



2010 - 2020

RETROSPECTIVE:

10 YEARS OF THE GENERAL AUDIT CHAMBER

OCTOBER 2020



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General Audit Chamber, Juancho Yrausquin Bldv 10, Philipsburg, Sint Maarten

This document is an English translation of the original Dutch language report entitled: "*Retrospectieve Rekenkamer: 10-jaar Algemene Rekenkamer*". In the event of textual contradictions or any other differences, the original Dutch text will prevail.

PREFACE

Today, October 10th, 2020, St. Maarten celebrates its 10th anniversary; as does the General Audit Chamber. After the publication of 30+ reports and dozens of advisory reports and memoranda, it was time that we conducted a review of the past decade. What has become of recommendations issued by us? Has the Government's financial management improved? Has it become more efficient?

We evaluated our most influential audits in the context of this report to answer the above questions. The answers do not lie. There has not been much in terms of positive change: Government's financial statements still receive far too little attention, are of insufficient quality and the people with final responsibility continue to fail to sufficiently address our reports and recommendations. Accountability is still absent. It is as if we are watching the same film year after year, the same structural errors, a continued lack of reliable information, and with that, the same passivity.

The answer to achieving increased financial autonomy lies precisely in improving financial management. Proper financial management leads, among other things, to efficient use of taxpayers' money, greater public confidence in the government, higher tax revenues, a better chance of improved compliance, reduced risk of corruption, reduced financial dependence on the Kingdom, and elimination of higher financial supervision.

After reflecting on the last 10 years, it is time to conclude that the situation cannot continue in this manner, and that improvement of financial management remains a top priority.

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SUMMARY

Based on our review of various audits (2011-2019), the status of the country's financial management and the resultant financial consequences are as follows:

BTP

In 2015, we investigated the governance at BTP. In our opinion, there has been little improvement in terms of compliance with the National Ordinance of BTP and (lawful) financial transfers. The Ministry of Finance reports that BTP failed to transfer any funds to the country since 2017. A disaster reserve fund has been included in the Bureau's 2020 budget. It is unclear whether this is possible based on the National Ordinance of BTP. There is no available evidence that the responsible minister established/approved the budgets and the director's performance contract for the period 2016 to 2020. The most recent financial statements of the BTP date back to 2016. The government is considering purchasing BTP's building. We wonder whether this will constitute using public funds to acquire the building for a second time.

Redundancy pay for political authorities

In 2019, ANG 570,000 in redundancy pay was disbursed. For the period January 1st to July 1st, 2020, a total of ANG 1,343 million was paid. Payment occurred by national decree, which represent an improvement compared to 2018. The government has created line items in the budget for redundancy pay. However, there is no separate registry for redundancy pay and the Ministry of Finance does an annual check of the relevant individual's declaration of additional income. The purpose of redundancy pay should be to get the ex-political authorities back to work as soon as possible.

Baseline study: state of affairs institutional integrity management

In the interest of the Government's finances, we analyzed several topics, including transportation/vehicle policies for ministers and Parliamentarians, travel and accommodation costs, vehicle and telephone costs, and credit/debit card policies. We found that there is room for increased efficiency for the use of public funds. However, the rules governing business travel for civil servants are still not regulated by national decree. The policy for business travel for ministers and members of parliament can be simplified given the financial challenges facing St. Maarten. Transparency and accountability also need to be improved. The use and reimbursement of transportation can be more efficient. The basis of the regulation on government vehicles does not correspond to the National Ordinance Substantive civil servants' law (in Dutch: LMA). For example, the LMA states that private use is not allowed, while the policy does. We believe that the debit card arrangement for ministers should be reconsidered.

Personnel expenses

Our review concerns a further analysis of the allowances and bonuses. In general, allowances are awarded annually. We believe an examination of the legitimacy for granting allowances is needed to determine whether the basis for the granting continues to exist. The policy on bonuses is often not followed. Furthermore, salary costs and allowances at the cabinets of Ministers differ significantly. The reason is unclear. We do not fully understand the need for external 'legal and expert' advisors at the cabinets. Each ministry already maintains a staff bureau. We recommend further research about whether the cabinet's tasks can be assigned to the staff bureau.

Financial Statements

We can be brief about the improvement of the Government's financial management: The budgetary process is slow. The last financial statements are those of 2016 and the 2015 financial statements have not yet been handled by Parliament. The financial management improvement plan has been adjusted several times and the implementation continues to be postponed. The Ministry of Finance is trying to improve the management with few resources. All in all, it is not surprising that after ten years the Government has never received an unqualified auditor's report on the financial statements.

RECOMMENDATIONS

Based on our findings, we recommend the following:

BTP

1. Review the procedure used during the original purchase and financing of the BTP building before proceeding with the acquisition to verify that the transaction represents an essential and efficient use of public funds;

Redundancy pay for political authorities

2. Consider adjusting the redundancy pay policy to align spending with the new financial realities facing St. Maarten as a result of the Corona crisis, including:
 - increased monitoring by the Minister of Finance,
 - introduce mandatory job search and application, and
 - shorten eligibility period for receipt of redundancy pay to a maximum of 1 year instead of a maximum of 2 years;

Baseline study: state of affairs institutional integrity management

3. Revise the National ordinance on the regulation of travel and accommodation expenses for ministers, to preclude coverage of first-class travel expenses with taxpayer money, unless it can be substantiated why such class of travel is necessary;
4. Adjust the debit card policy and ensure that clear financial settlement rules (declaring incurred costs) are drafted and adopted that encourage transparent accountability;

Personnel expenses

5. Investigate the legitimacy of granting allowances (on a case-by-case basis) to determine whether the basis for granting remains present;
6. Evaluate the effectiveness of the human resources policy (including the use of allowances) and determine whether changes are necessary;
7. Conduct further research into the transfer (bundling) of tasks from cabinets of ministers to the staff bureaus of the ministries;

Financial statements

8. Implement plans for improving the financial management of Government, by modernizing regulations, policy, and (ICT) systems to contribute to the increased confidence of citizens. Provide funding via the National budget, instead of through financial constructions, such as via the reconstruction fund.

