

THE UNITED REPUBLIC OF TANZANIA
NATIONAL AUDIT OFFICE (NAO)



REPORT OF THE CONTROLLER AND AUDITOR GENERAL
ON THE FINANCIAL STATEMENTS OF THE HIGH COURT - COMMERCIAL
COURT DIVISION - FOR THE YEAR ENDED 30TH JUNE, 2005

VOTE 64

FOR THE FINANCIAL YEAR ENDED 30TH JUNE, 2005

The Controller and Auditor General
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February 2006

Office of the Controller and Auditor General

The National Audit Office,
United Republic of Tanzania

(Established under Article 143 of the Constitution of the URT).

The statutory duties and responsibilities of the Controller and Auditor General are given in the Public Finance Act No. 6 of 2001.

Our Vision

We aspire to be an organization that fosters a culture of financial discipline, transparency and accountability within the Government of Tanzania.

Our Mission

We are the Supreme Audit Institution in Tanzania, which strives to provide timely and high quality audit services to all our clients in order to enhance public sector financial performance by educating key stakeholders on the effective management of public finances; providing value added services and functioning independently and impartially in auditing and reporting on public accounts.

Therefore, our Core Values are

- ✓ We strive to achieve and maintain objectivity in providing impartial audit services so as to promote our independence
- ✓ We pursue excellence in the provision of our audit services
- ✓ We exercise professional integrity by demonstrating high ethical standards
- ✓ We focus on people and have great respect to our stakeholders
- ✓ We encourage and promote innovation amongst our members of staff; and
- ✓ We ensure best resource utilization at national as well as individual public entity level.

We do this by.....

- contributing to better stewardship of public funds by ensuring that our clients are accountable for the resources entrusted to them;
- helping to improve the quality of public services by supporting innovation on the use of public resources;
- providing technical advice to our clients on operational gaps in their operating systems;
- systematically involve our clients in the audit process and audit cycles; and
- providing audit staff with adequate working tools and facilities that promote independence.

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Definition of terms and Abbreviations

Financial Statements means the following statements, notes and supporting schedules of the Registrar of Political Parties for the year ended 30th June 2005.

- Statement of Responsibility on financial statements
- Consolidated cash flow statement
- Statement of vote Account - Supply
- Statement of Revenue - Development
- Statement of Arrears of Revenue
- Statement of Commitment Outstanding
- Statement of losses
- Cash flow Statement - Recurrent
- Cash flow Statement - Development
- Cash flow Statement - Deposit

These Financial Statements are attached as annexure No. 1 to this report.

Regulations means the Regulations of the Public Finance Act issued under G.N number 259 of 2003.

Act	Public Finance Act No. 6 of 2001 as amended in 2004
INTOSAI	International Organization of Supreme Audit Institutions
ISA	International Standards on Auditing.
MDAS	Ministries, Departments and Agencies

1.0 BACKGROUND INFORMATION TO THE AUDIT

1.1 Introduction

We have completed the audit of the financial statements of the Commercial Court for the year ended 30th June,2005. Audit findings arising from the examination of accounting records, appraisal of the activities as well as an evaluation of the Internal Control System which require management attention and action are set out under part 3 of this report.

1.2 Establishment

The Commercial Court of Tanzania (to be referred to as the Court) was established by law. It is established under Rule 5 A of the High Court Registries (Amendment) Rules 1999. It is a division of the High Court of Tanzania, it enjoys a degree of administrative autonomy from the former. Cases may be filed in the Court at Dar es Salaam or through the Ordinary High Court Registry and sub-registries. It conducts its judicial functions in accordance with the laws in force in Tanzania. Of particular importance and relevance is the 1966 Civil Procedure Code.

Vision

The Vision of Commercial Court is timely and accessible Justice for all.

Mission

The mission of Commercial Court is to carry out the administration of justice to the general public in dealing with disposal of Commercial Cases effectively and efficiently.

1.3 Operational Objectives

To strengthen and enforce laws, rules, regulations on corruption including implementation of the National Anti-Corruption strategy and Action Plan (NASSAP) to ensure that MDAs have specific action to reduce corruption, that is to extend implementation of the ongoing legal section reform programme to include all security organizations with due attention to updating the legal framework, in having supervision and division of responsibility among law and order.

