

COMPLIANCE AUDIT

2015
FINANCIAL
STATEMENTS
OF SINT MAARTEN

DECEMBER 2016



General Audit Chamber

Algemene Rekenkamer

This report is an English translation of the original document entitled "*Rechtmatigheidsonderzoek: Jaarrekening 2015 van Sint Maarten*". In the event of textual contradictions or any other differences, the original Dutch text will prevail.

TABLE OF CONTENTS

Foreword.....	
Summary	1
Recommendations.....	3
1 Our Audit	4
1.1 Basis for the investigation	4
1.2 The audit questions.....	4
1.3 Reading Guide.....	4
2 The Financial Statement.....	5
2.1 Does the financial statement comply with the National Accountability Ordinance?	5
2.2 Financial Statement 2015: Policy information	5
2.3 Opinion regarding the layout and content of the 2015 financial statement.....	6
3 The Financial Management.....	7
3.1 The 2015 national budget	7
3.2 Budget implementation.....	8
3.3 The legal compliance errors.....	8
3.4 The shortcomings	9
3.5 SOAB review of the financial statement	10
3.6 Audit opinion of the internal accountant.....	10
3.7 Opinion regarding the financial management.....	11
4 The permits	12
4.1 The income from work permits	12
4.2 The income from residence permits.....	13
4.3 Opinion regarding the work- and residence permits.....	13
5 Reaction of the minister and our epilogue.....	14
5.1 The reaction from the Minister of Finance.....	14
5.2 Our epilogue	15
Appendix 1: Non-compliance with articles of the NAO	i
Appendix 2: Incomplete Summary Templates	ii
Appendix 3: List of serious and long-standing shortcomings	iii

FOREWORD

For the fifth time since the inception of the Country, the General Audit Chamber presents the results of the audit of the financial statement. Specifically, this is the financial statement for the year 2015.

Government has still not managed to present a solid and auditable financial statement. As evidence, one needs to look no further than the accountant's adverse opinion. More diligence in achieving improvement is expected from a Country that has previously produced five financial statements. In our opinion, it is time that Parliament assumes its supervisory role and addresses the responsible minister(s) on this matter.

Improvement will only take place when ministers and Parliament assume responsibility.

SUMMARY

The General Audit Chamber is legally required to investigate the financial statements of government.¹ We review whether public money was spent efficiently, and if the financial statement is legally compliant. By doing our task, we facilitate Parliament with their review of ministers' accountability.²

Our investigation included, among other aspects, a review to determine whether the financial statement was drafted in compliance with the National Accountability Ordinance. We conclude that this is the fifth time that the financial statement fails to meet the requisite legal requirements.

We note a slight improvement in the explanation provided with the budget. However, the account presented in the financial statement does not yet correspond with that of the budget. As a result, this incomplete accountability leads to a lack of proper insight about how public funds were used.

The National Budget Ordinance for fiscal year 2015 is an important part of our investigation. The Council for Financial Supervision issued a negative advice on the 2015 budget, resulting in the need for a budget amendment. Said amendment was never adopted, and the 2015 Budget never formally entered into force. We conclude that income and expenditures are based on a budget ordinance that did not go into effect in 2015.

Legal compliance errors in the 2015 Financial Statement: expenditures were done while funds were not made available, and income was not realized as budgeted. This means that actions were taken contrary to rules and regulations. An example of this is the budget overrun for personnel expenditure.

There are also shortcomings in terms of the financial management. These shortcomings lead to uncertainties and reliability errors within the financial statement. The most significant shortcomings identified, relate to granting of subsidies and the accounting for the personnel expenditure.

The SOAB issued an adverse opinion on Government's 2015 Financial Statement. We agree with the SOAB's adverse opinion.

In addition, we reviewed the work- and residence permits. We analyzed whether the actual income from these permits is in line with budget estimates. For the work permits, there is a chronic shortfall in terms of actual income as compared to the budget. In our opinion, the cause is due to overly optimistic budgeting.

The receipts derived from residence permits in 2014 also fell short of budget estimates. A year later, the budget estimate was significantly adjusted downward. As a result, in 2015

¹ Article 23 of the National Ordinance General Audit Chamber.

² Article 53, third paragraph of the National Accountability Ordinance.

the reported income from residence permits far exceeded the budget estimate. The method of drafting budget estimates is unclear. We recommended that the financial statement provides clear explanations for deviations between the budget estimates and actual income and expenditures.

The minister provided his reaction to our report on December 29, 2016.

RECOMMENDATIONS

The General Audit Chamber previously issued recommendations regarding the general improvement of the financial management and accountability thereof. After five years, we conclude that these recommendations received sporadic follow up. Our evaluation indicates that the most fundamental of these recommendations have not been addressed.

