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Supreme Audit Institution

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Supreme audit institutions, which are commonly known as the Auditor General's Office (OAG), are national agencies responsible for auditing government revenue and spending. Their primary role is to oversee the management of public funds and the quality and credibility of government reported financial data.¹ Supreme audit institutions supply the information needed by the legislature and the public to hold government accountable for stewardship of public funds and assets.² These institutions can, therefore, act to limit opportunities for financial malpractice and the abuse of power. Arising from this, supreme audit institutions are one of the pillars of a country's national integrity system. It should, however, be noted that the legal mandates, reporting arrangements, and institutional structures vary from country to country depending on the country's legal and administrative system.

This chapter assesses the effectiveness of the Office of the Auditor General as a key pillar of the national integrity system in Botswana. It gives an overview of the laws and rules governing the establishment and operation of the Office, and how these are translated into reality. The chapter focuses on the role, structure and resources of the Office, as well as its independence, accountability and integrity. Issues of transparency, complaints mechanisms, and the relationship with other pillars are also discussed. The chapter ends with a conclusion and recommendations.

1 World Bank. 2001. 'Features and Functions of Supreme Institutions.' Prem notes.

2 Standing Orders of the National Assembly of Botswana. 1998. Gaborone: Government Printer.

Formation and role

The OAG dates back to 1964 when the audit office was based in Pretoria, South Africa. Botswana, which was then known as the Bechuanaland Protectorate, was part of the High Commission Territories and had a senior auditor who was stationed in Mafikeng, the then capital. The post of Senior Auditor was later changed to Director of Audit. The audit office was moved from Mafikeng to Gaborone prior to independence in 1965, but it continued under a Director of Audit until 1970, when the title was changed to Auditor General (AG).

The role and functions of the OAG are set out under section 124 of the Constitution of the Republic of Botswana, 1996, as well as the Finance and Audit Act, 1977; the Local Government Act (District Councils), 1965, Cap 40:01, and sections 104 of the Townships Act, 1965, Cap 40:02 and section 32(3) of the Tribal Land Regulations (Statutory Instrument No. 91 of 1999).

The main duties of the OAG are to audit and report on the accounts of Botswana and all officers, courts and authorities of the government.³ The OAG also audits the accounts of parastatal organisations. The Office provides an essential independent link in the whole process of legislative control over the financial activities of the executive arm of government. Section 124(3) states that in carrying out its duties, the OAG must submit its reports to the Minister responsible for finance, 'who shall cause them to be laid before the National Assembly'. It also provides for the AG to table the report directly to the Speaker of the National Assembly should the Minister for any reason fail to report to Parliament.

Section 124 of the Constitution also states that the AG is a public officer who is appointed by the President. To ensure the AG's independence, removal from the Office is not within the prerogative of the executive. Section 114 provides that the incumbent must vacate office on attaining 60 years of age or such other years as may be prescribed by Parliament. A person holding office can, however, be removed by Parliament following an intricate procedure after establishment of a charge of incapacity and incompetence.⁴ Should the need arise for the removal of the OAG, the following procedure applies:

- a) *the Assembly shall, by resolution, appoint a tribunal which shall consist of a Chairman and not less than two other members, who hold or have held high judicial office;*
- b) *the tribunal shall enquire into the matter and report on the facts thereof to the Assembly;*

3 Government of Botswana. 2004. Report of the Public Accounts Committee of the Botswana National Assembly. Gaborone: Government Printer.

4 Ibid.

- c) *the Assembly shall consider the report of the tribunal at the first convenient sitting of the Assembly after it is received and may, upon such consideration, by resolution, remove the Auditor General from office.*⁵

Some misgivings have been voiced regarding the issue of tenure of the AG. Clearly, the conditions as stipulated make it very difficult to remove such a person from office. Depending on the calibre of the person appointed, this could be either an advantage or a disadvantage. For example, if the AG is appointed at the age of 45 and does not have a high moral standing, the Office will have to carry the person until retirement age. However, if the person is of a high calibre, this would be a bonus for the Office. It is, therefore, the view of some officers that tenure should be a maximum of two five-year terms as is normal with other positions of comparable stature and reflects the current trend in Commonwealth countries, such as South Africa, New Zealand and Australia.⁶

Types of audits performed

Generally, a supreme audit institution can perform four kinds of audits: financial audits; compliance audits;⁷ performance (value for money) audits, and the review of budget assumptions. The OAG in Botswana conducts financial audits; performance audits; local government audits, and Information Technology (IT) audits.

