



PUBLIC ACCOUNTS COMMITTEE

NATIONAL PARLIAMENT OF SOLOMON ISLANDS

COMMITTEE TRANSCRIPT

Ministry of Justice and Legal Affairs

12 March 2008, 10:40am

Mr Chairman: I would now ask the Permanent Secretary for Justice and his officials to make his presentation.

Mr Remobatu (*Permanent Secretary*): (*first part not recorded*) reduce the amount. I have also attached therein in the copy of our bids. The bid amount was around \$10million. We are successful in getting \$3.8million in our recurrent budget for this year.

One of the points I want the Committee to note and also the Ministry Finance is the allocation given to the Law Reform Commission under civil service salaries. The amount was drastically reduced which does not reflect the true cost of personnel who are now at post. The cost of personnel now at post should be around \$270,113 but the amount given was some \$58,000 or so only. I think that is one that needs to be corrected.

Also in the recurrent budget, Mr Chairman, under the Office of the Director of Public Prosecutions budget, there were some allocations that should come under the Ministry of Police Prosecutions were allocated there. This should come under 283-2168. These are 1010 civil service salaries, the sum of \$491,300. (Mr Chairman, this is not included in the note. This information just comes to hand). Housing Allowance the sum of \$50,000, Special Duty Allowance \$147,000, other allowances \$25,000, NPF \$41,625, telephone \$60,000, Community Policing \$190,000, totaling \$1,400,925. These items, we believe, were wrongly allocated to the DPP's Office.

We appreciate the amount allocated to us through the successful bids, but we think there may be some activities that we may not be able to pursue because of unsuccessful bids that were made to Finance but were rejected. These include Law Graduates scheme of service, which is a scheme that engages new law graduates to work towards their admission.

Our bid for outsourcing of work required to implement infrastructure project was not taken on board. Last year we were able to move one of the projects forward because we managed to outsource the design and costing, which are usually done by the Ministry of Infrastructure Development. As you will see in the Development Budget, the National Judiciary has three infrastructure projects, which we in the Ministry assist and then implement it. This could affect the implementation of these projects.

The other thing that also affects us is in terms of security costs. We have been but it was not successful. At the moment our security cost is met by the Law and Justice Program, which already indicated that it will cease meeting it after the

budget is passed. If that comes true we will have equipments in offices, vulnerable to theft.

Having stated the above we do acknowledge we were given additional funds.

On the establishment we only have about 15 posts increase over the 2007 establishments. In 2007 we have about 110 posts, of which a total of 76 were filled. But this should now increase given that we have already commenced recruitment.

That is what I want to comment about the Ministry. If you allow me then I will move on to head 296 - National Judiciary

Mr Chairman: But before you move on, do you have this page with numbers.

Maybe for ease of reference for members, that's the development estimates, but if we can have one for the recurrent estimates.

Mr Remobatu: We don't ever see this one. We are only given copies of our relevant parts.

Mr Muir: You got your own part but the same numbers are there. No, I am sorry the total will come out you are talking about.

Mr Chairman: I am simply raising this for ease of reference, and we are looking at the same pages. You have covered the Ministry of Law and Justice and you want to go on to the other one, the National Judiciary. Yes go ahead.

Mr Remobatu: Thank you Mr Chairman. For the National Judiciary, as I did with the presentation of the Ministry, start off with the development budget.

We made three bids for the National Judiciary and these were successful. The three consists of renovation to Magistrates residences in Auki, Honiara and Gizo. This is the continuation of the one that was in last year's budget. This year it will involve renovation of houses in Auki and Gizo.

The second project is continuation of that one and will involve renovation of Magistrates residences in Kira Kira and Lata.

The third one will involve the renovation of court houses in the provinces. With the amount approved, we may be able to renovate about 10 of those court houses in 2008.

Turning now to the recurrent estimates for National Judiciary, we made a total 15 bids for the 2008 recurrent budget, with a total sum of \$4,250,610, of which about four bids were accepted in either getting the amount bid for or getting a reduced amount other than the amount bid for. The value of the bid accepted totaled about \$548,000.

There is also increase in the allocation for civil service salaries, which at this stage we understand that some of the bids were accepted but were not at this stage able to know from Finance which of them were accepted with perhaps reduced amounts.

Of the 15 bids those that were not accepted include our bid for cost of security to the premises. This could lead to the premises not having sufficient security.