A plan for solving the shortcomings was drafted, however, the information regarding the progress of this plan is not known to us. After five years of investigating financial statements, the greatest obstacle remains the lack of (timely) information.

It appears that ministers and Parliament are failing when it comes to fulfilling their respective responsibilities in terms of financial management. Examples include:

1. the absence of useful policy information in the financial statement. Without information, a review of the efficiency and legitimacy of expenditure of public money is not possible and whether policy intentions are achieved;
2. chronic non-compliance with the National Accountability Ordinance;
3. government's failure to prepare draft national ordinances for the adoption of the financial statements; and
4. Parliament that calls ministers to account for their financial management.

As long as responsibility is not taken for the financial management, improvement will remain absent. The most important recommendation we can make after five years of investigating the financial statements is to urge everyone to carry out their respective task.

1 OUR AUDIT

1.1 Basis for the investigation

We are required by law to review the financial statement of the Country on a yearly basis.³ Once reviewed by us, the financial statement is presented to Parliament.⁴ Without our report, Parliament cannot issue a discharge to ministers.⁵ By issuing a discharge, Parliament, in essence, approves the ministers' financial management and their accounting thereof.⁶

1.2 The audit questions

We formulated the following audit questions:

1. Is the 2015 financial statement drafted in keeping with the stipulations of the National Accountability Ordinance?
2. Are the income, expenditure, and balance sheet changes drafted in keeping with the approved national budget and other legal requirements?
3. Is the financial management well-organized⁷ and accountable⁸?

Besides the regular review of the financial statement, we also select a theme each year to investigate. For this year we investigated whether the actual income from work- and residence permits are in line with budget estimates, and if not, why?

1.3 Reading Guide

In Chapter 2 we provide an answer to the first audit question. In so doing, we analyze the information from the annual report included in the financial statement as well as the layout of the financial statement.

Chapter 3 addresses the second and third audit questions, namely whether the income, expenditure and balance sheet changes are in keeping with the approved national budget and other relevant regulations. Furthermore, we review if a well-organized and accountable financial management was carried out.

The result of our investigation related to this year's theme about the work- and residence permits is presented in Chapter 4.

We close each chapter with our opinion.

The Minister of Finance provided us with his reaction to the report on December 29, 2016. On the basis of that reaction we drafted an epilogue. Both the reaction of the Minister and our epilogue are presented in Chapter 5.

³ Article 23 of the National Ordinance General Audit Chamber and article 53, third paragraph of the National Accountability Ordinance.

⁴ Article 100, fourth paragraph of the Constitution.

⁵ Article 54, fourth paragraph of the National Accountability Ordinance.

⁶ Article 54 of the National Accountability Ordinance.

⁷ Authorities related to activities are stipulated in clear rules and these should be adhered to.

⁸ There is accountable financial management when the available financial information allows external auditors to easily reconstruct decision making at all times.

2 THE FINANCIAL STATEMENT

Every minister is responsible for providing the required financial information to the Minister of Finance in a timely manner.⁹ The Minister of Finance drafts, on the basis of that data, the financial statement. The financial statement includes an annual report. That annual report must, at a minimum, include an elucidation of how, and to what degree, policy intentions were achieved.¹⁰ We investigated whether the Minister of Finance was successful in this regard for fiscal year 2015.

2.1 Does the financial statement comply with the National Accountability Ordinance?

The National Accounting Ordinance (hereafter: NAO) establishes rules regarding the layout and content of the financial statement. The relevant legal stipulations were reviewed during our annual audit. Based on our evaluation, we determined that the financial statement does not comply with 13 NAO articles. For an overview, please refer to appendix 1.

2.1.1 Composition errors

The NAO requires a specific composition for the financial statement.¹¹ The 2015 financial statement contains the legally required summary templates, though only one third of these were properly filled out. There has been no improvement as compared to 2014. Table 1 shows the percentage of correctly and incorrectly filled out summary templates for the period 2014 and 2015.

Table 1: Percent of (in)correctly filled out summary templates in the Financial Statement 2015 (in %)

	2014	2015
Correctly filled out	45%	33%
Not or improperly filled out	55%	67%

One of the primary causes is, in our opinion, the lack of (financial) substantiation provided at ministerial level. The Minister of Finance does not receive the required information from ministers and other entities which he needs to substantiate the underlying figures.¹² An overview of the incomplete summary templates can be found in Appendix 2.

2.2 Financial Statement 2015: Policy information

Policy information refers to:

- intended and/or realized effects of policy;
- expected and/or actual achievements; and
- related costs.

⁹ Article 52, first and second paragraphs of the National Accountability Ordinance.

