

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

THE GUARDIAN'S FUND

2005/06



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



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CHAPTER I
MANAGEMENT REPORT





GENERAL REVIEW

I am pleased to report on the Guardian's Fund operations, challenges and progress made during the year under review. This office continues to address the problems that have arisen in the past and is in the process of transforming itself in order to improve service delivery to the people. Long standing areas of concern are being addressed and plans have been put in place to rectify them.

The manual accounting system which is no longer able to cope with the current growth rate of the fund is in the process of being converted to the electronic format. Staff with accounting degrees were recruited but due to lack of experience, the massive increase in the growth of the fund and lack of full staff complements due to budget constraints, the larger offices experienced considerable difficulties reporting their financial positions. The Chief Financial Officer's office is assisting in bringing the bank reconciliations up to date.

Over the past number of years active steps have been taken to address these problems.

The Guardian's Fund System (GFS)

Previously it was reported that the process of converting these offices from the manual system currently in use to the electronic format had been piloted in the Bloemfontein office. This in fact was done but the Brilliant accounting system that had been selected to be utilised as the financial reporting element of the system was taken off the market. A replacement had to be found and adapted to the requirements of the fund. The Pastel accounting package was selected after discussions with that company's management. As it was felt that this accounting system could be adapted far more rapidly in a small well run office, the emphasis shifted to the Kimberley office which was smaller than Bloemfontein. The Kimberley office has now been converted to the electronic format and it is expected soon to be in a position to produce financial information whenever required. The Bloemfontein office is currently in the process of its final conversion with the Cape Town office to follow.

The reason for the cautious approach is that all information regarding a beneficiary already exists electronically. However, before being transferred to the permanent electronic record, the information must be carefully verified. The large number of manual records makes this task a slow process.

Due to the size of the remaining offices such as Pretoria, Pietermaritzburg and Grahamstown a slightly different approach will be followed. From a determined date in the future all new business will be dealt with on the electronic format while the current records will be transferred as and when they have been verified.

In order to improve service delivery to the public new offices will be opened at three new locations to deal with Guardian's Fund business. These are Johannesburg, Port Elizabeth and Durban; in addition Umtata, Bisho, Thohoyandou and Mmabatho will be reopened. With this expansion many members of the public will not have to travel great distances, as they did in the past, in order to receive funds due to them. In an attempt to minimise even the travel problem, members of the public will be encouraged to open bank accounts in order to facilitate the transfer of funds electronically.

Despite the progress made so far, further computer programming adaptations are required to improve the system even further. Such improvements as the ability to interrogate the funds bank account and reconcile its records with those of the bank together with the ability to issue income tax certificates to the beneficiaries in accordance with the income-tax act will be added as and when these adaptations become available.

NEW DIVISIONS IN THE GUARDIAN'S FUND

As stated previously the Guardian's Fund has been reorganised into three divisions in order to improve its internal operating ability. These divisions are:-

- The Legal Division.

This division deals with the legal aspects of the fund such as the interpretation of any legislation and the affect of any court decisions. Applications for payouts such as maintenance, clothing, schooling etc are reviewed by this section before a payout is made.

- The Finance Division.

This division is responsible for the processing and recording of the financial information affecting the fund. In addition it is responsible for complying with the legal requirements of the Public Finance Management Act (PFMA) and the Treasury Regulations and the Departments Financial Instructions (DFI).

- The Administration Division

This division was set up to assist the other two core divisions by dealing with the normal office procedures required in such an office.

THE SIZE AND NATURE OF THE GUARDIAN'S FUND

We experienced an annual growth rate in the fund in excess of 20% per annum during the last three years. As a result the Guardian's Fund is currently standing at R3.41 billion. However, this phenomenal growth rate has had an adverse impact on the people administering this fund making the conversion of the manual system to the electronic format absolutely imperative.

CONCLUSION

As is evident from this report the Guardian's Fund is undergoing radical change in order to transform and reposition itself in order to improve service delivery in line with the principle of "Batho Pele"



Adv M Simelane

Accounting Officer

Department of Justice and Constitutional Development

Date: 31/07/2006



CHAPTER 2
AUDIT REPORT

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS OF THE GUARDIAN'S FUND FOR THE YEAR ENDED 31 MARCH 2006

1. AUDIT ASSIGNMENT

I have audited the financial statements of the Guardian's Fund as set out on pages 10 to 16, for the year ended 31 March 2006, as required by section 188 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), read with sections 4 and 20 of the Public Audit Act, 2004 (Act No. 25 of 2004). These financial statements are the responsibility of the Master of the High Court. My responsibility is to express an opinion on the financial statements, based on the audit.

