

Annual Report 2015



General Audit Chamber

Algemene Rekenkamer

June 2016

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Foreword

The General Audit Chamber completed five years of operation at the end of 2015. As an advisory and auditing institution, we facilitate the legislature by providing information about the compliance and effectiveness of public expenditure and income.

At the end of 2015, the institution had issued more than a dozen reports since the start of operations on October 10th, 2010. These reports represent the results of investigations on financial and legal compliance, governance, financial and operational performance, as well as integrity. Our reports have all been published and made available to the public, thereby supporting the process of “checks and balances”.

After five years of operations, we are encouraged that our work is receiving attention from national and international stakeholders. We are also satisfied with the improved contact with Parliament in the last year, and the continued professional relationship with Government.

Our task is to investigate, report and, where appropriate, provide recommendations to Parliament and Government. Proper public financial management, in other words, the act of budgeting, spending, and managing public monies, is essential for the social and economic development of the country.

Legal frameworks to promote fiscal and financial responsibility exist in St. Maarten. This means that there are laws intended to improve discipline, transparency, and accountability of public finance. The effectiveness of these frameworks is contingent on compliance. Compliance, or the lack thereof, has become a recurring theme in our reporting. It is important to note, that the authority to enforce compliance of the rules governing the public finance framework is imbued in other institutions.

To achieve substantive progress, we believe more has to be done to address the shortcomings of Government’s financial management. Government must commit itself to developing and implementing clear fiscal and financial policy objectives. In turn, Parliament must intensify its oversight of Government’s financial management. We will continue to monitor, report and recommend.

Ronald C. Halman, MBA
Chairman

Joane Dovale-Meit, MA
Secretary-General

1. General

1.1. Overview

By law, the General Audit Chamber is required to submit a report, prior to July 1st, to the Governor and the Parliament, concerning its activities of the previous year.¹ The annual report must also include a review of the significant information arising from audits.

We report on our activities and audits because, among others, the information supports Parliament in terms of its supervisory task related to the activities of Government.

This annual report covers the period from January 1st, 2015, up to and including December 31st, 2015.

1.2. What did we accomplish in 2015?

The answer to that question can be found in this report. In chapter 2, we present details about our institution including our tasks and authorities. Chapter 3 presents the operational activities for fiscal year 2015. We also discuss the results of our audit activities, as well as summarize institutional developments, in this chapter of the report. In Chapter 4, we provide information about the budget realization for fiscal year 2015, as well as restate the results of 2014.

¹ National Ordinance General Audit Chamber, article 38.

2. The Institution

2.1. Position of the Institution

The General Audit Chamber is the institution that examines the compliance (financial and legal) and the performance (effectiveness and efficiency) of public expenditure². How the General Audit Chamber actually carries out the task and how the institution is organized can be found in national legislation.³ In other words, there is a legal framework that governs our organization.

2.1.1. Tasks and authorities of the General Audit Chamber

The General Audit Chamber is afforded a degree of autonomy by the legislator. We have a certain flexibility in the way we work. As such, the General Audit Chamber investigates the activities of government (in the broadest definition of the word), and, to do so properly, we have the right to access information.⁴

How do we investigate? There are three basic type of audits that we conduct:

- The **compliance (financial or legal) audit**: for example, we review the financial statements of the country.⁵ We also audit the General pension fund of Sint Maarten (APS).⁶ In auditing the financial statements, we carry out an assessment of financial transactions and information as reflected in the annual accounts prepared by the responsible entities.
- The **performance audit**: this type of investigation looks into broader management issues within government organizations or programs. We investigate whether the services or r procedures in question are achieving their objectives effectively, economically and efficiently. To put it simply, we evaluate whether there is "value for money".
- The **integrity audit**: the objective of this form of investigation is to review the administrative integrity of political or civil service officials in the execution of their functions and authorities. Integrity demands knowledge of and compliance with both the letter and the spirit of the written and unwritten rules.