¹⁰ Article 32, second paragraph of the National Accountability Ordinance.

¹¹ Chapter 3 of the National Accountability Ordinance.

¹² Audit statement from SOAB regarding their audit of the 2015 Financial Statement of Sint Maarten, *uncertainties*, no.3.

It is critical that policy information is formulated in a manner that is SMART.¹³ In so doing, Parliament can effectively exercise their budgetary authority and form an opinion regarding the execution of policy and the financial management.

Contrary to previous years, there was an improvement in the reporting of policy information for 2015. For example, the 2015 budget included, for the first time, explanations of budget policy per ministry. The annual report also included outlines of the planned and realized policy per ministry, for Parliament, as well as for the High Councils of State.

It should be noted however, that the 2015 budget does not present policy information in a consistent way. As a result, the quality of the policy information varies per ministry. The policy intentions are not always formulated using SMART criteria. The annual report included with the financial statement, does not include a specific description of the costs of realized policy intentions. With the exception of the Ministry of Public Health, Social Development and Labor Affairs, no clear relationship is presented between policy intentions in the budget and policy realization reported in the annual report. In consideration of the aforementioned, we determined that the policy information was insufficient.

2.3 Opinion regarding the layout and content of the 2015 financial statement

Opinion

The financial statement is not drafted in accordance with all stipulations set forth in the NAO.

As compared to the previous year, we identified a decline in terms of legal compliance in terms of the layout and content of the financial statement. This is in contrast to a slight improvement in terms of the elucidation contained in the budget as compared with the previous year. The elucidation in the financial statement, however, does not coincide with the (elucidation in) the budget. As such, proper insight into the manner in which public funds were spent, is absent.

Parliament is therefore not able to form an adequate opinion regarding the implementation of policy and the financial management.

¹³ SMART refers to: policy intentions that are Specific, Measurable, Achievable, Relevant and Time bound.

3 THE FINANCIAL MANAGEMENT

In this chapter we provide the result of our investigation regarding financial management.¹⁴ We reviewed whether the income, expenditure and balance sheet changes occurred in line with the national budget and relevant regulation. We investigated whether the financial management was structured and auditable. As such, we answer the second and third audit questions.

3.1 The 2015 national budget

The National Budget Ordinance for 2015 is important for our audit of the 2015 Financial Statement. If the National Budget Ordinance for 2015 did not go into effect, there was no legal basis for a minister to manage public funds.¹⁵

3.1.1 *The consequences of the instruction*

By decree of September 8, 2015, an instruction regarding the financial position of the Country was issued to Sint Maarten by the Kingdom Council of Ministers.¹⁶ The reason the instruction was issued was because the 2015 budget did not meet the required standards stipulated in the Kingdom Law for Financial Supervision. The instruction demanded a budget amendment prior to November 1, 2015. The budget amendment would possibly reestablish Government's ability to borrow, in order to finance public sector investments.¹⁷

However, a budget amendment for 2015 was never adopted/approved. The Council for Financial Supervision (*College financieel toezicht* – Cft) and the Government of Sint Maarten agreed to address the instruction as part of the 2016 budget.¹⁸ The Kingdom Council of Ministers was informed of this agreement.

3.1.2 *The consequences for the review of the financial statement*

The National Budget Ordinance for 2015 requires a corrective measure in the form of a budget amendment. Without the budget amendment the 2015 national budget does not fulfill the requirements as stipulated in the Kingdom Law on Financial Supervision, and as such, the budget did not enter into force.¹⁹ The elucidation accompanying the draft 2016 budget state that the 2015 budget is in "no man's land". As such, the 2015 budget is a weak point of departure for the 2016 budget.²⁰

We therefore conclude that the expenditure and income in the 2015 budget were not based on a National Budget Ordinance that went into force.

¹⁴ Article 23, second paragraph of the National Ordinance General Audit Chamber.

¹⁵ Article 16, 41 and 42, of the National Accountability Ordinance.

¹⁶ Decree of September 8, 2015, issuing an instruction to the government of Sint Maarten, National Gazette 2015, no. 343.

¹⁷ Explanatory memorandum of the instruction to the government of Sint Maarten, September 8, 2015.

¹⁸ Bi-annual report of the Council for Financial Supervision (Cft), July 2015 – December 2015.

¹⁹ Article 5, third paragraph lid of the National Budget Ordinance for 2015.

²⁰ Explanation of the draft budget fiscal year 2016, Chapter 2.

3.2 Budget implementation

The Minister of Finance is required to provide reports about the implementation and realization of the budget, three times per year. These reports are called memoranda.²¹ Neither Parliament nor the General Audit Chamber received these memoranda during fiscal year 2015.