1.4 Financing

The Commercial Court like other Public Institutions receives its financial resources from the Government. In the financial year ended 30th June,2005 a total sum of TShs.745,418,115 was received for supply vote and Development Vote to meet Commercial Court activities.

1.5 Management Structure

The Commercial Court is headed by the Judge of High Court who is assisted by other senior Magistrates and the Registrar of High Court. The Registrar of Commercial Court is the Accounting Officer assisted by Chief Accountant and Supplies Officer who supervise Accounting and Procurement functions respectively.

1.6 Financial Performance

Supply Vote Account

The Supply Vote closed with a net expenditure of Shs.593,659,854 as against approved estimates of Shs.594,159,900 an appeared saving of Shs.500,046.

Development Vote

The Development Vote closed with a net expenditure of Shs.151,758,251 as against approved estimates of Shs.152,500,000 resulted in a saving of Shs.741,749.

However, total exchequer issued received during the year equal to net expenditure of Shs.151,7 58,251.

1.7 Audit mandate

Pursuant to the provision of article 143 of the constitution of the United Republic of Tanzania and section 30 and 37 of the Public Finance Act No 6 of 2001, the Controller and Auditor General is the statutory auditor of all Government revenue and expenditure including the Commercial Court.

1.8 Audit objectives

The main objectives of conducting the audit is to enable me to express an independent opinion on the financial statements of the Commercial Court submitted for the period ended 30th June,2005 and in particular:

- To determine whether all funds approved by the National Assembly have been received and appropriated in accordance with the approved budget.
- To determine whether transactions were executed in accordance with management authorization and the financial statements prepared in accordance with the International Public Sector Accounting Standards and guidelines issued by the Treasury.
- To verify, on sample basis, whether goods and services bought were acquired through laid down procurement procedures specified in the Public Procurement Act.
- To ascertain whether all relevant supporting documents, records and accounts have been kept in respect of all Court activities.
- To evaluate whether the internal control procedures instituted are effective to provide relevant and reasonable information to the

management for implementing and monitoring activities and that the assets of the Commercial Court are adequately safeguarded against losses from any unauthorized use or disposal.

- To determine whether the management of the Commercial Court has taken reasonable corrective action on previous year's audit recommendations.

1.9 Audit Scope

The audit was carried out in accordance with the ISA and the procedures that are consistent with those recommended by the INTOSAI. The audit covered the evaluation of the effectiveness of the financial accounting system and internal control over the activities of the Commercial Court examination and verification of the accompanying financial statements to the appropriation account, and other procedures as was considered necessary in the circumstances, Therefore the audit findings are confined to the extent that records, documents and information requested for the purpose of the audit were made available to audit. As auditors, we are not required to search specifically for fraud; therefore our audit cannot be relied upon to disclose all such matters. However, our audit was planned in such a way that we would have reasonable expectation of detecting material misstatements in the financial statements, including those resulting from fraud or irregularities. The responsibility for detection and prevention of fraud and irregularities rests with the management of the Court who are responsible for setting up and maintaining an adequate system of internal control.

1.10 Audit methodology

In examining the financial statements together with related records and schedules, the following steps were followed:

- Review of legal documents
- Examination of receipts and payments records and documents
- Review of Internal Controls in place
- Review of various reports and related statements
- Compliance tests of various core activities
- Interviews and discussions with key personnel

1.11 Presentation of Audit findings

The audit was carried out according to mandate stated above, applying professional standards and audit procedures that were considered appropriate in each situation.

The audit findings are divided into two parts. The first part comprises the opinion on the critical examination of the financial statements

submitted for audit and the circumstances surrounding their preparation and presentation.

The second part comprises the detailed findings on the gaps and shortfalls in the internal control system which, if rectified on time, will greatly improve the effectiveness of the internal control system applied.

2.0 AUDIT REPORT AND FINANCIAL STATEMENTS

**To: The Registrar,
Accounting Officer Vote 64,
Commercial Court Division.**

**Re: Audit Report on the Financial Statements of the Commercial
Court for the year ended 30th June, 2005**

I have audited the financial statements of the Commercial Court attached as Annexure I for the year ended 30th June, 2005.