1 OUR AUDIT

1.1 The basis for audit

Articles 23, 30, and 33 of the National Ordinance General Audit Chamber authorize us to respectively, conduct compliance, performance, and integrity audits. The basis for this investigation combines these articles, as we review a variety of audit categories.

1.2 Objective and audit questions

The objective of the audit is to provide a factual update on the most important audits of the last 10 years. We answer the following main audit question:

How effective is the financial management 10 years since the establishment of country status?

The following secondary audit questions were drafted:

1. How has financial management changed?
2. What are the financial consequences?

1.3 Audits selected for review

For this report, we reviewed the following previously conducted audits:

- [Audit on Governance: Bureau Telecommunication and Post \(2015\)](#)
- [Redundancy Pay for Political Authorities \(2018\)](#)
- [Baseline Study: State of affairs institutional integrity management 2014](#)
- [Lawfulness of Personnel Expenditure St. Maarten 2011](#)
- Financial Statements of Government (2010 – 2016)
 - Which financial statements have been dealt with?
 - What has changed/improved in the last 10 years?
 - Why is good financial management important?
 - What is the status of the improvement plans?
 - What is the importance of policy budgeting?

1.4 Reading guide

In this report, we sequentially deal with the review of BTP's financial transfer to Government as well as compliance with the National Ordinance on BTP (Chapter 2). Also, we describe the status of the Government's proposed 'purchase' of the BTP building. In chapter 3 we turn our attention to the status of the redundancy pay for former political authorities. We evaluate compliance with our recommendations and report on the amount of expenditure.

Changes to the Government's integrity management since the 2014 baseline study are discussed in chapter 4. Emphasis is placed on the financial consequences of several policies and regulations. Chapter 5 describes the developments in personnel expenditure, specifically the bonus and allowance policy. Improvements in financial management and the quality of accountability are discussed in chapter 6. We conclude this report with the Government's response to our report (chapter 7).

2 REVIEW: BUREAU TELECOMMUNICATION & POST

We conducted an investigation into the organization and governance at Bureau Telecommunication & Post (BTP) in 2015. Financial transfer to the government was lagging. Our findings illustrate:

- the payments to the Government are not made per the National Ordinance BTP;
- a great deal is outsourced despite maintaining a C-level management structure;
- involvement of the Ministry of TEATT's policy department is very limited, though the department could produce cost savings as outsourced activities could have been handled internally;
- the terms of employment were not drawn up in keeping with the National Ordinance and the salary and terms of employment of the CEO are higher than those of a Minister, despite the Minister being ultimately responsible;
- the legally required annual performance contract with the director is absent.

As part of our 10th anniversary, we are reviewing the current state of affairs. Click [here](#) for the 2015 report.

2.1 Legislation

BTP is independent in terms of its internal organization, the management of its resources, and the promotion of its interests.¹ BTP (through the director) is accountable to the Minister of TEATT. BTP itself does not issue decrees or make decisions. These are taken by or on behalf of the Minister.²

In 2015, We established that BTP and the Minister did not meet all legal requirements. The legally required performance contract with the director, the financial statements (accountability) were missing and payments to Government were not made according to the law.

2.2 Status

2.2.1 Transfers to government

The 2020 national budget includes income from BTP of ANG 1.9 million. Income was ANG 1.86 million in 2019. Information from the Ministry of Finance indicates that since 2017, there have been no transfers made to the government.³ Transfers are calculated as income minus reasonable operational and infrastructure costs.

With prior approval of the Minister, BTP may establish a reserve fund to cover any losses.⁴ It may also, also after approval, set up a designated reserve for financing special third-party projects within the department aligned with the Bureau's objective.⁵

A so-called "disaster reserve fund" is included in BTP's 2020 budget. It is not clear to us if this is allowed per the National Ordinance BTP. In total, ANG 1,152,999 in reserves is budgeted. For 2020, BTP expects, after deduction of costs and reserves, a net income of ANG 2.34 million.⁶ This money should be paid to the government. We are unaware of the reason for the difference between the expected revenues in the government's budget (ANG 1.9) million and BTP's net revenues of BTP (ANG 2.34).

In 2015, we established that the payments to Government were not occurring according to the National Ordinance BTP. According to the Ministry of Finance, payments should be made quarterly.⁷ Figure 1 shows several differences between reality versus the legal requirements.

¹ Article 1 of the National Ordinance BTP

² Despite the fact that according to the National Ordinance administrative case law's definition, BTP can be designated as an administrative entity, we are of the opinion that it is not unambiguously clear that BTP has public authority. After all, all decrees / decisions are taken by or on behalf of the Minister and not on BTP's authority. Legally: BTP cannot independently change the rights and obligations of citizens.

³ Memo from the Ministry of Finance dated August 4, 2020.

⁴ Article 20, third paragraph, National Ordinance BTP.

⁵ Article 20, fifth paragraph, National Ordinance BTP.

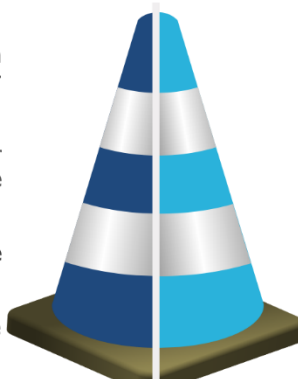
⁶ BTP 2020 Budget. Email from the Minister of TEATT, dated August 13, 2020.

⁷ Memo from the Ministry of Finance dated August 4, 2020.