We have also, in our bid, bid for funds to cater for the MOU between the Solomon Islands and Papua New Guinea on the provision of Magistrates. This was not taken onboard. Recently, we have a local Principal Magistrate resign and will be moving somewhere else.

Our intention is to get about two Papua New Guinea Magistrates. We had this in mind when we bid for it. One is supposed to be posted to Malaita to provide judicial services there. But the non acceptance of the bid may affect this posting.

We note also that there was a reduced amount in the provision provided for Magistrate Court circuits. Perhaps the amount given is based on the actuals by the Ministry of Finance, but our concern is that at the end of last year the programmers withdrawn the use of their vessel, the MV Silent 1, always used by Magistrates on tours to remote parts of the country.

With that withdrawal and reduction in the provision for Magistrate court tours, this could result in less or no tours made to outer remote parts of the country due to its high cost.

As I stated earlier on, we are yet unsure in terms of the civil service salaries on the amount that was given, the extra amount given by Finance to the National Judiciary. We are concern that if it is not for our bid to increase local court clerks then that would also affect the operations of the local courts.

It was our intention to increase the number of local court clerks around the islands to assist in having local courts sit frequently because in the past everything was controlled from Honiara or provincial centres where magistrates are. That is also another concern.

For any other concerns I will have Mr Konia to further expand on.

Our concern as well is that we also bid for a vehicle for the Sheriff. We have recruited a Sheriff and Sheriff Officers. Their new office building will be completed about April. Our concern now is that our bid was not accepted. I don't know why but these people will not be effective in carrying out civil orders of the court.

I think some may recall that, that has been an area witness identified by ADB, I think, in terms of enforcement of civil court decisions, which is a factor inhibiting business, and that is why we are trying to address this area by getting the Sheriff and giving them office and equipments so that they will be more effective in enforcing court orders. That is also an area of concern to us.

I have also mentioned the establishment of the Judiciary.

Finally, Mr Chairman, there were three audit reports by the Auditor General into the Ministry of Police, National Security and Justice at that time for 2004 and 2006. Those reports made several recommendations to improve the management of finances within the Ministry of imprests and of procurements.

We have responded to that, and a copy of our response is in the handout that I have given out. I think that is all I can say at this time.

Mr Chairman: Do any of you Members or officials want to make further comments.

Hon Sogavare: Mr Chairman, we continue to get this concern by ministries that have come before us already concerning cut in very important allocations. That seems to be coming from every ministry that have come so far.

We were raising the question whether there is proper consultation between yourself and the Ministry of Finance or the Budget Unit on these cuts. Where do these instructions come from?

Your bid represents what you feel are important to carry out the intentions of the government. We are given to understand that the Ministry of Finance will address that

eventually. They are talking about another supplementary appropriation in June. But I think it is important that you actually consult with the Budget Unit so that some of these under allocations are addressed.

There are some, and I think you have also indicated that there are people at post that are not really budgeted for as well. That affects emoluments under its head.

But this is what we get from ministries that have come so far. It is a problem across the ministries. We can understand the Ministry of Finance when they have to address all the ministries. So may be where they allocate funds to where they cut may be not agreeable to ministries, but I think it is a matter that could be talked through with the government.

Mr Chairman, we raised this issue when the Ministry of Public Service was here, and that is in relation to the engagement of technical assistance where we understand that lawyers engaged under RAMSI are posted in line posts in any ministry.

The concern was raised that there is the hectic process of getting Solomon Islanders in line to fill these posts. We need to really appreciate the nature of these engagements whether they are held against posts that Solomon Islanders will eventually fill at some point in time or are they stand alone posts that only support the presence of RAMSI until they go.

We need to really appreciate that so that, and I guess what the committee will want to know is, are there any program in place to eventually fill the posts held by expatriates at some point in time when their engagement ends, and that will affect the long term sustainability of the provision of legal services. We want you to explain that to the committee.

Mr Remobatu: I think what our Ministry has done is not really putting expatriates on the establishment that we have for those agencies. For example, the Public Solicitors office has about 15 expatriate officers but in the establishment we only provide for 12 senior legal officers position which should cater for new law graduates.

When it comes to recruitment we keep on getting our local lawyers, new graduates because we don't want to mix them up with our available local position where they all fill it up and we don't have any posts for our local lawyers.