Responsibilities of the Accounting Officer (Registrar)

Section 25(4) of the Public Finance Act places responsibility to the Accounting Officer to prepare the financial statement based on the Generally Accepted Accounting Standards.

In addition, Regulation 35 requires the Accounting officer of the entity management to establish an effective Internal Control System appropriate to the circumstances of the Department.

Responsibilities of the Controller and Auditor General

My responsibility is to express an independent opinion on the financial statements, and on procurement procedures based on the audit. According to section 30 of the Act 2001 my specific responsibilities are to examine, inquire into, audit and report on the accounts of the Court.

In addition, section 31 of the Act require me to satisfy myself that the accounts have been kept in accordance with generally accepted accounting practices; all reasonable precautions have been taken to safeguard the collection of revenue, the receipt, custody, disposal, issue and proper use of public property, and that the law, directions and instructions applicable thereto have been duly observed, all expenditures of public money have been properly authorized; and to satisfy myself whether the funds appropriated to the Court were used exclusively and judiciously to meet eligible expenditures with due regard to economy and efficiency.

Basis of Opinion

The Audit was conducted in accordance with the ISA and procedures that are consistent with those recommended by the INTOSAI. Those standards require that I plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the significant estimates and judgments made in the preparation of the financial statements, assessing whether

the internal control system and the accounting policies are appropriate to the circumstances of the Commercial Court (Vote 64) consistently applied and adequately disclosed, evaluating the overall financial statements presentation, and assessing the extent of compliance with the relevant statutory requirements. I believe, the audit provides a reasonable basis of my opinion.

The financial statements have been prepared and presented based on the cash basis of accounting pursuant to Regulation 53. Under the cash basis, cash receipts are recognized when they are received and cash payments are recognized when they are paid.

Qualification

In my opinion, except for the matters specified below, the financial statements of the Commercial Court have been prepared based on the generally accepted accounting standards; and that they fairly reflect, in all material respects, the results of its operations and cash flows for the year ended 30th June 2005, and the financial position as at that date.

Material violation of Financial and Procurement Regulations of 2004 and 2005 respectively.

1. Unjustifiable monthly special allowances amounting to Shs.135,200,000.
2. Payment made to various payees amounting to Shs.59,345,832 were lacking sufficient supporting documents.
3. Goods amounting to Shs.23,547,035 were not accounted for in the stores ledger.
4. The Commercial Court is yet to establish an effective Internal Control system to oversee financial as well as procurements controls. This is a violation of both Public Finance and Public Procurement Acts issued in 2001 and 2004 respectively.

The details of these matters are given under Part 3 of this report.

Dr. Frank Mosses Hiza Mhilu
Ag: CONTROLLER AND AUDITOR GENERAL

Office of the Controller and Auditor General,
National Audit Office,
Dar es Salaam.
February, 2006

3.0 AUDIT FINDINGS AND RECOMMENDATIONS

3.1 Follow up of previous years Audit findings

Para No.	Description	Amount Queried	Amount Cleared	Amount Outstanding
7:2	Payment for supply & installation of security system	17,343,025	NIL	17,343,025
7:3	Irregular payment of special Allowance	3,254,609	NIL	3,154,609
7:4	Irregular payment of water and Telephone bills	6,350,746	NIL	6,350,746
8:9	Stores not taken on ledger charge	36,098,220	36,098,220	NIL

Recommendation

The Accounting Officer's attention is drawn to the advantages of acting promptly on audit recommendations with a view to securing public accountability by arresting financial and accounting controls deficiencies.

3.2 Accountability of 'D' Funds Shs.151,758,251

Audit test check of accounting records during the year under review revealed amount of Shs.151,758,251 was issued by various Donors and received in form of goods and services charged to recurrent expenditure codes. However, documents evidencing the delivery of items released and stores, stores ledger on which properties recorded were not made available for audit verifications, and therefore audit was unable to ascertain the accountability and utilization to account.

Implication

The delivery of items could not be ascertained.

Recommendation

Management is responsible to provide documents evidencing the delivery of items.