The memoranda are meant to allow Parliament to supervise the implementation of the budget. By consistently failing to provide these memoranda, the Minister of Finance deprives Parliament of the possibility to oversee the implementation of the budget. Parliament, in turn, is authorized to call the Minister of Finance to account, and can demand the submission of these memoranda.

In light of our constitutional task to review government's income and expenditure, these memoranda are also very important for our investigation.

3.3 The legal compliance errors

Legal compliance errors are considered to be present when income, expenditure and balance sheet changes are not in line with the National Budget or any other regulation. When legal compliance errors are identified, it means ministers acted contrary to regulation. For example, in the event more money is spent than was approved for a certain budget item (budget overrun). A budget overrun is also present when actual income falls short of the budget estimate.

Suitable and timely measures must be taken when budget overruns are anticipated. A budget amendment is such a measure.²² Government did not take any measures to avoid a budget overrun in 2015. Table 2 provides an overview of the budget overruns reported in the 2015 Financial Statement, per economic categories.²³

Table 2: The budget overruns per economic category reported in the 2015 financial statement

N°.	Economic category	Overrun (millions NAf)
1.	Personnel costs	8.9
2.	Depreciation (ex. depreciation of ICT, infrastructure and motor vehicles)	6.2
3.	Interest	0.8
4.	Extraordinary expenditure (ex. write-down Harbour Holding N.V.)	20.0
5.	Tax receipts	4.1
6.	Other income (ex. accumulated dividend water company)	5.1

²¹ Article 44, first paragraph of the National Accountability Ordinance.

²² Article 48 and 49 of the National Accountability Ordinance.

²³ Financial Statement 2015, Country Sint Maarten, Template 18.

3.3.1 Drafting the financial statement

The Minister of Finance drafted the 2015 Financial Statement on August 29, 2016. This occurred prior to September 1st, as such the minister met the legal requirement in accordance with the NAO.²⁴ It is, however, curious that the financial statement was presented to us on November 4, 2016.²⁵ In our opinion, this took too long.

The objective of the legal deadline of September 1st is to provide Parliament with the financial statement of the *previous year*²⁶ in time for the handling of the budget of the *coming year*.²⁷ In that way, Parliament is sufficiently equipped to evaluate the expenditure of funds, and also act as a 'check' on Government.²⁸

3.3.2 The result

The 2015 Financial Statement reports a negative result of NAf 18.4 million.²⁹ The negative result is due to overruns and shortages.

Overruns are caused when more money is spent than was budgeted for a particular budget item. In total, the 2015 Financial Statement reports overruns of NAf 45.4 million. A significant part of the total overrun (NAf 12.4 million), resulted from the lower value of the Sint Maarten Harbour Holding N.V.³⁰ We previously listed other overruns, by function, in table 2.

Shortfalls are present when less is spent than was estimated. The 2015 Financial Statement reports a total of NAf 27.0 million in shortfalls. Taken together, the overruns and shortfalls result in a deficit of NAf 18.4 million.

3.4 The shortcomings

Even when legal compliance errors are not evident, uncertainties and/or reliability errors can be present. In such cases, we refer to shortcomings of the financial management. These shortcomings represent mostly risks associated with accuracy and comprehensiveness of the figures reported in the financial statement.

In our report regarding the financial statement of 2013, we requested that the Minister of Finance develop a realistic plan to solve the identified shortcomings. We received the plan in 2015. The plan is comprised of several sub-projects, which we received in 2016. The Minister of Finance indicated that all sub-projects will be implemented between 2016 and 2018.³¹ As of this writing, we have not received any progress reports regarding the

²⁴ The financial statement was approved on October 18, 2016, by the Council of Ministers.

²⁵ Letter from the Minister of Finance, dated November 4, 2016, reference: 2087/16b.

²⁶ According to article 100 of the Constitution, the budget should be presented no later than September 1 each year.

²⁷ In our opinion, the financial statement does not have to be approved by the Council of Ministers at that time.

²⁸ Extraordinary section of the Explanatory Memoranda of the National Accountability Ordinance.

²⁹ Financial Statement 2015 Sint Maarten, Template C.1 Balance Sheet, 'result of current fiscal year'.

³⁰ Summary template 6 in the 2015 Financial Statement Sint Maarten.

³¹ Letter dated August 12, 2016, from the Minister of Finance regarding the updated subprojects of the Project Plan for Improving Financial Management.

implementation of the plan, though we were promised these progress reports. Moreover, the promised improvements are absent.³²

We have established that there are shortcomings in the 2015 Financial Statement. We qualify these shortcomings as significant and long-term. Table 3 lists what we consider to be the five most significant and long-term shortcomings.