They are there. We know that they are appointed by the Judicial & Legal Services Commission but we don't necessarily put them in our local establishment.

In terms of having lawyers taking over, I think that is why we are trying to have the graduate lawyers program and student placement program. That is why we bid for that.

As from 2007, we have been encouraging students who took up law to come and attach with each of our agencies so that they have the feel of what it is like to be addressed, and we provide them with some allowances. But the thing is that a lot of our locals, even those who are starting to do law at the USP Center have already enquired about it. But as I mentioned earlier our bid for it was not successful. Because of that we may not get the number that we would normally get.

That is to try and encourage young students who are not yet lawyers or lawyers who have graduated but are not admitted to the High Court.

Hon Sogavare: Mr Chairman, I want to go back to the first point where you said that you do not have the say in how these people are posted. The Ministry does not have a

say in where these people are posted. How can they fit in with your government program?

Mr Remobatu: What I was trying to explain earlier on is that the establishment we have with the public service does not include them. They are not included in the establishment that is published by the Public Service.

We have on our records that these people are in the Public Solicitors Office, the DDP, the Magistrates, the Law Reform or wherever they are.

In terms of engaging them, in the past as you know they are just engaged but up until 2006 I think, the Ministry and the Agencies become more involved in the selection of these people.

We were involved in the intake of who is suitable to come and work. For instance, I myself was involved in interviewing people who come and work at the Ministry headquarters. I was involved in selecting who is the right candidate. The same also goes for those who work at the Public Solicitors Office where others go to interview these people.

That is where the Ministry is involved.

Mr Chairman: Maybe just a recap on this. If you look at the development estimates, you have a very healthy \$87.2million under the non consolidated budget. You also raised some serious shortfalls in the recurrent and maybe in your development estimates.

How do you get on with these programs with your counterparts in terms of boosting your work programs?

The other question is, what kind of work are these people doing and on what kind of programs and where do we fit in with their programs?

Mr Remobatu: It has already started. When they held their meetings I have already given some views as to what we want, how do we want the funds to be administered whether it should come through multilateral or bilateral arrangements? These are the points we will be driving at these donors during this review period.

In the past and up until now we were really not in a position to know exactly how much is spent on this and how much on this. I think we need to make sure that we are able to have those things - access information and know about it and may be even negotiate how the funds should be administered.

Hon Sogavare: This issue cuts across ministries, and it has potentials of affecting government services if we rely very heavily on them. There has to be some understanding in place where eventually the Solomon Islands Government can take over that funding level. We really need to work this out. And this is not only in your ministry but it cuts across all the ministries

There is this big input through the Regional Assistance Mission boosting services by recruiting people to come and work in the ministries. And if the Public Service relies on these people in a permanent way and eventually when this assistance is withdrawn, you will still have the needs there but assistance is withdrawn.

This thing must be natured properly so that the Solomon Islands Government can take over at some point in time when the assistance is drawn. The concern we have is the long term sustainability of services.

Therefore, while we still have the opportunity whilst they are here, we should also be aggressively addressing our own, maybe training our own people. Get the understanding with them as well to tell them that funds should go this way now in training our people to take over eventually when you leave.

That's the concern we have, but I think it is appreciated by all the ministries that have come where I raised this issue with.

Hon Soalaoi: First I must thank the Ministry for the notes. It is in fact one of the best presentations we had so far.

The only concern we have and which concerns every other ministry is that there is lack of skilled human resources to meet specific needs of the ministries.

In regards to the Ministry of Justice and Legal Affairs, you may also be lacking qualified lawyers in technical and specialized areas. Does the Ministry have any plans to train people in specialized areas? For example, a marine lawyer, a lawyer specializing in forestry alone and those kinds of areas. That will assist the Ministry in addressing the different needs from people needing legal advice from the Ministry.

Mr Remobatu: I just want to say that I think in terms of specialized areas, which the Honorable referred to, I have this to say.

Initially lawyers will do undergraduate studies and after graduating qualify with a LLB. After graduating they may practice and then through practice they may specialize in some areas. Through practice and experience they may specialize in an area. Of if someone wants to do further studies they may undertake further postgraduate studies in specific areas, as you mentioned.

One thing I must mention now, and this needs confirmation from the Ministry of Education is that there was some talk of halting or suspension of undergraduate scholarship for a time by the Ministry. If that is the case, then you would not expect the number of undergraduates to increase.