Under financial audit, the AG examines the financial statements as to whether the accounts show a true and fair view of the financial affairs of the entity. The AG is authorised to express an opinion in terms of reliability of the financial statements as representations of transactions, assets and liabilities of the organisation in a particular financial year. The OAG's reports are released annually for both central government and parastatal audits. The AG has to, among other things, be satisfied:

- a) *that all reasonable precautions have been taken to safeguard the collections and custody of public moneys and that the laws, instructions and directions relating thereto have been observed;*
b) *that the disbursements of public moneys have taken place under proper authority and for purposes intended by such authority;*

5 Section 114(3)(a), (b), and (c) of the Constitution.

6 Kenneth, D. and R. Stapenhurst. 1998. *Pillars of Integrity: Importance of Supreme Audit Institutions in Curbing Corruption*. World Bank Institute. Washington D.C.

7 Under compliance, the auditor checks whether government revenue and spending have been authorised and used for approved purposes. Compliance audits can be subdivided into pre- and post-audits. Compliance audit reports are typically long documents detailing all major failings of the government.

- c) *that all reasonable precautions have been taken to safeguard the receipts, custody, issues and proper use of public stores, and that the instruments and directions relating thereto have been duly observed; and*
- d) *that adequate instructions or directions exist for the guidance of officers responsible for the collection, custody, issues and disbursement of public money or the receipts, custody, issues and disbursement of public stores.*⁸

The AG also undertakes performance audits, examining the economy, efficiency or effectiveness with which any officer or authority has utilised funds at his or its disposal. The reports are issued upon completion. The value for money audit includes the following:

- a) Audit of the economy of administrative activities in accordance with sound administrative principles and practices and management policies
- b) Audit of the efficiency of the utilisation of human, financial and other resources, including examination of information systems, performance measures and monitoring arrangements and procedures followed by audited entities for remedying identified deficiencies, and
- c) Audit of the effectiveness of performance in relation to the achievement of the objectives of the audited entity, and audit of the actual impact of activities compared with the intended impact.

The OAG also conducts local government audits for the councils, land boards and local authorities. These reports are issued upon completion within a period of 12 months following the end of the financial year. In practice, most councils are in arrears in terms of their audited statements, as discussed in Chapter Four of this book. One of the major reasons that local council accounts are not released to the OAG on time is because councils do not have competent people to prepare the accounts.

Information technology audits are the fourth and last type of audit conducted by the Office. These focus primarily on the activities of the IT units within the audited entities and are often used to complement other types of audits.

Lastly, it must be noted that section 35 of the Finance and Audit Act requires the OAG to submit reports to the minister responsible for finance, who in turn lays the same to the National Assembly.

⁸ Section 124(2) and (3) of the Constitution.

Structure and resources

For any organisation to perform its tasks efficiently, it must be well resourced. Many supreme audit institutions in the developing world are not able to fulfil their assigned tasks due to a lack of adequate finances, infrastructure and human capacity. The OAG in Botswana has only partially escaped this problem: despite delivering its reports on time, almost every annual report of the OAG points to the shortage of staff, lack of adequate finances and poor management of public resources.⁹ Staffing has been a recurring problem within the department as government has increased its scope of business and expenditure, without corresponding increases in audit staff.

When staff allocations are made, government considers growth in all areas. The OAG has been growing at the rate of between 2—3 percent in previous years, in absolute figures, a small growth. New people allocated to the Office are distributed to the Office generally, and are not exclusively auditing staff. For example, the Office may be allocated three people in a particular year, one of which is a driver, thus reducing the number of professional people that can be employed. The Office has, however, recently managed to obtain a phenomenal increase of approximately 20 positions for audit staff from the pool of unfilled positions from other ministries. This increase came about because of the introduction of the performance audit. Currently the Office has 127 auditors but a staff complement of 200 auditors would be considered optimal at the time of conducting the research in 2006.