Figure 1: law versus reality

NATIONAL ORDINANCE BTP

1. BTP derives its resources based on telecom and postal legislation for service provision
2. The earnings only serve to cover the operational and infrastructure costs
3. Earnings are paid quarterly into the Treasury after deduction of costs
4. Reserve and designated funds are possible



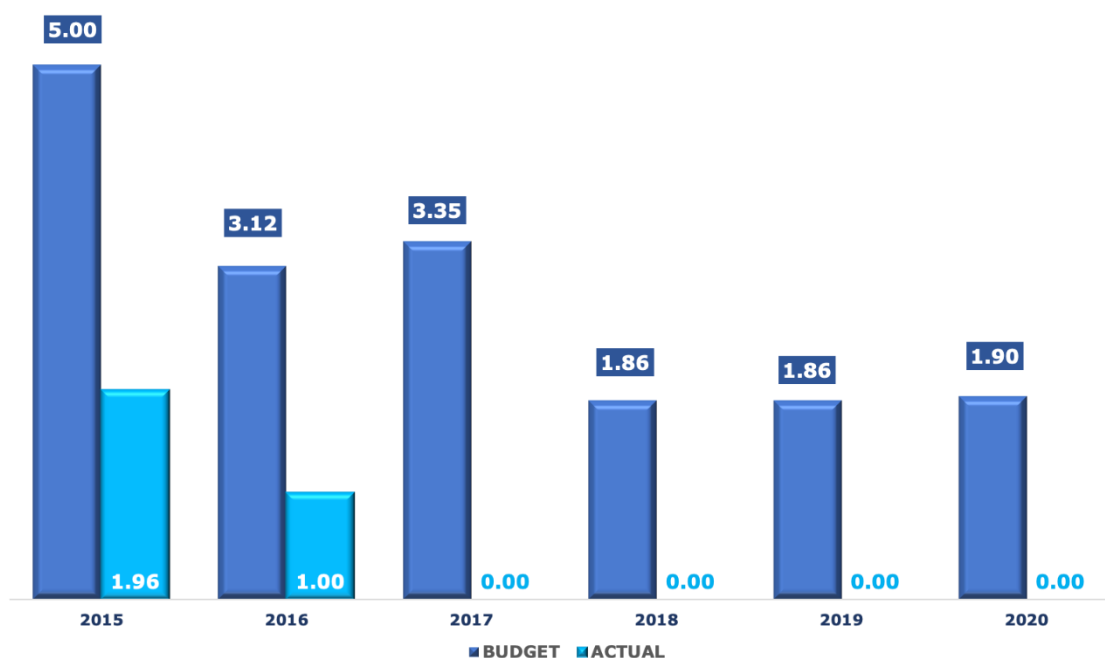
REALITY AT BTP

1. No transfers received since 2017, according the Ministry of Finance
2. The most recent financial statement is from 2016
3. BTP built up a debt to Government
4. A 'disaster' fund is established in addition to the reserve and designated fund

2.2.2 BTP's Financial management

Each year, before September 1st, BTP must present a draft budget to the Minister of TEATT. The minister should approve (or not) the budget before October 1st. We received budgets submitted by BTP to the minister for the years 2018, 2019, and 2020. It is not clear whether these were explicitly approved by the minister.⁸ Furthermore, the financial statements for the years 2017 through 2019 are not yet available.⁹

Figure 2: Comparison of expected income and actual transfers from BTP according to the national budgets (in million ANG)



The government's 2019 and 2020 budgets project a basic income of approximately ANG 1.8 million. It is striking that from 2017 going forward, the actual income is always ANG 0. The Government expects income of ANG 1.9 million from BTP in 2020. Since 2017, the realization has been ANG 0. BTP is required to pay the government quarterly but does not. That means that BTP is accruing debt to the Government.¹⁰

⁸ Article 18, seventh paragraph, of the National Ordinance BTP stipulates: If the Minister fails to approve the budget within six months after its presented by the Director, the budget will be deemed to have been approved.

⁹ According to the Ministry of Finance, the most recent financial statements are from 2016. Memo to General Audit Chamber dated August 4, 2020.

¹⁰ Response from the Ministry of Finance dated August 31, 2020.

According to BTP, approximately ANG 4.5 million was transferred to the Government in the period 2015 to 2017.¹¹ This is not in line with the information provided by the Ministry of Finance.

At the beginning of 2020, BTP had accrued payment arrears of approximately ANG 10 million. In August 2020, part of the government's outstanding claim against BTP was compensated against government debt to TELEM and subsequently against TELEM's debt to BTP. Based on this, there has been an improvement in terms of the backlog of payments from BTP to the Government.¹²

2.2.3 Performance contract

According to law, the Minister must commit to an annual performance contract with BTP's director. This contract includes qualitative, quantitative, and financial standards and targets. During our 2015 audit, we established that the performance contract was not established since the Director's appointment in November 2012. In 2020 we conclude that performance agreements for the years 2019 and 2020 were submitted by BTP's director.¹³ We have no information for the years 2017 and 2018. We have not established that the Minister has affixed his signature (or otherwise given his explicit approval) on the performance contracts or budgets.

2.2.4 Governments' purchase of floor in the BTP building

The 2020 national budget states that the Government intends to acquire the building owned by BTP. An amount of ANG 8 million has been reserved for this.

In the past, the Minister of Tourism, Economic Affairs, Traffic and Telecommunications granted permission to acquire the building. The intention is to take over the building management and to pay off the mortgage. The three floors, currently empty, will be used by public departments after purchase instead of paying rent to third parties.

BTP's Director has indicated that he is not aware of the Government's intention to "buy" the building. However, BTP is aware of the interest expressed by the current Minister of TEATT for accommodating several government services in the building.¹⁴

We believe that in keeping with the National Ordinance BTP, all funds must be deposited quarterly into the Treasury after deduction of costs.¹⁵ In our opinion, if the Government proceeds with the purchase of the building, these funds paid to BTP should also flow to the Treasury after deduction of costs (read from BTP's budget. Besides, the floors are being purchased with public funds. Initially, the purchase of the building by BTP was financed via a mortgage. Currently, this has partially been repaid. That part flows back to the Treasury. The outstanding mortgage would be paid (with public funds).¹⁶

¹¹ Excel-sheet from BTP. Documentation received via the Minister of TEATT, dated August 13, 2020.

¹² Quarterly report, second quarter 2020, page 18.

¹³ BTP budgets of 2019 and 2020. Email from Minister of TEATT, dated August 13, 2020.

¹⁴ Copy of email from BTP to the Minister of TEATT dated August 13, 2020.

