from various obligators are returned “Refer To Drawer” by the financial institutions only after a payment had already been made to the third party beneficiary in the interest of service delivery. Following an internal investigation the Department of Justice and Constitutional Development may write off the amount.

THIRD PARTY FUNDS

ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014

2.5.2 MAINTENANCE DEBTORS

Maintenance debtors are raised when maintenance payments are made to incorrect third party beneficiaries due to incorrectly referenced payments received.

2.5.3 SHORTAGES

Monies collected over the counter are deposited at a financial institution on a daily basis. Where the amount deposited is less than the amount collected/receipted, a cash shortage is recorded. All cash shortages are investigated and a receivable is raised for shortages. Following an internal investigation the Department of Justice and Constitutional Development may write off the amount.

2.6 STATEMENT OF CASH FLOWS

The statement of cash flows does not present cash flows from operating, investing or financing activities as funds collected from or distributed to thirds parties do not accrue to Third Party Funds due to the nature of Third Party Funds' operations. However, in order to achieve fair presentation, cash flows from administration activities have been presented.

2.7 COMPARATIVE FIGURES

As stated in Note 11, Comparative figures have been restated to an enhanced cash book based methodology to improve interpretation of the financial statements as well as to address accuracy of information due to the outcome of the verification and validation of information processes established with effect from 2013.

THIRD PARTY FUNDS

ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014

	2014 R	2013 Restated R
3. RECEIVABLES		
Dishonoured cheques	1,186,796	1,118,435
Maintenance debtors	4,228,810	3,739,810
Shortages debtors	69,116,545	63,147,441
	74,532,151	68,005,685

4. CASH AND CASH EQUIVALENTS

Cash and cash equivalents consist of:

Consolidated Corporate Bank Balance	(5,174,903)	(1,148,326)
Consolidated Court Bank Balance	513,381,248	569,563,260
Consolidated State Attorney Balance	239,469,032	45,213,558
Balance as at 31 March	747,675,377	613,628,492

THIRD PARTY FUNDS

ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014

	2014 R	2013 Restated R
Cash and cash equivalents resulted from the following classes of receipts and payments:		
Cash receipts from third party transactions		
- DOJ& CD Courts	2,830,089,460	2,789,513,253
-State Attorney	330,097,930	142,473,929
	3,160,187,390	2,931,987,182
Cash payments from third party transactions		
- DOJ&CD Courts	(2 881 930 957)	(2 786 031 020)
-State Attorney	(135 837 316)	(230 490 537)
	(3,017,768,273)	(3 016 521 557)
Net movements in shortages as well as maintenance debtor and RD cheques	(6,526,464)	(959,976)
Net movement in system reconciliation	(5,287)	(230,065)
Net movement in consolidated national bank balance	8,608,457	15,031,022
Net interest received and bank charges	(12,634,886)	(10,841,894)
Other Adjustments	2,185,949	3,425,004
Net (decrease) / increase in cash and cash equivalents	134,046,885	(78,110,283)
Cash and cash equivalents at the beginning of the year	613,628,492	691,738,775
Cash and cash equivalents at the end of the year	747,675,377	613,628,492

THIRD PARTY FUNDS

ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014

	2014 R	2013 Restated R
5. THIRD PARTY FUND PAYABLES		
National Revenue fund	178,607	356,986
State Organisations	215,236,723	22,031,090
Unclassified monies	79,556 485	88,389,438
Accrued third party funds	45,332,320	41,089,120
Bail	309,604,832	316,197,275
Maintenance	86,525,149	106,634,120
Fines	80,095,798	94,584,936
Payments into court	7,065,155	9,599,658
Compensation	3,716,963	3,829,335
	827,312,032	682,711,958
6. INTEREST RECEIVED AND BANK CHARGES		
Bank charges	(30,441,372)	(19,279,421)
Interest received	17,806,486	8,437,527
	(12,634,886)	(10,841,894)

7. GOING CONCERN

Third Party Funds continues to act as an agent of the Department of Justice and Constitutional Development and the Department will continue to support it in these operations. Therefore these financial statements have been prepared on the basis of accounting policies applicable to a going concern. This basis presumes that funds will be available to finance future operations and that the realisation of assets and settlement of liabilities, contingent obligations and commitments will occur in the ordinary course of its operations.

THIRD PARTY FUNDS

ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014

8. EVENTS AFTER THE REPORTING PERIOD

The Accounting Officer is not aware of any matter or circumstance arising since the end of the reporting date that might have a material impact on the amounts disclosed.

9. RELATED PARTY TRANSACTIONS

Related party transactions

Name of related party:

Department of Justice and Constitutional Development.