The duration of any given audit varies depending on the complexity and scope of the subject matter that is being investigated. We are dependent on the cooperation of those who are subject to audit, as well the availability of (mandatory) information. Acquiring information proved difficult in 2015. Obtaining information, including information that ministers are obligated to provide to the General Audit Chamber, proved challenging.

In all audits, we document our activities and we normally present the results in reports that, after submission to Parliament, are made available to the public. On occasion, we also issue advice to Government or Parliament. When we publish reports, we always include our findings and when appropriate, we provide recommendations that can be used to address any shortcomings identified by the audit. Our reports are meant to facilitate Parliament in carrying out its supervisory task of Government.

2.2. Strategy and Approach

In terms of public expenditure and policy, we review a variety of topics related to public finances. With accountability as the main objective, we focus on compliance, efficiency and effectiveness, or integrity, depending on the audit type. A number of our audits are mandatory by law.. For example, the audit of the annual financial statements of the country.

The General Audit Chamber is also free to conduct audits based on our internal assessment of topics. However, we do so after careful consideration of, among others:

- the financial, social and environmental impact;
- the urgency;

² Constitution of Sint Maarten, article 74.

³ National Ordinance General Audit Chamber.

⁴ Idem, article 26.

⁵ National Government Accounting Ordinance, article 53, paragraph 3.

⁶ National Ordinance General Pension Fund, article 18, paragraph 10.

- our capacity to do the work; and
- the ability to cover a variety of government programs and organizations.

2.3. Organization

A three-person board is tasked with the governance of our institution; specifically, a chairman and two members. There is also a provision for deputy members to ensure there is continuity within the board.⁷

The following persons served on our board in 2015:

- Mr. Ronald Halman, chairman
- Mr. Mark Kortenoever, vice chairman & member
- Mr. Alphons Gumbs, member
- Mr. Daniel Hassell, deputy member
- Ms. Sheryl Peterson, deputy member

The board meets on a regular basis, normally once every two weeks. In 2015, the board convened 21 times.

A team of professionals work at the General Audit Chamber and their emphasis is on executing the core business, which is auditing. A Secretary-General manages daily operations and leads the team comprised of administrative and audit staff.

In 2015, the General Audit Chamber employed 6 persons on a full-time basis. Specifically, the team consisted of three auditors, a legal advisor, a head of administration and the Secretary-General. The audit team was supplemented with a part-time chartered accountant (in Dutch *register-accountant*).⁸

Our annual work plan is drafted by the Secretary-General, and includes input from administration and the audit team. The plan is presented to the board for approval prior to the start of the year. All activities described in the work plan are executed in keeping with the budget for the fiscal year in question. The plan contains both operational activities as well as a description of planned audits.



2.4. Relationships & Cooperation

To be effective, the General Audit Chamber maintains relationships with persons and organizations within the public sector and cooperates with colleague audit institutions.

The following is a summary of activities related to our relationships and cooperative arrangements:

- In January 2015, the General Audit Chamber participated in the annual workshop of the Council for Financial Supervision (CFT). During the workshop, representatives from both Curaçao and St. Maarten, including the respective Ministries of Finance, SOAB and the Court of Audit of Curaçao as well as the General Audit Chamber of Sint Maarten, discussed matters of mutual interest related to public finance.
- In support our audit projects, we arranged two technical missions from the Court of Audit of the Netherlands. The first took place in February and the other in October. These technical missions were an important part of the training and institutional strengthening activities scheduled in 2015.
- Under the auspices of the General Audit Chamber, a colleague from the Court of Audit of the Netherlands provided a lecture on the Greek financial crisis to HAVO/VWO students at the Milton Peters College, in March.
- The Secretary-General was requested to serve as a member of the organizing committee for the Governor's Symposium in 2015 in March. That event, with the theme "*Governance: the value of checks and balances*", was held in June 2015.

⁷ National Ordinance General Audit Chamber, article 2.

⁸ Book 2: Civil Code, article 121, paragraph 6.