¹⁵ Article 21 of the National Ordinance BTP.

¹⁶ Response from the Ministry of Finance dated August 31, 2020.

3 REVIEW: REDUNDANCY PAY POLITICAL AUTHORITIES

Ministers and Members of Parliament are entitled to a benefit, also known as redundancy pay, upon the termination of their function. This benefit is borne by the Government. Our goal in our 2018 audit was to determine the public funds spent on redundancy pay that year, however, the information was not available. We also found that:

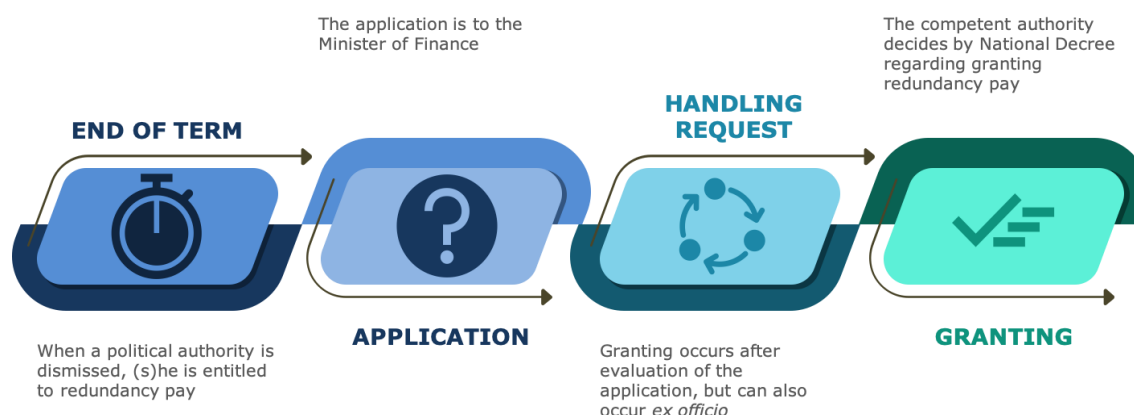
- redundancy benefits were paid as advances without any legal basis;
- the registry of the advances is unreliable; and
- control is limited or absent.

Click [here](#) to read the report. In 2020, we are reviewing the current status.

3.1 Legislation

When a political authority is discharged, (s)he is entitled to redundancy pay. (S)he is required to apply. A decision, in the form of a National Decree, is taken by the competent authority. The documents the competent authority considers necessary for the processing of the application must be submitted.¹⁷ Figure 3 graphically depicts the process.

Figure 3: process for requesting redundancy pay for political authorities



The payment of redundancy pay is regulated in the [Pension Regulation for Political Authorities](#). The responsibility for the implementation of the regulation falls to the Minister of Finance. The Minister is required to intensively check whether the person concerned continues to meet the conditions for the monthly payment. The Minister must ensure that the recipient receives income in addition to the redundancy benefit.

3.2 Financial data for redundancy pay for political authorities

In 2019, ANG 570,000 in redundancy pay was disbursed. For the period January 1st to July 1st, 2020 a total of ANG 1.343 million of redundancy benefits were paid.¹⁸ On average that is ANG 223.800 per month. The 2020 increase is due to the change of government at the beginning of the year.

From January 1st to August 2020, 15 persons (former ministers and parliamentarians) were entitled to redundancy pay. The maximum monthly redundancy payment varies between +/- ANG 15,000 and +/- ANG 20,000.¹⁹

A brief comparison of the expenses: the [monthly minimum wage on St. Maarten is ANG 1,516](#) based on a 40-hour workweek.²⁰ The total amount paid in monthly redundancy pay for the first half of 2020 is equal to 147 monthly minimum wages.²¹

¹⁷ Article 27 of the Pension Regulation for Political Authorities.

¹⁸ Memo the Ministry of Finance dated August 4, 2020.

¹⁹ The exact amount depends on when a person receives redundancy pay and the basis used for the calculation.

²⁰ For a 21-year old: 40 hours per week, ANG 8.75 per hour. A monthly salary is calculated as the weekly salary multiplied by 4.33.

²¹ ANG 1.343 million (total redundancy pay for Jan-Jun 2020): 6 months = ANG 223,800 per month. ANG 223,800 divided by ANG 1,516 (min. wage) = 147.6 monthly minimum wage salaries.

3.2.1 Status in 2020

We detect a slight improvement in the internal organization. For example, the recommendation to not pay redundancy benefits using an advance was implemented: since 2019, redundancy pay is paid based on a formal decision.²² Also, we note that since our 2018 report, the Government now uses budget line items to estimate redundancy pay.

However, the internal organization and maintaining the financial administration needs to be improved. The Ministry of Finance reports that the administration of redundancy benefits integrated into the wage and salary administration. We believe that a separate registry for redundancy pay would be more effective and clearer.

Moreover, the administration is intended as an instrument with which the Minister of Finance can execute (intensive and active) control. The annual audit of the currently used statement of additional income that the recipient uses is insufficient in our opinion.²³ The goal must be to return former political authorities to work as soon as possible.

3.3 Additional comments on redundancy pay for political authorities

We believe that the Pension regulation for political authorities, in which the redundancy pay is regulated, should be revised quickly and thoroughly. In times of economic crisis, in which many people have difficulties surviving and in which employment benefits are being reduced, we believe it is difficult to explain to taxpayers that former political authorities earn slightly less than ANG 20,000 per month. As far as we are concerned, the recommendations from our [2018 report](#) are unchanged. Here are a few:

- ❖ Introduce mandatory job search for former political authorities that are entitled to redundancy benefits;
- ❖ Ensure that former political authorities actively contribute to the job search;
- ❖ Include the condition that a person must serve at least 180 days as a political authority to become eligible to receive redundancy pay;
- ❖ Ensure that the retirement age of 60 years, mentioned in the Pension regulation for political authorities is increased to 65 years (in 2018: 62 years) in line with the retirement age for civil servants.

We also recommend shortening the period of eligibility for redundancy pay to a maximum of 1 year instead of a maximum of 2 years.