Table 3: The five most significant and long-term shortcomings of the 2015 financial statement

N°.	Shortcomings	Description	Expected resolution according to the plan of approach
1.	Wages & Salaries	The personnel expenditure reported in the financial statement is uncertain.	July 2017
2.	Subsidies	The process of granting subsidies, review and financial accountability is unreliable.	December 2019
3.	Tangible fixed assets	There is uncertainty regarding the valuation and the existence of assets in the asset inventory.	2017
4.	Creditors and other short-term debt	There is no insight regarding the accuracy and completeness of the reported debt.	April 2017 May 2017
5.	Debtors and other receivables	There is no insight regarding the accuracy and completeness of the reported debt of third parties.	May 2017 May 2017

We identified a total of 12 significant and long-term shortcomings. Plans have been drafted to deal with these shortcomings. The complete inventory is presented in appendix 3.

3.5 SOAB review of the financial statement

In support of our opinion regarding the 2015 Financial Statement, we made use of work carried out by the government's accountant, SOAB (*Stichting Overheidaccountantbureau* hereafter: SOAB). Their report covers subjects related to financial management, operations and related financial risks. An important instrument is the availability of so called Management Letters.

In the past we recommended that the internal accountant draft these Management Letters. The most recent Management Letter dates back to 2011. We are of the opinion that because of the absence of Management Letters from the internal accountant, ministers are not able to stay on top of the risks associated with the financial management. The situation makes taking corrective measures, when necessary, difficult.

3.6 Audit opinion of the internal accountant

Based on their review of the 2015 Financial Statement, the SOAB issued the report of their findings and their audit opinion to the Minister of Finance and the General Audit Chamber on December 22, 2016.³³ SOAB issued an adverse audit opinion. This means

³² Letter from the Minister of Finance dated December 2, 2015, reference 1127a/15. Included in the report "Compliance audit: 2014 Financial Statement of Sint Maarten".

³³ Letter from SOAB dated December 21, 2016.

that the SOAB is of the opinion that the 2015 Financial Statement does not provide a true and faithful representation of government's financial situation.

In their report, the SOAB reports deviations and uncertainties including those for personnel expenditure, tangible fixed assets and subsidies.

A significant reliability deviation reported in the SOAB report concerns the payment from the Central Bank of Curaçao and Sint Maarten for fiscal year 2015, that was received in 2016. The payment is for an amount of NAf 9.3 million. This revenue is not reported in the 2015 financial statement. According to the SOAB, this reliability deviation led to their issuance of an adverse opinion in their audit report.

During their audit, insufficient information was made available to SOAB. This is a situation on which they have previously reported in recent years. We also have experienced an information deficit during our investigations. The adverse audit opinion as issued by the SOAB is, in our opinion, appropriate.

3.7 Opinion regarding the financial management

Opinion

As was the case with the financial statements of 2011, 2012, 2013 and 2014, we conclude that the 2015 Financial Statement contains material errors as well as significant uncertainties. As such, it is, once again, *unreliable*.

We conclude that the income, expenditure and balance sheet changes are not in accordance with the national budget and other regulations.

4 THE PERMITS

We present the results of our review of our theme, work- and residence permits, in this chapter. A work permit is an authorization that an employer must request from government in order to employ a non-national.³⁴ A residence permit is a (temporary) approval to reside on Sint Maarten.³⁵ We investigated whether the actual income from these permits is in line with budget estimates, and if not, why?

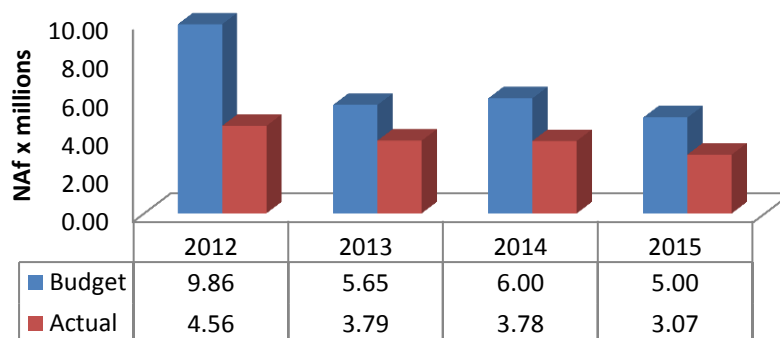
4.1 The income from work permits

The Ministry of Public Health, Social Development and Labor Affairs (hereafter: VSA-*Volksgesondheid, Sociale Ontwikkeling en Arbeid*) informed us that their budget is established based on historical information.³⁶ We determined that the Brooks Tower Accord was considered when drafting the budgets for the years 2012 and 2013.³⁷ We also noted that, over time, income has significantly lagged behind budget estimates. In addition, the estimated income used in budget 2013 was considered to be on the high side.³⁸

For reasons that are not clear to us, estimated income from permits for 2014 and 2015, was set at a level that is higher than the previous year's actual income. The receipts from work permits were estimated at NAf 5 million in the 2015 budget. That estimate is NAf 1 million lower than the budget estimate used in 2014, where actual income never exceeded NAf 4 million. In the financial statement of 2015, the actual income is reported as NAf 3.07 million.