3.3 Current Audit findings

- (i) **Improperly and Unvouched Expenditure - Shs.59,345,832**
Audit examination of the payment vouchers and related records of the Commercial Court for the year under review has revealed that expenditure aggregated to Shs.53,784,777 was incurred without adequate supporting documents and payment vouchers worth Shs.5,561,055 were missing from the relevant batches contrary to section 95 of the Public Finance Regulations of 2004.

Implication

The legitimacy of the expenditure or the purpose for which the payments were made could not be ascertained.

Recommendation

It is recommended that missing payment vouchers and other supporting documents should be produced for audit scrutiny.

(ii) Stores purchased and paid for not brought to Account - Shs.23,547,035

A test check carried out on payment records for the year under review has revealed that stores worth Shs.23,547,035 purchased and paid for, could not be verified to have been recorded and brought to account and ledger folio reference was not quoted and therefore audit failed to establish whether store brought and utilized properly.

Implication

Non recording of stores may lead to loss and misplacement of the purchased items.

Recommendation

The management should ensure that stores purchased are accounted for in the stores ledger and respectively ledger folio references are quoted for easy verification.

(iii) Questionable Payment of Monthly Special allowance TShs. 135,200,000

Audit test check of the payment vouchers during the financial year ended 30th June,2005 revealed that, a total expenditure of Shs.135,200,000 was paid as special allowances entertainment and extra duty allowances. The nature of activities for such allowances was not given during the audit.

Implication

The Government might not get the value out of such expenditure.

Recommendation

The management has to furnish the details of activities for which the allowances were paid.

(iv) **Questionable payment of transport allowance on leave- TShs.5,106,600**

During the year the commercial court paid the sum of TShs.5,106,600 to meet annual leave travelling costs for one of senior officer and his family vide Pv II/II/04 C/No.0430978 and Pv 1/12/2004 C/No.044090 amounting to Shs.2,000,000 and 3,106,000 respectively. However the audit scrutiny revealed that a big number of people (12 people) were covered in the payment contrary to the required number of 6 people as stipulated under section H 5 (ii) of standing order of 1994. The aspect resulted in overpayment of TShs.2,640,000 covering 6 people's expenses in addition.

Implication

The circumstance implies that there is no strong internal controls system in place.

Recommendation

The management is requested to recover the overpaid amount of TShs.2,640,000 from the respective officer and furnish recovery particulars for audit verification.

4.0 CONCLUSION

The detailed audit findings presented above have been communicated to management of the Commercial Court during exit meeting. Management of the Commercial Court has promised to take appropriate action with a view to rectify the situation. We shall appreciate to receive formally the actions taken in this respect.

Lastly, I would like to express my appreciation for the co-operation given to the audit team. It is my hope that such good working relations will be extended during future audits.

Dr. Frank Mosses Hiza Mhilu

Ag: CONTROLLER AND AUDITOR GENERAL

Copy to: - The Chief Secretary,
State House,
P.O. Box 9120,
Dar es Salaam.

“ The Permanent Secretary and Paymaster General,
Ministry of Finance,
P.O. Box 9111,
Dar es Salaam.

5.0 ANNEXURE I

Financial Statements and notes to the financial statements.

**STATEMENT OF RESPONSIBILITY ON THE FINANCIAL STATEMENTS FOR THE
YEAR ENDED 30TH JUNE, 2005**

These Financial Statements have been prepared by the management of the Commercial Court in accordance with the provisions of Section 25(4) of the Public Finance Act. No 6 of 2001. The Financial statements comply with the generally accepted accounting practices as required by the said Act and are presented in a manner consistent with the International Standards on Financial Reporting under the Cash Basis of Accounting.

The management of the Commercial Court is responsible for establishing and maintaining a system of effective Internal Control designed to provide reasonable assurance that the transactions recorded in the accounts are within the statutory authority and that they contain the receipt and use of all public financial resources by the Commercial Court.

To the best of my knowledge, the system of Internal Control has operated adequately throughout the reporting period and that the Accounts and underlying records provide a reasonable basis for the preparation of the Financial Statements for the 2004/2005 financial year.

I accept responsibility for the integrity of the Financial Statements, the information it contains, and its compliance with the Public Finance Act No. 6 of 2001 and the instructions issued by the Treasury in respect of the year under review.

Signed by Accounting Officer

Date