- In May, we appeared before Parliament on two occasions. Parliament's Committee for Public Expenditures met with the General Audit Chamber for a general discussion on the tasks of the General Audit Chamber. Later that month, we were again invited to provide the committee with a presentation regarding our audit findings of the 2012 Financial Statements of the General Pension Fund. The audit results of our investigation on governance at the Bureau Telecommunication and Post were presented in December 2015 to a closed session of the Central Committee of Parliament.
- Transparency International's (hereafter: TI) Country Assessment was issued in July and included an evaluation of the Supreme Audit Institution of Sint Maarten, i.e. the General Audit Chamber. We participated in interviews as well as workshops during TI's evaluation. According to the assessment of Transparency International, the General Audit Chamber is one of the three strong pillars of St. Maarten's National Integrity System.⁹
- In October, in celebration of Constitution Day, the General Audit Chamber in cooperation with the Ombudsman and the Council of Advice, hosted an "Information Village". For this event, the Festival Village was transformed into an information marketplace for the public. All manner of public organizations, including ministries and government departments, participated in this one-of-a-kind event. St. Maarten's high school students were issued a special invitation so as to provide them with an opportunity to learn more about government, and possibly prepare them to play a role in our country's future.

⁹ St. Maarten 2015 National Integrity System Assessment, page 14. Transparency International, 2015.

3. Operations

Advisory and audit activities are both personnel-dependent as well as labor intensive. Human resource management remained a critical operational pursuit in 2015.

3.1. Human Resources

Table 1

Based on our current staffing manual, the General Audit Chamber's human resource complement is set at a maximum of eight (8). Staffing levels at the end of 2015 are shown in Table 1.

The legal advisor position was filled in February. Our team of auditors underwent change early in the year. The senior auditor resigned in January. Management opted to recruit two young professionals and provide training and mentoring in order to broaden our internal research capacity. Furthermore, as part of a policy to enhance self-sufficiency, the function head of administration was filled in mid-2015 by a professional with experience in financial administration. This team member supports the budget management activity of our institution. A suitable candidate was not found to fill the position of administrative officer, though recruitment for this position continues.

General Audit Chamber 2015	
Function	Status
Secretary-General	Full time
Auditor (3x)	Full time
Legal Advisor	Full time
Chartered Accountant (Registeraccountant)	Part time
Head of Administration	Full time
Administrative Officer	Vacant

Research and audit activities require specialized knowledge and skillsets. Training is therefore an operational staple at the General Audit Chamber. In 2015, we provided on-the-job training and other educational activities for our staff. In order to meet the schedule required in our audit plan, we used specialized technical support. The support took the form of detachments of experienced audit professionals. Two missions were arranged via the Court of Audit in the Netherlands. An operational auditor was also brought on board to assist with a governance audit and to mentor our audit team members.¹⁰

Our "part-time" (on demand) chartered accountant (*Register Accountant*) also supported the execution of audit work in 2015, and was a valuable reference and resource for the new members of the audit team.

The newly hired staff members were provided orientation training courses in 2015. The courses covered a variety of subjects related to working at the General Audit Chamber including basic knowledge of the system of government, the relevant laws and legislation, the annual budget cycle, research methodology and audit procedure. In addition, all staff members attended a mandatory workshop related to integrity. Staff members also attended a lecture on "Morality, Integrity & Corruption" provided by Dr. Terrence Farrell from Trinidad & Tobago as part of the "Information Village" event in October, 2015.

Staff members were encouraged to participate in the Certified Internal Auditor training. These self-study and distance learning activities were a part of the performance evaluation of the staff.

3.2. Audit activities

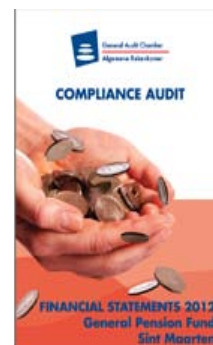
Our core business is investigating the compliance and performance of public expenditure. In addition, we are mandated to conduct integrity investigations. In 2015, we focused on compliance and performance audits. These audit activities are summarized below.