The AG is the head of the OAG, and is assisted by a Deputy Auditor General and four Assistant Auditor Generals. The main duty of the Deputy Auditor General is to co-ordinate sectional activities through the assistants and the Under Secretary who heads the administration. For operational purposes, the Office is divided into six departments. These are:

- The Administration Division, which handles the OAG's administration of finance, planning and accounting
- The Central Government Division, which audits all government ministries, departments and capital projects
- The Performance Audit Unit, which conducts value-for-money audits and performance audits on public spending
- The Parastatal Audit Division, which audits parastatal organisations
- The Local Government Audit Division, which has four sections and audits local authorities, councils and land boards
- The Special Operations Unit, which is responsible for audit reports, legislation and auditing standards, information system administration and information system audits.

9 Government of Botswana. 2000; 2001; 2002; 2003; 2004; 2005. *Report of the Auditor General on the Accounts of the Botswana Government*. Gaborone: Government Printer.

The Office has been accredited by the Association of Certified Chartered Accountants (ACCA) as a provider of ACCA practicing Training Institution. This is a significant step towards professionalisation and competency building efforts within the Office. This accreditation status requires the presence of an officer within the establishment who has full ACCA membership. By law, only such a person is able to professionally assess, manage and recommend the training necessary for full membership status.¹⁰

The Office operates on a budget of slightly over P27 million. With respect to funding, the Office follows the same process as other government departments: its ceiling is determined by the Ministry of Finance and Development Planning (MFDP). This means that the budget is incremental, and the Office cannot include anything that is not stipulated. According to some officers within the Office, the ceiling is usually observed.¹¹ Like other government departments, funds can only be used for the purposes they have been allocated for. Any change has to follow the normal *virement* process. Depending on the nature and amount involved, some *virements* are done internally while others go through the MFDP. In other words, the Office cannot independently decide how funds can be used once they have been approved.

The OAG's budget is presented to Parliament by the Minister for Presidential Affairs and Public Administration. The Office does not receive any funding from other agencies apart from the government allocations.¹²

Independence

The issue of autonomy is a basic one, especially in the developing world where autonomy is essential. However, in some developing countries, including Botswana, formal independence is limited in practice. Section 112 of the Constitution lists all the designated officers who are appointed by the President. The list includes officers such as ambassadors, high commissioners, the Secretary to Cabinet, the Attorney General and the Commissioner of Police. The Act does not specifically mention the Auditor General, but section 112(f) of the Constitution states as follows:

any other super scale office (other than an office to which this Constitution makes specific provision for appointment or an office to which an appointment is made under the provisions of section 104 of this Constitution) which may be prescribed by Parliament.

10 OAG Report. 2005.

11 The budget of the Office has only exceeded its ceiling once. Interviews with senior officers in the Office of the Auditor General. 14 September 2006.

12 The only financial assistance received was from the Swedish International Development Agency (SIDA) between 1992 and 1997 to assist setting up the Performance Audit.

Some officials within the OAG view this as a serious omission and an affront on the independence of the OAG. They argue that the AG as a person may be more independent than the OAG itself. This is because as a person the Constitution states that he or she is 'not to be subject to the direction or control of any other person or authority.'¹³ However, in practice this would depend on the personality of the individual occupying the Office, and personality cannot guarantee the independence of an institution.

Like all government departments, the OAG has to account for its operations to the Permanent Secretary to the President (PSP), who is the head of the Public Service in Botswana. The independence of the OAG is again undermined by the fact that this appointment is political, in other words, the qualities for the job of AG are not specified. As a result, the appointment is made according to criteria known only to the appointing authority, who happens to be the President. Thus, the appointment of the AG remains shrouded in secrecy, and this works against transparency.

Another dimension that compromises the independence of the AG is that the incumbent has signed a performance agreement contract with the PSP in respect of the operation of the OAG. The current practice is that the AG accounts to the President through the PSP, even though there is no law setting out this arrangement. The fact that the OAG has to account to the PSP naturally makes it difficult to exercise its independence. In actual fact, the AG should have the freedom to determine what will be audited, including the work of the PSP, especially since there have been a number of initiatives such as the Performance Based Reward System (PBRS) and Performance Management System (PMS) which are relevant to management accountability. Although in law there is nothing stopping the AG from undertaking this audit, in reality the arrangement makes exercising this freedom problematic.