There is still training through the Ministry of Education for other postgraduates. May be that is an area that can be utilized to meet the specialized areas you mentioned.

This is an area that could be looked into. Say for instance, the AG Chambers has insufficient manpower and capacity so as to be able to have some of the officers pursuing studies in certain areas of the law so as to become specialists. I think that is how I will answer that question.

Hon Soalaoi: Mr Chairman, just following on to your question. I guess the reason why we have 15 expatriate lawyers working in the Public Solicitors Office is because of shortage of qualified lawyers, and this is because we have not been able to attract lawyers we have in the country to work in the Public Solicitors Office.

Your budget seems to have inadequate allocation in very important areas, as you mentioned earlier on. In terms of your salary structure or your scheme of service, do you think that is one of the contributing factors why you are not able to attract lawyers to the Ministry? You also said that the Attorney General's Chambers is also in need of lawyers and may be other divisions of the Ministry also need lawyers.

What is really the issue? Is it because they prefer to work as private lawyers? Why do they prefer to work in private firms rather than attracted into the Ministry? Are you planning something to attract them into the Ministry?

I know that the reason why the Ministry of Education is putting a ban on pre-service training and may be increase in-service training of lawyers is because they know that there are enough trained lawyers. May be there is need for us to go into in-service training so as to address the question I ask earlier on about specialized areas.

What I am basically saying is, are lawyers serving government departments satisfied with their remunerations?

Mr Remobatu: We have been trying throughout the years, I would say, to attract lawyers.

The trend seems to be that people come to the government legal offices as a stepping stone to get further into greener pastures. They would easily go there for two or three years, gain the experience and if they see any opportunity they leave.

We have been trying to address that by looking at their scheme of service. We have been trying to give them something better to try persuading them to stay on.

Getting lawyers at the lower scheme is not really a problem. It is retaining those at the middle or upper level that is a problem. I don't know how we can be able, as a government match what is offered at the private sector.

But having said that, say for instance in 2007, we have provided some allowances to the lawyers as an incentive for them to remain. Even with that, as I have mentioned earlier, one of the Principal Magistrates has left because there is something good offered some where else.

I think we may not really be able to stop lawyers from leaving. But to entice most of them to remain is what we have been working on and will continue to work on to look at their schemes of service including may be remunerations and also other things apart from remuneration to attract them to remain in the government sector.

Hon Sogavare: This moratorium you are referring to by the Ministry of Education, do you agree that we have more qualified lawyers than we need in this country?

Mr Remobatu: No, I don't because even the Ministry has not been able to fill up all the vacant positions at the lower scale, which is for new law graduates. I also think that lawyers should not only be trained to come and work for the government. We could assist in getting them admission and they could go and work for others within the country.

I think there is room for more lawyers in this country. I think the moratorium was made without consulting us too. I have expressed this to the Ministry of Education.

Mr Chairman: One of the key pillars of CNURA is to advance rural advancement that may not only be for economic development but also in terms of services. What can be seen here is the empowerment of people and traditionally especially chiefs in the rural areas. What is the department doing to expand this to traditional leaders?

Mr Remobatu: Currently, we are undertaking a program where we have two officers visiting Malaita, Makira and the Western Province.

We want to gather information on the current setups in the communities. We want to know how chiefs or elders in the communities operate and how they resolve disputes. We want to find out what would be their impediments and their successes and see whether we can get some framework to strengthen them deal with justice issues at the village or community level. That is one.

The second thing we will be looking at this year is to look at the possibility of amending the Local Court Act to give some recognition in terms of may be financial to the chiefs and people who deal with resolving customary land disputes under the Local Court Act.

As you know, under the Local Court Act, disputes must go to the chiefs first, and after they deal with it before the local court has the jurisdiction to hear the disputes.

We know that in terms of logging or other cases, chiefs are usually sponsored by people to sit and hear cases. May be we should come in here so as to enable chiefs to sit and hear cases and not to rely on people to pay them to sit to hear disputes.

That is also another area we will be addressing by amending the Local Court Act. Work is now underway to look at the Act and review where necessary.

Hon Soalaio: Coming back to your budget for 2008, you mentioned your bids have been accepted, but some with reduced amount. Usually I understand in making bids, it is based on your activities. So if you are looking at an activity based budget but then funding becomes a constraint in a ministry to implement its activities, then what about the activities in your program.