2. SCOPE

The audit was conducted in accordance with the International Standards on Auditing read with General Notice 544 of 2006, issued in Government Gazette no. 28723 of 10 April 2006 and General Notice 808 of 2006, issued in Government Gazette no. 28954 of 23 June 2006. Those standards require that I plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement.

An audit includes:

- examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements
- assessing the accounting principles used and significant estimates made by management
- evaluating the overall financial statement presentation.

On the request of management the following offices were excluded from the audit:

- Grahamstown
- Cape Town

I believe that the audit provides a reasonable basis for my opinion.

3. QUALIFICATION

3.1 Inadequate control framework and financial accounting processes

Up to the date of this report, the Master of the High Court, who is responsible for the administration of this fund had not yet implemented a proper control framework and financial accounting processes and controls to ensure the effective administration of the Guardian's Fund. This has resulted in the following:

3.1.1 Ineffective accounting systems

The complexity of the manual system, the enormous number of interest calculations, the record keeping of thousands of beneficiary accounts as well as the calculation of the annual interest provision posed a material risk of error and hindered the compilation of timely and accurate records and consequent financial statements. Most of the offices still use the old method of updating beneficiary information using manual record cards. This information is not captured on computer. I am not satisfied that alternative procedures in place adequately address the risk of record cards being misfiled, lost, stolen or destroyed. The risk of creating fictitious cards leading to the payment of fictitious beneficiaries

is also real. The financial statements also included unallocated interest amounting to R143 184 732 and unallocated monies to the amount of R168 874 108 which should have been allocated to beneficiaries. Consequently, I am not satisfied on the accuracy and completeness of the accounting information generated through these systems on which the financial statements were prepared.

3.1.2 Financial statements

No proper financial information was available to compile the summary statements and it was mostly based on estimates, the basis of which could not be established. The financial statements were also not compiled in terms of Generally Accepted Accounting Practice. I could not satisfy myself regarding the completeness and accuracy of the information contained in the financial statements. It is also impractical to disclose the nature of the deviation from the statements of Generally Accepted Accounting Practice as this would involve a reproduction of all the financial records.

3.1.3 Reconciliation of the Public Investment Corporation Ltd (PIC) Account

The reconciliation of the PIC investment account with the accounting records of the fund at year-end could not be produced for audit purposes in Pietermaritzburg and Bloemfontein. Although the balance per the financial statements was the same as that per the independent direct confirmation received from the PIC, this would not automatically suggest that the accounting records of the fund were accurate until each of the detailed transactions have been reconciled.

An examination of the reconciliation performed at the Guardian's Fund (Pretoria) on the PIC investment account identified that the incorrect PIC statement balance was used and reconciled.

3.1.4 Non-compliance with the Administration of Estates Act

(a) *Interest-bearing monies*

In terms of section 88(2)(b) of the Administration of Estates Act, 1965 (Act No. 66 of 1965) interest-bearing accounts in the funds that became legally claimable but remained unclaimed for any period, must not earn interest after the expiry of five years.

Due to the volume of transactions that had to be processed manually and inadequate controls the ageing of these accounts could not be readily determined. Accordingly, the extent to which such amounts were not transferred to non-interest-bearing monies in terms of the legal requirements and any consequent overstatement of the interest could not be ascertained.

(b) *Non-interest-bearing monies*

In terms of section 92 of the Administration of Estates Act, 1965 (Act No. 66 of 1965) those monies in the funds that have remained unclaimed by the persons entitled thereto for a period of 30 years from the date upon which such persons became entitled to claim the said money, must be forfeited to the state. Due to the current cumbersome manual accounting systems the extent to which unclaimed monies should be forfeited to the state could not be readily determined. The financial statements of the Guardian's Fund could therefore incorrectly include funds that belong to the state. Accordingly, audit procedures for verification could not be performed.

(c) *Commission*

In terms of section 93 of the Administration of Estates Act of 1965 commission should be calculated on all unclaimed monies. If the monies were paid and cleared by the bank, the commission should be paid over to the South African Revenue Service (SARS). If the monies remained unclaimed, the entire amount including the commission must be paid over to SARS.