²² Memo the Ministry of Finance dated August 4, 2020.

²³ Memo the Ministry of Finance dated August 4, 2020.

4 BASELINE STUDY: STATE OF AFFAIRS INSTITUTIONAL INTEGRITY MANAGEMENT

Integrity is an essential prerequisite for establishing citizens' trust in the government. In 2014, we released our report on the [baseline study](#) in which we examined an "initial threshold" of integrity within public administration. Given the importance of the Government's finances, we have chosen to review several topics involving the direct use of public funds. Examples include the transportation/vehicle policy for ministers and members of parliament, travel and accommodation expenses, car and telephone costs, and the credit/debit card policy.

4.1 Business travel of political authorities

On business trips, [ministers](#) and [members of parliament](#) fly first class. Ministers receive a daily allowance (per diem) to cover accommodation costs depending on the destination. Table 1 shows the daily allowance for ministers. Also, ministers are reimbursed for the actual transport expenses incurred.²⁴ As of 2010, the [National Ordinance regulating compensation of travel and accommodation expenses for ministers](#) (hereafter: Lvo regulation for travel and accommodation expenses of minister) has been in force. The compensation of accommodation costs is calculated from the day of departure up to and including the day of the return. The Lvo regulation for travel and accommodation expenses of ministers does not contain any specific provisions for the financial settlement.

Table 1: Per diem for ministers

Destination	Per Diem
The region, North and South America	\$400
Far East	\$500
Europe	€400

Because of the COVID-19 crisis, most meetings are taking place online. Going forward, we recommend continuing this practice as much as possible. Online meetings save time, are cost-effective, and are easy to organize. We advise revising the Lvo regulation for travel and accommodation expenses of ministers, whereby first-class travel is no longer at the expense of the taxpayer unless there are well-founded reasons why such travel is necessary. We also recommend the drafting and adoption of rules to govern the financial settlement (declaration of incurred expenses). At present, it is unclear what happens with unused per diem.

4.2 Business travel civil servants

During business trips, a civil servant is [entitled](#) to compensation to cover travel and accommodation expenses.²⁵ The accommodation expenses are divided into two parts: a fixed daily allowance and reimbursement for accommodation costs. For a business trip to Europe, the daily allowance is €100, and the accommodation allowance is €200. For other destinations, the daily allowance is \$100 and \$200 to cover accommodation expenses. In 2014, we [reported](#)²⁶ that these rules must be established by national decree containing general measures. However, this has not happened.

4.3 Use of government vehicles

Article 57 of the [National Ordinance Substantive Civil Servants Law](#) (hereinafter: LMA) regulates the use of government property. It prohibits functionaries from using public property "in their private benefit or those of third parties" (private use). Under special circumstances, a temporary exemption may be granted for the private use of a government vehicle.

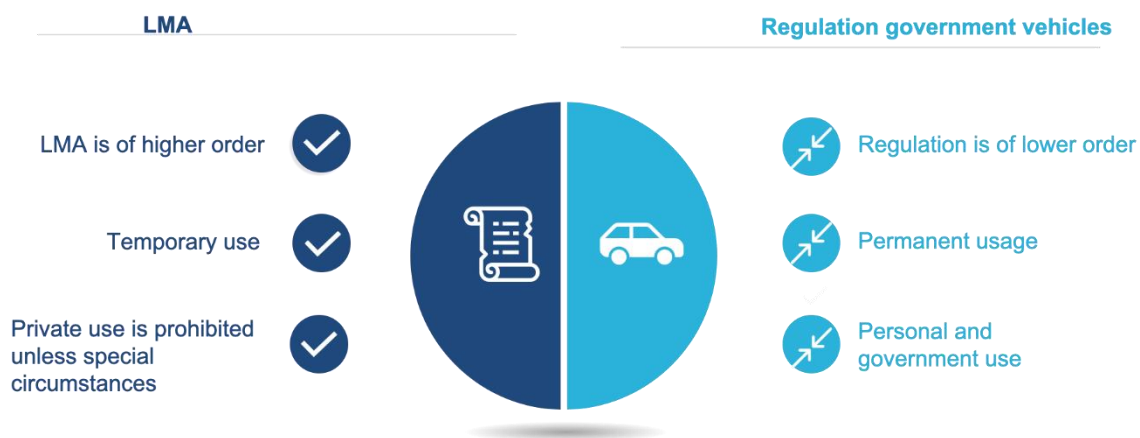
There is a "[regulation for St. Maarten's government vehicles](#)". Based on this regulation, government vehicles are made available to Secretaries-General (hereinafter: SG's) for (Article 3) both business and private use. Regarding private use, the regulation does not appear to correspond to the provisions of the LMA. Figure 4 shows -in brief- the difference between the LMA and the regulation for government vehicles.

²⁴ Article 3, second paragraph and article 4, second paragraph of the National ordinance regulating the compensation of travel and accommodation expenses for ministers. The size of the daily allowance can be determined separately by the Council of Ministers. By decision of the Council of Ministers dated March 22, 2011, the reimbursement of the accommodation costs is set as follows: \$ 400 / day for the region, North and South America, \$ 500 / day to the Far East and € 400 / day for Europe.

²⁵ See link: LMA article 72.

²⁶ See link: paragraph 2.4.2.8.

Figure 4: Comparison of the legislation and regulations regarding the use of government vehicles



Ministers receive monthly [compensation of ANG 500 to cover transportation expenses](#), while also retaining access to a government vehicle. This is also applicable to the President of Parliament. We advise the reconsideration of the efficacy of this arrangement.

4.4 Debit card and representation expenses for ministers

Ministers receive a monthly [allowance of 6%](#) for representation expenses in addition to their salaries.²⁷ Representation expenses are costs that the political authority incurs to properly represent the country, and for which no direct consideration is expected. These are the expenses of a business nature.