Consistently using high income estimates has consequences for the country because the budget will show a deficit at the end of the year. This should be considered during the preparation of the budget for the subsequent year. It appears that practice was not followed. Table 4 shows budgeted and actual income from work permits.

Table 4: Income from work permits during the period 2012-2015



³⁴ Article 1 of Implementation decree foreign labor.

³⁵ Article 6, first paragraph of the National Ordinance admission and expulsion.

³⁶ Memo dated July 7, 2016 from the controller of VSA to the acting Secretary General.

³⁷ The Brooks Towers Accord relates to the processing of the registration of undocumented non-nationals.

³⁸ Minutes of the discussion between the Ministry of VSA and the General Audit Chamber of July 21, 2016.

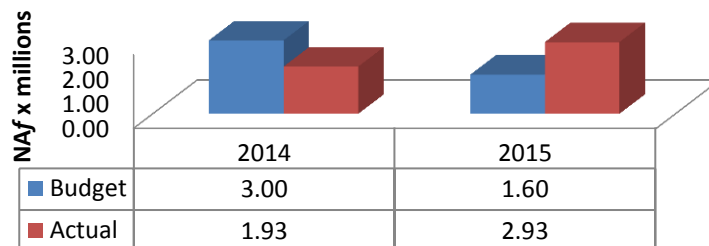
4.2 The income from residence permits

We used the most recently data available for our investigation. These are the data from fiscal years 2014 and 2015. Income lagged behind budget estimates for the year 2014. We reviewed the situation for fiscal year 2015.

The budget estimate for 2014 is an amount of NAf 3 million reported as budget item 'miscellaneous licenses justice proposal' (*overige vergunningen voorstel justitie*). In the 2014 financial statement, the budget item 'residence permits' is the term used instead.³⁹ Measures for the introduction of fees (*leges*) for the issuance of residence permits are included in the 2014 budget.

The actual income in 2014 (NAf 1.93 million) falls short of the budget estimate. The reduction in income is due to a delayed introduction of the fees for issuing residence permits in 2014.⁴⁰ A year later, in the 2015 budget, a conservative amount of NAf 1.6 million is projected.⁴¹ The explanation for the use of this estimate is not included in the budget. The actual income for fiscal year 2015 amounts to almost NAf 3 million. As a result, actual income exceeds the budget estimate. That is good from a government income perspective. However, the method of budgeting is unclear. A budget is a management tool and should be based on policy and a vision. One must be able to rely on the budget. Table 5 provides a graphical representation of the income from residence permits.

Table 5: Income from residence permits 2014-2015



4.3 Opinion regarding the work- and residence permits

Opinion

The actual income from work permits shows a structural underperformance as compared to the budget estimate. In 2015, actual income from residence permits was higher than estimated. Budget estimates should be based on policy and a vision. Constant overestimation (high budget estimates) should be avoided. Material differences between the realized income and budget estimates require explanation.

³⁹ 2014 Financial Statement of Sint Maarten, paragraph C.7.2.

⁴⁰ Idem.

⁴¹ National budget of Sint Maarten, Income from operation account, Chapter 10, Minister of Justice, budget item: miscellaneous licenses justice proposal.

5 REACTION OF THE MINISTER AND OUR RPILOGUE

5.1 The reaction from the Minister of Finance

The minister writes: (as translated from the original correspondence in Dutch)

Date: December 29, 2016

Ref:

Re: Response to your draft final report "Compliance audit: 2015 Financial Statement of Sint Maarten"

Esteemed Mr. Halman,

I would hereby like to provide a reaction to your draft final report "Compliance audit: 2015 Financial Statement of Sint Maarten".