Relationship:

While the operating expenses of the Fund are financed by the Department of Justice and Constitutional Development, it is not possible to accurately estimate the value of those transactions because of the intricate set of the relationship. In terms of the Third Party Funds' role as a custodian of funds due between third parties and the nature of its operations no income or expenditure accrued to Third Party Funds. In addition, interest and bank charges accrue to the Department of Justice and Constitutional Development. This results in the statement of financial performance as well as statement of changes in net assets not reflecting any amounts.

Total administration costs (salaries) disclosed as:

4,371,409 3,929,388

Office of the CFO

4,371,409	3,929,388
-----------	-----------

Key personnel costs disclosed as:

4,371,409 3,929,388

Level 15 - Chief Financial Officer (1)

621,593	-
---------	---

Level 14 - Chief Director (1)

1,063,596	1,203,403
-----------	-----------

Level 13 - Directors (3)

2,686,220	2,725,985
-----------	-----------

10. EXEMPTIONS

The National Treasury exempted the Department of Justice and Constitutional Development from accounting for fines and recoveries made by the State Attorney on behalf of government institutions in the financial statements of the Department of Justice and Constitutional Development for the period ending on the 31 March 2015. Such transactions are accounted for in the financial statements of the Third Party Funds which is an account administered by the Department of Justice and Constitutional Development.

**THIRD PARTY FUNDS
ADMINISTERED BY THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 MARCH 2014
NOTE 11. RESTATEMENT OF COMPARATIVE FIGURES**

	As restated in 2014	As disclosed in 2013	State Attorney prior period errors for the financial year ended 31 March 2013	Courts prior period error for the financial year ended 31 March 2013	First time recognition of accruals not recognised in prior years	Difference between Cash Book of prior methodology vs current methodology as at 31 March 2014	Nature of restatement
	R	R	R	R			
Restatement of comparatives							
The financial statements for 31 March 2013 were restated due to more accurate financial information becoming available and as historical issues were addressed.							
Restatement of Financial Position							
Assets							
Cash and cash equivalents	613,628,492	541,742,152	(9,814,088)	34,585,591	42,292,474	4,822,363	First time recognition of accruals
Other receivables-	68,005,685	72,480,801		8,651,403		(13,126,519)	Reversal of system error for Randburg
-Dishonoured cheques	1,118,435	3,660,014		8,651,403		(11,192,982)	
- Maintenance debtor	3,739,810	5,167,819				(1,428,009)	
- Shortages debtor	63,147,441	63,652,968				(505,528)	
- Vote Revenue Receivable	1,077,781					1,077,781	Recognition of Vote Account debtor to bank charges exceeding interest earned in Corporate Accounts
Total assets	682,711,958	614,222,953	(9,814,088)	43,236,993	42,292,474	(7,226,374)	

	As restated in 2014	As disclosed in 2013	State Attorney prior period errors for the financial year ended 31 March 2013	Courts prior period error for the financial year ended 31 March 2013	First time recognition of accruals not recognised in prior years	Difference between Cash Book of prior methodology vs current methodology as at 31 March 2014	Nature of restatement
	R	R	R	R			
Liabilities							
Total Liabilities	682,711,958	614,222,953	(9,814,088)	43,236,993	42,292,474	(7,226,374)	
South African Revenue Services	356,986	356,986				-	
State Organisations	22,031,090	22,031,090				-	
Unclassified monies	88,389,438	84,096,882			9,302,669	(5,010,114)	First time recognition of accruals in respect of Unclassified Monies
Corporate account balance		(7,859,192)	70,579	6,710,833		1,077,781	Reversal of Bank Charges and Interest not swept
Accrued third party funds	41,089,120	14,447,628	(9,884,667)	11,787,420		24,738,739	Reversal of Prior Year Bank Reconciliation transactions
				8,651,403		(8,651,403)	Reversal of system error for Randburg
				16,087,338		(16,087,338)	Current Year provision for corrections & errors
Bail	316,197,275	314,458,815			379,900	1,358,560	First time recognition of accruals in respect of Bail
Maintenance	106,634,120	71,743,128			31,917,191	2,973,800	First time recognition of accruals in respect of Maintenance
Fines	94,584,936	105,441,932			653,013	(11,510,009)	First time recognition of accruals in respect of Fines
Payments into court	9,599,658	9,505,684			1,000	92,974	First time recognition of accruals in respect of Civil Cases
Compensation & Contribution	3,829,335				38,700	3,790,635	First time recognition of accruals in respect of Compensation Fines



Department of Justice and Constitutional Development

Tel: 012 315 1111

Private Bag X81, Pretoria, 0001

www.justice.gov.za

RP287/2014

ISBN: 978-0-621-43053-0