In addition to [this](#) regulation, there is a "debit card policy". Ministers can declare monthly representation expenditures of up to ANG 3,600, including the 6% allowance.²⁸ A debit card was required because of the tax ministers must pay on their allowance. After taxes, about 3.6% of the 6% allowance remains.²⁹

This regulation has not been amended since the [publication](#) of our Baseline report (see link in section 2.2.3) in 2014. We believe that a 6% gross monthly allowance, should be sufficient to cover representation expenses. We recommend a reconsideration of the need for the debit card policy.

²⁷ See link: article 3, first paragraph, of the National ordinance remuneration of political authorities.

²⁸ The maximum of debit card is initially ANG 3,600, after which the limit of reimbursement is 75% (ANG 2,700) of the maximum. The difference of 25% (or ANG 900) concerns the monthly allowance of 6% as regulated in the National Ordinance on Remuneration Political Authorities.

²⁹ According to the Ministry of Finance, the expenditure using the debit card is untaxed because it relates to actual incurred expenses.

5 PERSONNEL EXPENSES

[Our first audit report](#) concerned personnel expenses within the government organization. The findings presented a worrying picture. Due to missing, incomplete, and unorganized personnel files, the lawfulness of salary payments could not be established. Because personnel expenses are a wide-ranging topic, we have chosen for our 2020 review to specifically analyze the allowances and bonuses in more detail.

5.1 Allowances

5.1.1 Allowances in general

Under Article 14 of the [Remuneration Regulation](#), a maximum allowance of 25% is awarded for a maximum period of one year. It is up to the minister to decide whether the basis for maintaining the allowance is still present.³⁰

Allowances awarded for more than one year may therefore be unlawful. An amount of ANG 8 million for various allowances is included in the 2020 national budget. The introduction of the remuneration and salary policy in 2007 and more market-based salary scales, was aimed to put an end to the proliferation of allowances.³¹

We advise Government to investigate the lawfulness of the granting of allowances on a case-by-case basis and to periodically formally establish whether the basis for maintaining the allowance is still present.³²

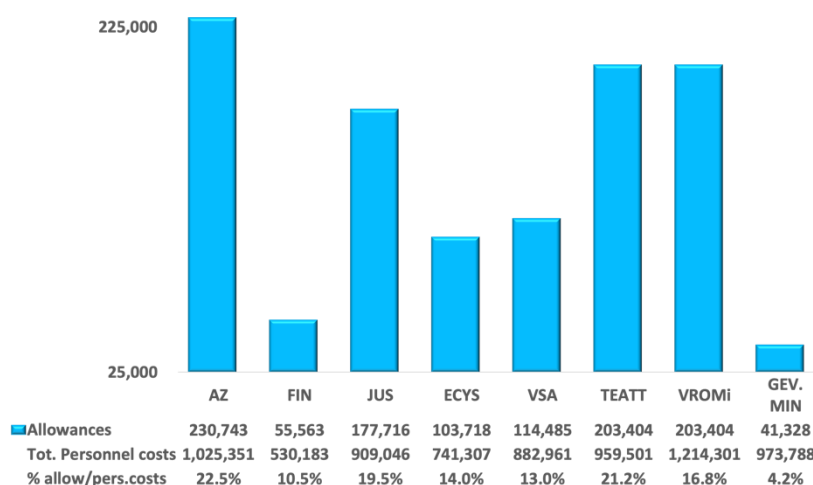
5.1.2 Allowances at the cabinets

The 2020 national budget reveals material differences between the cabinets of ministers for the line item 'allowances'. Figure 5 provides an overview of the total personnel costs per cabinet and the amount (including %) of the allowances granted. The maximum allowances for personnel at cabinets are specified in a 2010 manual.³³ It is the minister's prerogative to grant allowances to the staff.

Figure 5 presents significant differences. While the allowances at the Cabinet of Finance (FIN) are budgeted at ANG 55,563, allowances at General Affairs (AZ) are more than 4 times higher (ANG 230,743). Also, there are material differences in the total personnel costs at the cabinets. To illustrate: at the Cabinet of Finance, the total personnel costs amount to ANG 530,183, compared to ANG 1,214,301 at the Cabinet of VROMi (more than 56% higher).

The personnel costs at cabinets are considerably higher than established in the 2010 manual, which set a budget of ANG 253,332 per cabinet.³⁴ We are unaware of the reason for this material difference. The total personnel costs for all cabinets in 2020, represents ANG 7,236,438. If the personnel costs for each cabinet corresponded to the manual, savings of ANG 5,463,114 would be achieved on the 2020 national budget. We advise the Country to reconsider the personnel costs per cabinet. Refer to section 5.1.4.

Figure 5: comparison of allowances in Cabinets of Ministers, according to the 2020 National Budget



³⁰ If it is impossible for a Minister to determine how long the allowance will last, the decision must include the period when the decision as to the existence of the basis for granting will occur.

³¹ Remuneration and salary policy, Chapter 3.

³² In a response, the Ministry of TEATT indicated that allowances are important for recruitment and retention of staff.

³³ Placement of Political Assistants: A Guide to Staffing the Cabinet of the Minister, November 2010, section 2. 2.

³⁴ Placement of Political Assistants: A Guide to Staffing the Cabinet of the Minister, November 2010, section 2.1. Total personnel costs for all cabinets (7 * ANG 253,332) represents ANG 1,773,324.

5.1.3 Activities by third parties at cabinets

In addition to personnel expenditures, cabinets also budget costs for 'legal and expert advice'. The necessity of this budget line item "legal and expert advice" is not clear to us. After all, every ministry contains expertise, and the staff bureau/departments often also budget for 'legal and expert advice'. Table 2 shows that the costs of hiring external advisers for the cabinets increased significantly over the period 2018-2020.³⁵

Table 2: progression of advisory costs at cabinets 2018-2020 (in ANG)

Legal and expert advice	2018	2019	2020
AZ	-	8,400	127,500
FIN	-	-	-
JUS	7,925	4,400	92,477
ECYS	-	92,448	-
VSA	-	-	-
TEATT	179,783	60,000	145,250
VROMi	999	55,970	207,627
TOTAL	188,707	212,818	352,877

The plan to hire external advisers appears to vary by cabinet and differs per fiscal year. For example, it seems that the cabinets of Finance and VSA have not budgeted for legal and expert advice, while VROMI, TEATT, and Justice budget annually for this item. We have no explanation for the material difference among cabinets and fiscal year.