¹⁰The three month detachment of a *Register Accountant/Operational Auditor* from the Audit Service of the Ministry of Finance in the Netherlands was arranged via the SOAB.

3.2.1. Compliance Audit: Financial Statements APS 2012

The National Ordinance General Pension Fund requires the General Audit Chamber to review, among others, the financial statements of the Fund. The board of APS presented us with the 2012 financial statements by letter dated August 12th, 2014.

Our audit report of the 2012 Financial Statements of APS, included our findings related to the review of legal compliance and governance, compliance and risk management, as well as the financial information. We also made use of an external actuarial expert for this audit. The formal fieldwork was completed late November 2014 and the first draft of the Memorandum of findings was completed in December 2014. The final report was published on March 27th, 2015.



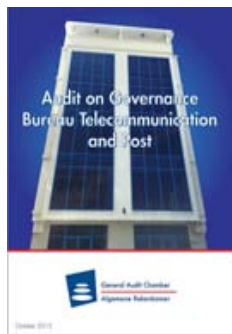
Items of note from our report include:

- The existence of a significant claim of ANG 53 million against government. We cautioned that attention should be given to achieving a satisfactory settlement of this claim in order to prevent a loss of capital of the pension fund, particularly as the claim grew as compared to the previous year.
- The incompleteness of the participant files of APS. The files did not contain all participants and information of a significant number of participants was not correctly registered in the files of the APS.
- A coverage ratio of the APS of 100,4 percent. At the end of 2012, the obligations of the APS were *barely* covered by the available capital. The available capital was insufficient to cover general and investment risks.
- The use of 22% premium. This percentage was not in accordance with the legally required premium percentage of 25 percent.¹¹

Based, among others, on the existence of the aforementioned issues, we refrained from issuing an opinion regarding the reliability of the financial statements, and we could not conclude that the financial position of the APS was healthy at the end of fiscal year 2012.

In paragraph 3.2.3 we will discuss our audit of the 2013 Financial Statements of APS and the degree of progress in terms of addressing the issues identified in the 2012 Financial Statements.

3.2.2. Audit on Governance: Bureau Telecommunication and Post



Based on information obtained from the country's 2012 and 2013 financial statements, we concluded that the financial transfers from the Bureau Telecommunication & Post (hereafter: BTP) to Government, were lagging behind expectations. As such, we decided to conduct a comprehensive performance audit. Governance¹² proved to be a recurring theme during the preparation for the audit and became the focal point of the investigation. Our report was issued on October 5th, 2015.

Specifically, we found that governance, or the lack thereof, impacted the effective functioning of BTP and was partly the cause of lower than projected financial transfers from the bureau to government.

Findings from the audit included the absence of an up-to-date vision document and policy objectives. The legally required annual performance contract for the director was also lacking. We also discovered that essential documents necessary for proper governance and operations, such as the annual budget, were either not available or issued late. Our investigation uncovered evidence of sub-optimal oversight of BTP from the responsible minister.

In addition to the shortcomings related to governance and performance uncovered by the audit, we found evidence of significant non-compliance with the National Ordinance BTP.

¹¹ National Ordinance General Pension Fund, article 58, paragraph 2.

¹² "Governance is guaranteeing the consistency of the individual elements of management, control and supervision of organizations focused on achieving efficient and effective realization of policy objectives and clearly communicating and giving account about this in the benefit of all stakeholders", Governance model of Bossert, 2004 .

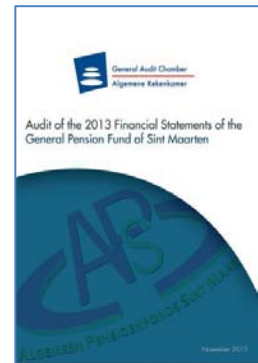
Given the shortcomings in terms of (internal as well as external) governance at BTP and the poor compliance with regulations, we issued recommendations to the Minister of Tourism, Economic Affairs, Transportation and Telecommunication, as well as to the Director and the Supervisory Board.