The commission, which should have been calculated and transferred, could not be quantified due to the large number of record cards and the manual accounting system. Audit procedures for verification could not be performed.

4 DISCLAIMER OF OPINION

Because of the significance of the re-reported matters discussed in paragraphs 3.1.1 to 3.1.4 I do not express an opinion on the financial statements as at 31 March 2006.

5 EMPHASIS OF MATTER

Without further qualifying the audit opinion, attention is drawn to the following matters:

5.1 Non-compliance with the Income Tax Act

In many instances tax certificates regarding interest allocated to beneficiary accounts were not sent to the South African Revenue Service and to beneficiaries on an annual basis as required by the Income Tax Act, 1962 (Act No. 58 of 1962).

5.2 Administration of Guardian's Fund

Various administration and control-related shortcomings which may impact on the efficiency of the fund have been identified, which included:

- inadequate back-up policy
- inadequate disaster recovery plan
- inadequate risk assessment performed at the Guardian's Fund.
- inadequate reconciliations and reviews
- an outdated procedure manual was in use

However, the Master was in the process of computerising and revising policies and procedures in respect of the administration of the Guardian's Fund which should address the above.

6 ANNUAL REPORT

The annual reports of the Guardian's Fund for 2002-03, 2003-04 and 2004-05 have not been tabled in Parliament. However, the annual report for 2002-03 was made public on the website of the Master of the High Court.

7 APPRECIATION

The assistance rendered by the staff of the Guardian's Fund during the audit is sincerely appreciated.

Shaunet Fakee

Auditor-General
Pretoria
04/08/2006



CHAPTER 3
FINANCIAL STATEMENTS

ESTIMATED FINANCIAL STATEMENT OF ASSETS

for the year ended 31st March, 2006

FUNDS FLOW STATEMENT-RANDS

Details	Pretoria	Pietermaritzburg	Cape Town
Trust monies held on 1st April, 2005.	1,020,205,441	830,143,551	248,339,001
Add: Monies received during the year			
1) Interest bearing monies	202,928,745	180,000,000	34,968,166
2) Non-interest bearing monies	28,716,518	7,000,000	15,946,673
3) Interest credited	86,019,203	25,000,000	2,474,845
4) Interest overcredited	0	0	3,160,931
5) Interest PIC correction	0	66,095,354	15,036,004
6) Mmabatho funds held	233,389,460	0	0
	551,053,926	278,095,354	71,586,619
	1,571,259,367	1,108,238,905	319,925,620
Less: Claims paid during the year			
1) Interest bearing monies	126,750,295	130,000,000	31,719,555
2) Non-interest bearing monies	6,411,274	4,000,000	4,857,797
3) Unclaimed monies paid to SARS	333,342	0	275,668
4) Interest overcredited	0	0	0
5) Interest PIC correction	0	0	0
Trust monies held on 31st March, 2006.	133,494,911	134,000,000	36,853,020
	1,437,764,456	974,238,905	283,072,600

BALANCE SHEET-RANDS

Details	Pretoria	Pietermaritzburg	Cape Town
Trust monies held as follows:			
1) Investment with the Public Investment Commissioner	1,418,084,691	940,419,382	271,553,955
2) Cash held at the bank	19,679,765	33,819,523	11,518,645
3) Shortfall-Bisho	0	0	0
4) Shortfall-Umtata	0	0	0
5) Fraud	0	0	0
	1,437,764,456	974,238,905	283,072,600
Trust monies held on behalf of:			
1) Interest bearing monies	973,355,638	815,428,299	160,189,458
2) Non-interest bearing monies	157,734,546	29,932,109	42,167,296
3) Unallocated monies	73,284,812	89,972,627	5,616,669
4) Unallocated interest	0	38,905,870	75,099,177
5) Mmabatho monies held	233,389,460	0	0
	1,437,764,456	974,238,905	283,072,600

AND LIABILITIES

	Grahamstown	Bloemfontein	Kimberley	Total
	300,355,507	264,736,151	59,596,278	2,723,375,929
65,410,478		50,148,775	15,056,476	548,512,640
3,895,170		3,654,764	2,694,922	61,908,047
22,686,773		0	4,070,245	140,251,066
0		11,175,836	12,785	14,349,552
0		0	291,237	15,327,241
0		0	0	0
	91,992,421	64,979,375	22,125,665	1,079,833,360
	392,347,928	329,715,526	81,721,943	3,803,209,289
36,654,812		32,123,410	11,470,517	368,718,589
2,420,456		2,166,798	1,622,484	21,478,809
0		0	85,000	694,010
0		0	12,786	12,786
0		0	29,924	29,924
	39,075,268	34,290,208	13,220,711	390,934,118
	353,272,660	295,425,318	68,501,232	3,412,275,171