5.1.4 Activities of the cabinet and staff bureau of a ministry

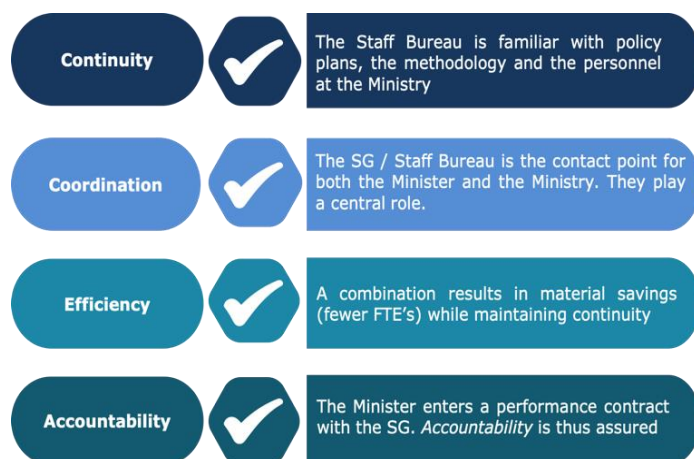
Article 2 of the [National Ordinance on the Organization and Organization of National Government](#) (hereinafter: Liol) regulates that there is a cabinet to support the Minister. The function book for cabinets assumes a staff count of 7 FTEs.³⁶ It should be noted that no everyone working at a cabinet requires screening.

The Secretary-General (hereafter: SG) is subject to mandatory screening. Each ministry maintains a staff bureau, for which the Minister is responsible. Table 3 depicts the total personnel costs for each cabinet and each staff bureau, according to the 2020 national budget.

Table 3: comparison of personnel costs between cabinets and staff bureaus in 2020 (in ANG)

Total personnel costs	Cabinet	Staff Bureau
AZ	1,025,351	1,734,622
GEV. MIN	973,788	
FIN	530,183	962,927
JUS	909,046	1,353,037
ECYS	741,307	1,301,887
VSA	882,961	1,293,841
TEATT	959,501	785,561
VROMi	1,214,301	1,311,287
Total	7,236,438	8,743,162

Figure 7: Benefits of merging of cabinets and staff bureaus



We advise the Government to further investigate if cabinet tasks can be placed (bundled) with those of the staff bureau. With the elimination of cabinets, additional FTE's, i.e. persons responsible with political advising and topics, can be placed with the staff bureau.³⁷

Figure 7 presents some of the benefits of merging tasks. A bundling of activities of this kind could, in 2020, yield savings of millions in personnel costs.

³⁵ According to the figures accompanying the Budget 2020, the total amount budgeted for legal and expert advice for cabinets amounts to ANG 572,854.

³⁶ Appendix to the document: Placement of Political Assistants: A Guide to Staffing the Cabinet of the Minister, November 2010.

³⁷ For example, specifically for the Minister: an administrative assistant or secretary and a senior policy officer/advisor.

5.2 Bonuses for exceptional performance

Bonuses come in various monetary forms. The form most often used is the one-time bonus for exceptional performance. Central to granting this bonus to the civil servant is the conduct of an assessment. The 2007 Remuneration and salary policy governs the assessment.

Under the policy, a maximum of 15% of the employees can be assessed as *exceptional performers* (EP). The exception employee will receive a one-time bonus of maximum ANG 1,620.³⁸

Based on our findings of the one-time bonus for an exceptional performance we found:

1. Decisions for bonuses are not always issued in the required form of a National Decree;
2. The maximum amount of ANG 1,620 is regularly exceeded;
3. Bonuses from previous years (even as far back as 2014) were paid/registered in the fiscal year 2020;
4. The budget and actual figures differ significantly.

Figure 8 shows the difference between the budgeted amounts and the actual amount paid under the line item for bonuses in the period 2015 up to and including 2019.

Figure 8: comparison of budget and actual for bonuses from 2015-2019

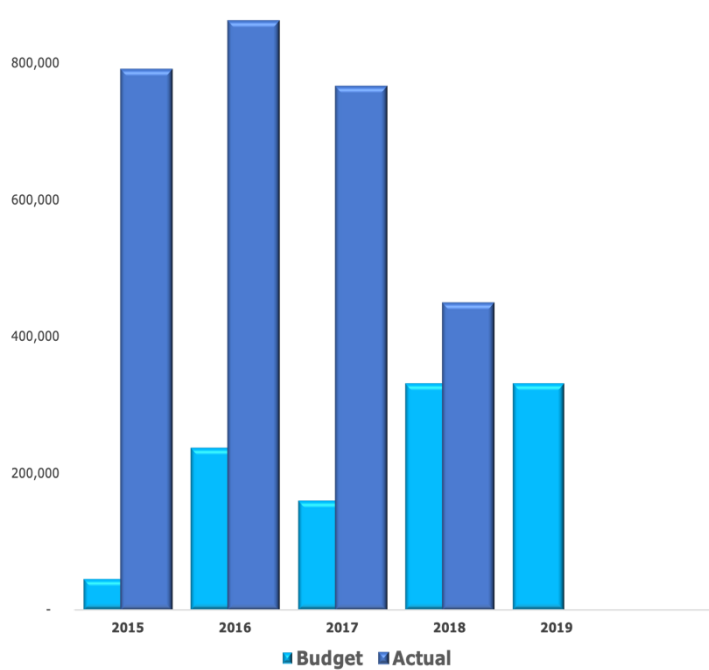


Figure 8 shows a difference between the budgeted amount and the actual amount paid in bonuses. An explanation for the difference was not provided by the Government. Given that the number of employees is known per ministry and per department, we believe it is possible to calculate the budget needed for one-time. We note that the budget item represents more than the one-time bonuses due to 'exceptional performance'.

On occasion, decisions relating to previous years. For example, in 2020, bonuses were granted for activities in the fiscal year 2014. Besides the questions such arrears raise about accountability, such payments do not explain the difference between the amounts budgeted and those actual disbursed.