1. *The absence of useful policy information in the financial statement. Without clear information, it is impossible to audit whether public funds have been legally or effectively spent and whether policy intentions were achieved;*
In keeping the National Accountability Ordinance, Government is required to draft a policy budget each year. In previous years this did not happen. A first step toward achieving a policy budget is being taken in the Budget for fiscal year 2017. On the basis of this format, further efforts will be made to optimize the budget and also the reporting and giving account in the financial statement.
2. *Chronic non-compliance with the National Accountability Ordinance;*
The required improvements will take place by means of the implementation of the plan "Improving Financial Management" in 2016 up to and including 2018. The result will be that the financial statement of 2019 (or earlier) will be presented in compliance with the National Accountability Ordinance.
3. *Government's failure to prepare draft national ordinances for the adoption of the financial statement;*
External and internal factors of previous years have led to the delayed drafting and approval of the national ordinances for the adoption of financial statements. The draft national ordinance for the adoption of the 2012 Financial Statement is ready to be presented to Parliament. The draft national ordinances for adoption of the 2013 and 2014 Financial Statements will be presented for advice to the Council of Advice shortly. Finally, the draft national ordinance for adoption of the 2015 Financial Statement will be presented to the Council of Advice in the first quarter of 2017.
4. *Parliament that should call the ministers to account regarding their financial management.*
The Council of Ministers will – of course – give account to Parliament for their financial management upon invitation of Parliament.

I hope to have properly informed you. Please inform me if you have other questions.

Respectfully,

Richard F. Gibson
Minister of Finance

5.2 Our epilogue

The response from the Minister of Finance on the draft report confirms the findings of our review of the 2015 Financial Statement of Sint Maarten. Improvement is essential. It is apparent from the minister's response that he shares our opinion. In his letter dated December 2nd, 2015, he already acknowledged the need for structural improvement of the financial management, and that said improvement is encapsulated in the plan "Improving Financial Management 2015-2017". Realization of this multi-annual project would lead to improvement, and the General Audit Chamber would be kept abreast of the progress. In the aforementioned correspondence, the minister indicated that the results derived from the plan would already be evident in the 2015 Financial Statement. Regrettably, we found no such improvement, nor were we, in any way, informed of the plan's progress.

The schedule for realizing improvement has been moved up a few years, according to the minister's response to the draft final report "Compliance Audit: 2015 Financial Statement of Sint Maarten". Justification or explanation for the modified planning is unclear or absent.

Below we discuss each point presented in the Minister of Finance's reaction to the draft final report.

1. The absence of useful policy: The minister acknowledges that the policy budget must be drafted in conformity with the National Accountability Ordinance. Furthermore, he indicates that that it has not been possible to meet these legal requirements in previous years. According to his response, the 2017 Budget represents a first step in drafting a policy-based budget. Improvement of the reporting and accountability will be made possible by means of the use of that format, according to the minister. The Audit Chamber concludes that the promised improvement in the process of accountability will thus only become apparent in the financial statements for fiscal year 2017. This is a regrettable delay.

2. Structural non-compliance with the National Accountability Ordinance: Based on the minister's reaction, we understand that the implementation of the plan during the period 2016 up to and including 2018, will lead to the desired improvements. Moreover, he indicates that the financial statement of 2019, or earlier, will be drafted in compliance with the National Accountability Ordinance. We conclude that the improvement of the 2015 Financial Statement as promised in the letter dated December 2nd, 2015, (reference 1127a/15) has not been achieved. The Audit Chamber looks forward to receiving progress reports regarding the implementation of the subsets of this plan. With these reports, we will be able to track the promised improvement, and hopefully these will not suffer further postponement.

3. Failure of Government to prepare draft national ordinance for adoption of the financial statements: In his response the minister states that internal and external factors have caused delays in the drafting and approval of the aforementioned draft national ordinances. However, no further explanation of these factors is offered. The Audit Chamber will continue to monitor the target dates the minister have presented for the preparation and presentation of the draft national ordinances. In any case, we call the

Minister of Finance's attention to the legally stipulated term for the submission to Parliament of a draft national ordinance in accordance with article 54 of the National Accountability Ordinance; specifically, within no more than one month after the publication of the report of the General Audit Chamber.

4. Parliament that should call ministers to account for their financial management: We have taken note of the minister's response. The financial statement is important to the process of reporting and accountability. The Audit Chamber persists in asserting that persons involved in this process truly act in accordance with their responsibility.

We hope that our report serves as a contribution towards improving the development of the financial statements.