The General Audit Chamber discussed our findings with the responsible minister as well as with Parliament. We will continue to monitor the progress at BTP.

3.2.3. Audit of the 2013 Financial Statements of the General Pension Fund of Sint Maarten

As noted in section 3.2.1, the General Audit Chamber is required to audit the General Pension Fund (APS), including the annual financial statements. The Board of the General Pension Fund presented their 2013 Financial Statement to us eight months after the legally required date. Late presentation of financial statements seemed to have become routine given that previous financial statements were also presented well past the legal 'due date'.

We noted in our report (November 24th, 2015) that the Minister of Finance, as the responsible minister, systematically approved postponements for submission of the APS Financial Statements of 2011, 2012 and 2013. We expressed our concern regarding the apparent ease with which the Minister of Finance granted postponement. It should be noted that the 2014 Financial Statement for which a report will be issued in 2016, was presented with a delay of approximately one month. We hope this is a sign of progress.

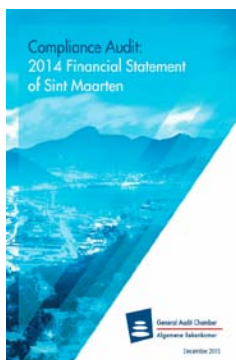


The 2013 Financial Statement of APS presented information on a number of issues that remained unresolved from previous years. As was the case in 2012, APS reported a significant (and growing) outstanding receivable against Government of over ANG 68 million. The fund's coverage ratio was 101,4% in 2013, which was an improvement as compared to 2012. However, the coverage remained well below APS's standard of 105%. Of particular concern was the premium percentage. The legally required premium percentage is 25%. APS maintained the rate of 22% in 2013, as was the case in 2012 and 2011.

Participation in the General Pension Fund is a requirement for public sector employees.

We feel that the shortcomings need to be addressed in the near term, so as to mitigate the risk to the fund viability and ultimately, to its participants.

3.2.4. Compliance Audit: 2014 Financial Statement of Sint Maarten



The General Audit Chamber reviewed the financial and material management of the Government of Sint Maarten for fiscal year 2014. We issued our report on December 9th, 2015.

The audit of the financial statements of the country is mandatory and as such, this publication represented our fourth report. We concluded that, once again, St. Maarten did not present a reliable and auditable financial statement. We find this lack of progress unfortunate.

The financial information contained in the financial statement must be developed in accordance with the budget and related regulations. We determined that the financial information does not meet the requirements of the National Government Accounting Ordinance.

A few notable shortcomings on which we reported include:

- 55% of the summary templates¹³ contained in the financial statement were not correctly filled in;
- 73% of the line items of the 2014 Financial Statement contain uncertainties;
- quantifiable reliability errors amounted to ANG 12.9 million.

¹³ Summary templates established by the Minister of Finance in accordance with article 17 National Government Accounting Ordinance. These templates are used in the financial statement.

We determined that from 2011 to 2014, Government provided too little information in their financial statements.

A plan, drafted by the Minister of Finance to address many of the shortcomings was not available in 2015. The Minister stated that the plan along with the individual subsets (sub plans) would be formally presented to the General Audit Chamber. This would occur initially in March 2016. Later this date was postponed to May of 2016. To date, we have not received the aforementioned plan.

In our opinion, improvement of the financial management can only take place once Government, and the ministers live up to their respective responsibilities. So too, Parliament needs to address their supervisory responsibility within the system of public finance.

Poor legal compliance was evident in all investigations conducted in 2015. We have noted the same trend in our investigations from previous years as well. Complying with rules and regulations is a priority for all in a country based on democratic principles and law and order.