	Grahamstown	Bloemfontein	Kimberley	Total
337,850,934		282,126,511	66,069,930	3,316,105,403
6,206,270		13,298,807	2,431,302	86,954,312
3,590,582		0	0	3,590,582
5,552,874		0	0	5,552,874
72,000		0	0	72,000
	353,272,660	295,425,318	68,501,232	3,412,275,171
310,133,254		283,214,980	64,849,213	2,607,170,842
19,391,062		7,497,467	2,933,549	259,656,029
0		0	0	168,874,108
23,748,344		4,712,871	718,470	143,184,732
0		0	0	233,389,460
	353,272,660	295,425,318	68,501,232	3,412,275,171

ESTIMATED INCOME STATEMENT

for the year ended 31st March, 2006

Details	Pretoria	Pietermaritzburg
Investment income		
Commission received	0	0
Dividends received	0	0
Interest earned	92,963,296	60,827,188
Discounts received	2,261,307	1,912,940
Sundry income	0	0
Profit/(loss) on financial instruments	0	0
	95,224,603	62,740,128
Investment expenses		
Management fees-PIC	159,484	106,052
Payments to SARS	2,762,215	4,236,440
Beneficiaries interest expense	0	0
Other expenditure	0	0
	2,921,699	4,342,492
Investment surplus	92,302,904	58,397,636
Beneficiary interest for the year	86,019,203	64,000,000
Surplus/(Deficit) for the year.	6,283,701	-5,602,364

Rands				
Capetown	Grahamstown	Bloemfontein	Kimberley	Total
0	0	0	0	0
0	0	0	0	0
17,533,133	21,951,271	18,018,439	4,309,361	215,602,688
1,118,474	0	684,253	0	5,976,974
0	0	0	0	0
0	0	0	0	0
18,651,607	21,951,271	18,702,692	4,309,361	221,579,662
31,847	37,444	31,900	7,608	374,335
6,526,906	1,860,375	0	0	15,385,936
0	0	0	0	0
0	0	0	0	0
6,558,753	1,897,819	31,900	7,608	15,760,271
12,092,854	20,053,452	18,670,792	4,301,753	205,819,391
15,036,004	20,400,000	18,466,079	4,411,930	208,333,216
-2,943,150	-346,548	204,713	-110,177	-2,513,825

ESTIMATED FINANCIAL STATEMENTS

for the year ended 31st March, 2005

Funds Flow	Pretoria	Pietermaritzburg
Trust monies held at 1/4/2004	873,364,455	693,778,522
Add:		
Receipts		
Interest bearing monies	261,937,657	167,640,663
Non-interest bearing monies	28,338,211	5,330,552
Unallocated funds	0	0
Interest credited	84,272,011	95,156,792
Mmabatho monies held	0	0
	374,547,879	268,128,007
	1,247,912,334	961,906,529
Less:		
Payments		
Interest bearing monies	181,089,003	128,194,489
Non-interest bearing monies	46,617,890	3,568,489
Unclaimed monies paid to SARS	0	0
Interest overcredited	0	0
PIC interest correction	0	0
	227,706,893	131,762,978
Trust monies held at 31/3/2005	1,020,205,441	830,143,551
Balance Sheet		
Interest bearing beneficiaries	770,426,893	616,428,299
Non-interest bearing beneficiaries	129,018,027	26,932,109
Unallocated monies	120,760,521	89,972,627
Unallocated interest	0	96,810,516
	1,020,205,441	830,143,551
Represented by:		
Investment in the PIC	1,001,677,970	809,324,028
Cash at bank	18,524,392	20,819,523
PMG account	3,079	0
Shortfall-Bisho	0	0
	0	0
Shortfall-Thohoyandou	0	0
Fraud loss	0	0
	1,020,205,441	830,143,551