APPENDIX 1: NON-COMPLIANCE WITH ARTICLES OF THE NAO

Non-compliance with article of the National Accountability Ordinance			
N°.	NAO articles	Description	2015
1	19	Notification from the Minister of Finance of the existence of new facts, knowledge of which is critical for good insight, which took place after April 30 or after a date stipulated by national decree, though prior to approval of the financial statement by Parliament.	✘
2	20	The account of income and expenditure is a faithful and structured representation of the nature and scope of the income and expenditure, including the balance.	✘
3	22	Every capital investment is sufficiently explained in the explanation on the capital service.	✘
4	23	The balance sheet and the explanation thereof are a true and structured representation of the financial position of the Country and include the size and composition of assets and liabilities and the end of the fiscal year.	✘
5	25	<ul style="list-style-type: none"> - The portion of the long-term debt that is due and payable directly or within a year, is disclosed under current liabilities. - Under current liabilities, short-term debt and accruals are separately recorded. 	✘
6	26	<p>Amounts below which no depreciation of investments is required are set forth by National Decree related to general measures.</p> <p>The amounts are charged directly to the account income and expenditure of the operational account</p>	✘
7	27	<p>When calculating the depreciation amounts:</p> <ul style="list-style-type: none"> - a date proportional to the time between delivery and the balance sheet date for investments of NAF 100.000 or higher for the income and expenditure of the operational account; - on investment lower than NAF 100,000 first written off in the year following the year of delivery. 	✘
8	28	Provisions are formed because of the liabilities, losses, risks and expenditure.	✘
9	29	Reviews and summaries that need to be added to the balance sheet in respect of subsidies.	✘
10	32	Is there a connection between the financial statement and the financial management?	✘
11	52	The financial information for the preparation of the financial statement is supplied on time to the Minister of finance by all the ministers.	✘
12	53	The financial statement is sent to the General Audit Chamber and the SOAB, immediately after approval by the Council of Ministers.	✘
13	54	Government is required to present Parliament with a draft National Ordinance for the adoption of the financial statement 2014 within one month after receipt of the report of the General Audit Chamber.	✘

APPENDIX 2: INCOMPLETE SUMMARY TEMPLATES

N°.	Summary template	Complete	Accurate and complete
2	Capital account per main function	Partially	Only the fixed tangible assets are reported
3	Summary income & expenditure account and capital account per chapter	Partially	See no. 2
4	Capital investments by project	No	
5	Deferred projects at the end of the year	No	
9	Guaranteed cash loans	No	
10	Other guaranty obligations	No	
11	Off balance sheet rights and obligations	No	Among other shortfalls of ZV/OV fund and FZOG underreported
12	Current fiscal year and previous fiscal year imposed assessments	No	
14	Subsidies including specifications	Partially	There is no insight as required by article 29, part a of the NAO ⁴²
15	Progression of the subsidies and grants issued by Government awarded to the Country and contributions	No	
16	Balance Collective Sector	Partially	Summaries for 9 of the 16 entities were not filled in (56%). For one (14%) of the seven entities for which templates were filled in, the information was insufficient.
17	Income and expenditure account of the Collective Sector	Partially	See no. 16

⁴² An overview of subsidies to institutions, grants and other transfer of income, by year, awaiting settlement (pending), and a listing of subsidies, grants and other income transfer, by fiscal year in which these were settled.

APPENDIX 3: LIST OF SERIOUS AND LONG-STANDING SHORTCOMINGS

N°.	Shortcomings	Description	Deadline according to subproject
1	Wages & Salaries	The reported personnel expenditure is uncertain.	July 2017
2	Goods & Services	The process of purchasing to payment "procure-to-pay" is not satisfactory, there is not enough underlying documentation available.	December 2017
3	Regulation for government healthcare costs (<i>Overheid Ziektelasten Regeling-OZR</i>)	There are no audited accounts for the government health insurance scheme of USZV from 2012 to 2014.	December 2017
4	Subsidies	The process of issuing subsidies, review and billing is unreliable	December 2019
5	Study financing	There is no insight into the accuracy and valuation of the reported student finance loans	January 2018
6	Economic permits	The process of issuing economic permits is not properly recorded. The data regarding issued permits is contaminated.	March 2017
7	Crime Fund and Security Service of Sint Maarten (<i>Veiligheid Dienst Sint Maarten-VDSM</i>)	The bank account transactions for the Crime Fund are not complete in terms of income and expenditure. The bank account of the VDSM does not adequately reconcile with the financial statement.	December 2019
8	Tangible fixed assets	There is uncertainty regarding the valuation and the existence of the listing of assets on the asset inventory.	2017
9	Participation and entities of the Collective Sector	There is uncertainty regarding the correct valuation and the accuracy of the elucidation about the collective sector as recorded in the financial statement.	December 2019
10	Creditors and other short-term debt	There is no insight as to accuracy and completeness of the reported debt.	April 2017 May 2017
11	Debtors and other receivables	There is no insight as to accuracy and completeness of the reported debt of third parties.	May 2017 May 2017
12	Cost of living adjustment (<i>Duurtetoeslag</i>)	The calculation for the required early retirement (VUT) and cost of living adjustment is absent.	July 2017



General Audit Chamber

Algemene Rekenkamer