The performance of the Office is also affected by the high turnover of staff because of uncompetitive salaries. The Office has literally turned into a training ground for staff to attain higher qualifications and experience, only to leave the organisation for better remuneration.

Accountability

The OAG works closely with an oversight body known as the Public Accounts Committee (PAC), which was established by section 95(1) of the Standing Orders of the National Assembly of Botswana. The PAC, as noted in previous chapters, is responsible for examining the accounts and statements prepared and signed by the Accountant General, the Auditor General and any officer responsible for administering any Special Fund in accordance with the provisions of the Finance and Audit Act, at the end of each financial year.¹⁴

13 Section 124(5).

14 Standing Orders of the National Assembly of Botswana. 1998. Gaborone: Government Printer. Section 95(3).

Under the system operating in Botswana, a standard procedure is for Parliament to refer reports issued by the OAG to the PAC. This committee then examines documents and calls for evidence from public servants. The PAC conducts hearings where permanent secretaries of different ministries appear before it with their finance officers to answer queries.¹⁵ It then reports its investigations and recommendations to Parliament. Previously the PSP also appeared before the PAC to account for the State President. This procedure was stopped during the tenure of Mr J Legwaila as the PSP during the Masire presidency. Following this the Administrative Secretary in the Office of the President then took over as the Officer appearing before the PAC for the State President. From that time onwards, the PSP has not appeared before the PAC and the Administrative Secretary in the Office of the President appears for all departments under the jurisdiction of the State President. These are the Botswana Defence Force, the Botswana Police, the Directorate of Public Service Management, the Directorate of Corruption and Economic Crime, State House, the Office of the former president and the Office of the President.¹⁶

To the public and in practice, the OAG is perceived to be accountable to the MFDP, who is also audited by it. The OAG is supposed to report directly to the Ministry of Presidential Affairs and Public Administration, but because of section 124(3) of the Constitution, the OAG submits its reports to the MFDP whose minister tables such reports before Parliament. All Audit Reports are addressed to the Minister of FDP, instead of the Speaker of the National Assembly. In other countries like South Africa, the OAG accounts directly to the National Assembly, to which it directly presents its reports and is answerable.

Integrity

The OAG ensures that Auditors are beyond reproach at all times and in all circumstances. This notion is encapsulated in its mission statement, which is:

to promote accountability and provide quality in the Public Sector and assure the nation that public resources are applied for purposes intended.¹⁷

Realising that the Office is unique compared to other traditional government departments, the Office has put in place a code of ethics, which is outlined under the Audit Standards of the OAG. The code of ethics places emphasis on the values that guide the behaviour of both audit and support staff.

15 Sharma, K.C. 1998. 'Toward a more Ethical and Accountable Public Bureaucracy.' In Hope, R.K. and G. Somolekae. (Eds). *Public Administration and Policy in Botswana*. Juta & Co. Ltd: Kenwyn.

16 Interview with a senior officer in the Office of the Auditor General. 7 December 2006.

17 OAG Report. 2005. 50.

These include the following:

Timeliness: For the audit report to be of any value, it should be available promptly to its readers and users, particularly those who are expected to take action.

Independence, objectivity and impartiality: All auditors are expected to be independent from the audited, as well as from outside interest groups. Those working for the Office are not only expected to be independent, but also to exercise objectivity and impartiality in carrying out their activities. Objectivity and impartiality should be reflected in their reports, which should be accurate. The conclusions they reach should be based strictly on the evidence obtained and assembled in line with the Office's auditing standards.

Trust, confidence and credibility: Members of the public, including the legislature, expect a certain level of trust and credibility from auditors. Auditors are, therefore, expected to promote co-operation and good relations between themselves, the audited and within the profession. Public confidence and respect must be earned. This is normally achieved by the cumulative accomplishments of the profession.

Professional development: In carrying out their tasks, auditors are expected to exercise due professional care in conducting and supervising the audit and in preparing audit reports. Indeed evidence on the ground suggests that all supervisors and the audited submit to high standards. In addition to ensuring high standards, the Office is peer-reviewed by institutions such as the SADC Organisation for Supreme Audit Institutions (SADCOSAI) and the African Organisation for Supreme Audit Institutions (AFROSAI).