³⁸ See section 5.3.4 of the remuneration and salary policy.

6 GOVERNMENT'S FINANCIAL STATEMENTS 2011 – 2019

In the report on the 2012 Financial Statements of St. Maarten, we made recommendations to the Minister of Finance about identified shortcomings and irregularities. The various improvement plans for financial management were specifically named. Attention was drawn to priority items, such as the organization of the new Tax Administration and a reliable budget and Parliament's monitoring. A systematic approach for drafting a realistic improvement plan was emphasized.

Despite Government's many attempts to implement subproject- and implementation plans, including a [Trust Fund Reconstruction project](#) (the so-called [DPO](#)), there has been no improvement. The budget cycle is not sufficiently respected, and the Government is unable to reliably give account for the use of public resources.

6.1 Improvement plan

6.1.1 Background

After achieving Country status in 2010, the Financial Supervision Committee (hereafter: Cft) conducted a baseline measurement on the financial management of St. Maarten. Based on this baseline measurement, the Government prepared a draft improvement plan for financial management for 2011-2015. Using the Performance Measurement Framework from the Public Expenditure and Financial Accountability (PEFA) workgroup, the implementation of the 2011-2015 Financial Management Improvement Plan was evaluated. Based on the PEFA-system, it was determined that insufficient improvement was achieved (the last report is from 2015).

The Cft implementation reports which, under article 18.1 of the Kingdom Law Financial Supervision of Curaçao and Sint Maarten (hereinafter: Rft), must be published by the Government six weeks after the end of each quarter, show that little of the financial management improvement process has been achieved. We also repeatedly requested information from the Minister of Finance about the subproject plans. In June 2016, the Council of Ministers approved the improvement plans, which, at the time, we considered a positive development.

6.1.2 Status

According to the Ministry of Finance, the implementation of the improvement plans for financial management remains important, but the necessary resources (estimated at ANG 15 million) are not available. Despite Cft's positive advice, the Dutch government did not provide the funds (via a loan).

Nevertheless, initiatives have been launched, with the government's limited resources, to improve the quality of the financial statement and steps have been taken to clear the backlogs. The ministry has decided to limit itself to improving necessary areas due to the lack of financial resources.³⁹

Figure 9: progression of financial management



³⁹ Memo from the Ministry of Finance dated August 4, 2020.

6.1.3 Importance of sound financial management

Sound financial management means "proper" management of the government's resources. How to achieve sound financial management is described in the (temporary) Kingdom Law Financial Supervision and the National Accountability Ordinance. The Rft is a "big stick" and should ultimately lead to a sustainable improvement in the St. Maarten's financial management.

Public administration reform or modernization is necessary.⁴⁰ Improved of ICT-systems are needed that, using adequate and accurate financial information, enable the minister to optimize decision-making. Proper financial management enhances the achievement of good governance, strengthens autonomy, and makes financial supervision from the Cft superfluous. Good and proper governance also contributes to citizen's confidence that the government manages public resources (tax money) properly (lawfully and efficiently), and also increases the likelihood of improved taxpayer compliance.

6.2 Budgeting and accountability

6.2.1 Budget

Budgets are usually late in being drafted and adopted. The same goes for budget amendments. During the handling of the budget for the fiscal year 2020, the need for a budget amendment was mentioned. A major bottleneck in the process is frequent changes and requirements from external sources (such as the Netherlands) that are often insufficiently clear to base concrete policy implementation.⁴¹ With revenues under pressure due to the global economic situation as a result of the Corona pandemic, it is important to continuously evaluate the extent to which budget execution follows what was planned and approved.

The agreements with the Netherlands to reduce personnel costs need to be incorporated in the budget amendment along with the pension reform adopted in July. To learn more about the budget cycle and important dates, please refer to the [financial calendar](#) and [budget cycle graphic](#), on our website.

6.2.2 Financial Statements

The financial statements for the fiscal years 2017 to 2019 are still not available. The Government reports that this is because of a lack of capacity and the COVID crisis. Also, the Ministry of Finance reports it has prioritized the financial statements, specifically cleaning up seriously contaminated sub-administrations.⁴²

Nevertheless, the financial statements (and therefore accountability to the public) are pending. In recent years we focused on legal compliance. This approach was required, in part, by the number of legal errors found in the financial statements, but this was also necessary due to the poor quality of the information in the financial statements.

Besides being lawful, expenditure must also be efficient. The quarterly reports reveal underspending on. This can be viewed as a positive development, but the consequence of underspending on goods and services must also be clear.

We believe that the Government still needs to take major steps to improve financial management. In our opinion, the availability of fewer resources is also a policy choice. It is up to the Government to prioritize. Ultimately, this must lead to improved financial management, greater autonomy, and financial independence.

⁴⁰ According to the Ministry of Finance, ICT at the Tax Office must be customer-friendly, customer-oriented, integrated, complete, timely and reliable.

⁴¹ Response from the Ministry of Finance dated August 31, 2020.

⁴² Memo from the Ministry of Finance dated August 4, 2020.

7 EPILOGUE

Before the publication of a report, we provide those audited the opportunity to respond and include their response in the epilogue.

On September 11th, 2020, the Minister of Finance and the Minister of Tourism, Economic Affairs, Traffic and Telecommunications were asked to provide a reaction to the report. Despite a reminder issued on September 24th, we were not provided with a response.

In light of the current economic situation and considering the suggested material cost-cutting measures on various topics, a response, in our opinion, would represent an added value: if only to learn the views of the two ministries that are central to financial management.

The Government faces difficult financial decisions. At the time of publication, the conditions required to secure the second tranche of financial support in the context of the corona crisis have not (yet) been met. Yet, the financial statements for 2017, 2018, and 2019 have not been submitted and fundamental improvement of financial management is absent.

Ironically, achieving improved financial autonomy demands better financial management. Having reflected on the last decade, the General Audit Chamber will continue to report to Parliament and the community to promote compliance, efficiency, and integrity of public expenditure.



OCTOBER 2020