3.3. Advisory/consultative activities

In 2015 we provided advice to the Prime Minister and the vice chair of the Council of Advice as required by the law as part of the procedure for appointment of ministers.¹⁴ The General Audit Chamber provides advice to the Prime Minister¹⁵ regarding *“commercial interests, secondary positions and secondary activities are undesirable in the interests of proper performance of the office of minister or the preservation of the impartiality and independence, or of confidence therein”*.

We provided advice for the newly appointed ministers with one exception. No request for advice was received related to Minister A. Meyers.

Based on the National Ordinance Registration and Finances Political Parties¹⁶, the General Audit Chamber is tasked with the review of the financial reports submitted to the Electoral Council by political parties. On October 30th, 2015, we provided the Electoral Council with our advice. Because this advice is not presented to Parliament, it is not published for public consumption. The Electoral Council ultimately decides on the publication of the content of the advice.

¹⁴ National Ordinance Promotion of integrity of ministers (*Landsverordening integriteitsbevordering ministers*), AB 2010, GT no. 22.

¹⁵ *Idem*, article 3, paragraph 2.

¹⁶ National Ordinance Registration and Finances Political Parties, article 29.

4. Financial Reporting

In the following sections we provide an overview of the implementation of our budget for the year 2015.

4.1. Budget 2015

The Chairman is responsible for the financial management of the institution.¹⁷ Limited financial management authority was mandated to the Secretary-General for the conduct of normal operations for which reports were presented to the Board on a quarterly basis in 2015.

While we provide an overview of the budget realization for 2015, we note that status of the National Ordinance for the adoption of the budget for fiscal year 2015, remains unclear. Government characterizes the status of budget 2015 as being in a “no man’s land”, and as such “...cannot formally be used as a point of reference for expenditures in 2015.”¹⁸ Given the uncertainty regarding the formal status of the 2015 budget, the General Audit Chamber closely monitored expenditures so as not to exceed the parameters of the 2014 budget. If the budget for a fiscal year does not go into effect, the previous year’s budget is used.¹⁹ In other words, if budget 2015 did not go into effect, budget 2014 prevails.

4.1.1. Budget Realization 2015

Because the government’s 2015 Financial Statement is not yet available, the following information is provisional and unaudited. In Table 2, we compare the budget versus actual expenditure and provide a ratio to represent the budget realization.²⁰

Table 2

Budget item (ANG)	Budget 2015²¹	Actual Expenditure	Balance	Realization (%)
Personnel Expenditures	1,139,199	874,881	264,318	77
Remuneration Board	136,000	133,950	2,050	98
Material costs, goods & services	729,796	616,429	113,367	84
Total	2,004,995	1,625,260	379,735	81

Overall, the budget realization was 81% in 2015. For comparison, our budget realization in 2014 was 82%.

4.1.2. Restatement of realized expenditures for 2014



In June 2015, we presented our 2014 Annual Report in which we provided our financial information. The budget realization that was reported was based on unaudited data. We reported a total expenditure of ANG 1,658,804.

Below we present the summary of our operational expenditures based on the audited information.

The information is drawn from the 2014 Financial Statements of Sint Maarten in which the amounts have been presented as rounded to the nearest thousand.

According to the 2014 audited figures, the total expenditures for the General Audit Chamber were lower than reported in our 2014 Annual Report. The difference is approximately 1% and as such, is not considered material.

¹⁷ National Ordinance General Audit Chamber, article 49, paragraph 2.

¹⁸ Explanatory Notes on the Draft Budget for fiscal year 2016, page 9.

¹⁹ National Government Accounting Ordinance, article 16, paragraph 3.

²⁰ Budget realization is the percentage of actual expenditures as compared to the budgeted expenditure.

²¹ Draft National Ordinance for the adoption of the budget for fiscal year 2015, template H, March 2015.

Details of the restatement of budget realization for 2014 are presented in Table 3.

Table 3

Budget item (ANG x 1000)	Budget 2014	Reported Expenditure	Audited Expenditure	Difference	Variance (%)
Total	2,035	1,659	1,642	393	1



General Audit Chamber

Algemene Rekenkamer