In 2005, a team from the National Audit offices of Namibia, Zimbabwe and Sweden undertook a review under the auspices of AFROSAI and was generally satisfied with the standards. The purpose of these reviews was to assess the extent to which the OAG complied with the requirements of the International Standards of Auditing and the International Organisation of Supreme Audit Institutions (INTOSAI) auditing standards in order to achieve high quality of audit products. Its general provisions include:

No conflict of interest: The Office strives to ensure that when auditors are requested to provide advice or services other than audits to an audited, this should not lead to conflict of interest. Individual auditors are expected to protect their own independence by not accepting any gifts, which could either influence or be seen to influence their independence and integrity. All officers are required to disclose information if they have any relations with the audited. This is strictly enforced. To date, there is no evidence to suggest this has been violated in Botswana.

Competence: Although this presents a major problem, particularly with respect to positional competence, the Office ensures that those who are entrusted with this task are the most qualified and possess the required competence. This is achieved by adopting relevant and appropriate policies governing recruitment and training.

Political neutrality: Perceptions can be damning, therefore the OAG has to maintain both the actual and perceived neutrality of the Office. Auditors are expected to guard against political influence so that they can discharge their functions and responsibilities in an impartial manner. They are not expected to participate in political activities as this may lead to professional conflicts.

These provisions should guide practicing auditors since violation of these rules could lead to the loss of one's license. The OAG in Botswana does not have clear rules of conflict of interest in place, nor does it have post-employment restrictions. However, according to the Public Service and General Orders, officers are expected to declare gifts to their supervisors. This is difficult to enforce in the OAG.

One senior officer wondered 'if I am attending a seminar and I am given a bag or a pen, should I declare it?'¹⁸ This clearly indicates that if some senior officers are not sure what should and should not be declared, enforcement becomes problematic. The Office has not yet faced serious problems with this aspect, though, as most people it deals with are aware that auditors work in a sensitive environment.

Transparency

Transparency in government means that relevant information is made available to the general public in usable form, and government regulations and decisions are clear and adequately disseminated. Transparency is a prerequisite for genuine accountability, which can prevent inefficiency and corruption. The ideals of transparency are well articulated in the long-term vision for Botswana commonly referred to as Vision 2016.

The OAG conducts its business in a transparent manner to the extent that when reports are released, the AG addresses the media on the main findings. Members of the public also have access to reports through general distribution; they can buy the report from the government bookshop, or download it on the government website.

Complaint mechanisms and relationship with other pillars

The public plays little or no role in the operations or proceedings of the OAG because there are no mechanisms or channels in place for the public to seek redress if aggrieved by its officers.

The OAG has some relationship with the media, but has no direct or outstanding interaction or communication with other national integrity system pillars such as civil society, the Ombudsman and political parties. The office works closely with the Botswana Police Service and the DCEC. However, the OAG is not authorised to report fraud cases to the above institutions. Only the Minister is authorised to forward such cases to these institutions.

¹⁸ Interview. 6 October 2006.

It should be noted that successive reports of the OAG have raised concern at the manner in which public funds are used and how things can be improved.¹⁹

Conclusion and recommendations

In terms of its institutional arrangements and its rules and resources the OAG has comparatively done well. The AG has delivered his audited reports on time. However, it is imperative that the Office should function in a friendly environment where it is permitted to conduct its work freely and where its reports are used to promote accountability. The fact that audit reports raise the same issues every year implies that government ministries and departments generally ignore them. Moreover, while formal legislation is in place which generates its independence, its subjugation to the MFDP compromises its standing.

In view of the above shortcomings, this chapter makes these recommendations to improve the performance of the Office:

- The Finance and Audit Act should be reviewed and amended to separate the two.
- The law should be reformed to allow the OAG to report directly to Parliament through the Speaker of the National Assembly, rather than through the Minister of FDP.
- The OAG should have an independent Board of Directors that employs the AG, and it should be able to charge government fees for audits performed. Such funds may then be used to promote competitive salaries for staff in order to address retention problems.
- Lastly, the OAG should improve its relations with other national integrity pillars in order to curb corruption and other problems that may undermine its standing.

¹⁹ OAG Reports. 2000, 2001, 2004.