Rands					
Cape Town	Grahamstown	Bloemfontein	Kimberley	Total	
230,848,978	240,716,490	230,602,290	53,189,741	2,322,500,476	
31,444,187	75,077,213	47,073,667	11,260,178	594,433,565	
6,537,650	3,239,908	3,018,643	1,366,684	47,831,648	
1,442,189	0	0	0	1,442,189	
15,004,386	17,761,663	18,523,777	4,411,930	235,130,559	
0	0	0	7,332	7,332	
54,428,412	96,078,784	68,616,087	17,046,124	878,845,293	
285,277,390	336,795,274	299,218,377	70,235,865	3,201,345,769	
33,160,931	34,679,500	32,615,476	8,007,557	417,746,956	
3,777,458	1,760,267	1,866,750	560,469	58,151,323	
0	0	0	40,000	40,000	
0	0	0	7,331	7,331	
0	0	0	2,024,230	2,024,230	
36,938,389	36,439,767	34,482,226	10,639,587	477,969,840	
248,339,001	300,355,507	264,736,151	59,596,278	2,723,375,929	

Rands					
Cape Town	Grahamstown	Bloemfontein	Kimberley	Total	
145,669,776	259,977,588	247,558,273	56,617,295	2,096,678,124	
31,354,088	18,916,348	5,785,570	2,571,383	214,577,525	
3,141,823	21,461,571	11,392,308	407,600	247,136,450	
68,173,314	0	0	0	164,983,830	
248,339,001	300,355,507	264,736,151	59,596,278	2,723,375,929	
241,357,020	290,164,161	257,950,325	58,788,372	2,659,261,876	
6,981,981	975,890	6,785,826	807,906	54,895,518	
0	0	0	0	3,079	
0	3,590,582	0	0	3,590,582	
0	5,552,874	0	0	5,552,874	
0	0	0	0	0	
0	72,000	0	0	72,000	
248,339,001	300,355,507	264,736,151	59,596,278	2,723,375,929	

ESTIMATED FINANCIAL STATEMENTS

for the year ended 31st March, 2000

Funds Flow	B/S at 2006	B/S at 2005	Differences	
			Debit	Credit
Trust monies held at 1/4	2,723,375,929	2,322,500,476	400,875,453	0
Add:				
Receipts				
Interest bearing monies	548,512,640	594,433,565	0	45,920,925
Non-interest bearing monies	61,908,047	47,831,648	14,076,399	0
Unallocated funds	0	1,442,189	0	1,442,189
Interest credited	140,251,066	235,130,559	0	94,879,493
Interest over credited	14,349,552	0	14,349,552	0
Interest PIC correction	81,422,595	0	81,422,595	0
Mmabatho monies held	233,389,460	7,332	233,382,128	0
	1,079,833,360	878,845,293		
	3,803,209,289	3,201,345,769		
Less:				
Payments				
Interest bearing monies	368,718,589	417,746,956	49,028,367	0
Non-interest bearing monies	21,478,809	58,151,323	36,672,514	0
Unclaimed monies paid to SARS	694,010	40,000	0	654,010
Interest overcredited	12,786	7,331	0	5,455
PIC interest correction	29,924	2,024,230	1,994,306	0
	390,934,118	477,969,840	430,925,861	142,902,072
Trust monies held at 31/3	3,412,275,171	2,723,375,929	688,899,242	688,899,242
Balance Sheet	B/S at 2006	B/S at 2005	Differences	
			Debit	Credit
Interest bearing beneficiaries	2,607,170,842	2,096,678,124	0	510,492,718
Non-interest bearing beneficiaries	259,656,029	214,577,525	0	45,078,504
Unallocated monies	168,874,108	247,136,450	78,262,342	0
Unallocated interest	143,184,732	164,983,830	21,799,098	0
Mmabatho monies held	233,389,460	0	0	233,389,460
	3,412,275,171	2,723,375,929		
Represented by:				
Investment in the PIC	3,316,105,403	2,659,261,876	656,843,527	0
Cash at bank	86,951,233	54,895,518	32,055,715	0
PMG account	3,079	3,079	0	0
Shortfall-Bisho	3,590,582	3,590,582	0	0
Shortfall-Umtata	5,552,874	5,552,874	0	0
Shortfall-Thohoyandou	0	0	0	0
Fraud loss	72,000	72,000	0	0
	3,412,275,171	2,723,375,929		
			788,960,682	788,960,682

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P/Bag x81, Pretoria, 0001

Tel: (012) 315 1698

Fax: (012) 315 1901



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