I have a question. Do you think the allocation you have this year is enough to facilitate the advancement of legal services throughout the entire nation?

Mr Remobatu: It may not be sufficient but I think we can work within the budget or the money we have been provided with to ensure we get maximum use of it where services are provided as much as our abilities can go to the people. I think that is how I will answer the question.

Hon Soalaio: Mr Chairman, in terms of implementing government policy, we talk about rural advancement, and we are tasked to implement government policies. I am interested in the long term advancement of whatever allocation you get you are being tasked to advance government policies in the rural areas.

It would be interesting to know if what we are getting from our budget is enough to of legal services.

Mr Remobatu: I mentioned earlier of the role of magistrates on reduction in the amount. Without a ships or something to go around taking the magistrates around the country, it will be a difficult task.

Mr Chairman: Any further final comments from members or officials who want to make final and concluding remarks.

Mr Michael Konia (CEO National Judiciary): Mr Chairman, I would like to just to bring to the attention of the committee the fact that when bids are made to the national government over 85% of it is thrown away, not included in the budget. So much time

and energy is used to think and make up these things but in the end only one or two bids are accepted.

I am just thinking if the government can put a ceiling for each ministry so that department priorities and needs are made according to the amount of money the government is prepared to spend on a department or ministry. In that way bids will be more realistic and priority based.

In the same light, when bids are submitted to the Budget Unit for scrutiny, I think there should be more consultations between the Budget Unit and the relevant ministry. This is to avoid silly mistakes.

Sometimes the Budget Unit seems to pick whichever projects it thinks is right rather than giving the relevant ministry the opportunity to choose their programs according to their priorities to carry out in a year.

If the Budget Unit has to cut the projects they must first of all seek the relevant ministry for some advice. Which ones do you want to be included and which ones do you want to be taken out of the budget.

Mr Chairman: So what really was the consultation process with Budget, Finance and departments? Is it open and transparent or is it sort of thrust down to departments to accept.

Mr Konia For example, this is the proposal we gave to the Budget Division. We listed the activities against each policy. We have a whole lot of them here before they were submitted to the Budget Unit. The bids are prioritized in the order of importance which our department thinks.

Hon Sogavare: Mr Chairman, you also have donor funding as well. But the problem here is when there is no meeting of minds within government and aid donors in terms of priority.

What the Solomon Islands Government thinks as priority. I think it is not a question of lack of money. There are enough funds going around but we really do not come down to agree on priorities. I am referring to assistance by donors.

What the Ministry of Finance eventually allocates is revenue we are going to collect. It is restricted to that. It does not say how donor funding assistance is used. So there is a lot of frustration by ministries that submitted bids but are not allowed.

I think a more workable solution is just provide ceiling in terms of priority areas, like priority 1, 2, 3, 4 and put weight on those priorities and then inform ministries to work with this limit.

That suggestion by Michael makes a lot of sense to avoid frustrations so that we don't have to say we bid but was rejected so that they will not wonder why a government priority is rejected.

Mr Chairman: Members we almost run over time. We have skipped lunch. We might not have lunch until 6 to 7 o'clock in the afternoon. Unless anybody has further comments, do you want to make any concluding remarks PS?

Mr Remobatu: Thank you Mr Chairman. I think I have said most of the things I would want to say. The only remark I would like to make is about the corrections that are

needed. If Finance agrees then some of our officials would see them to correct these mistakes that I mentioned earlier so that it does not appear in the budget proper when it comes to Parliament.

Hon Sogavare: Mr Chairman, there needs to be some commitment by the Ministry of Finance to do that because it appears not to be their commitment. The explanation seems to be that you can adjust this within your own budget.

There are certain items that may be over budgeted, certain items under budgeted and so you can move funds around. That is the kind of explanation they gave us. But there needs to be some firm commitment by the Ministry of Finance on what to do with apparent under allocation on items that they must have. For example, there are people at post and if you under budget them then it does not make sense, you are affecting people at post.

But that's the kind of explanation they gave us that there are mechanisms within the budgetary process that they can actually funds around.

You are a former AG and so you need to correct us on this. But that's the kind of explanation they gave us. There is no firm commitment on them waiting for you to go and negotiate these things with them now. It seems to be the final now.

Mr Remobatu: Our concern is that once it goes to Parliament and is passed we will not be able to move the funds from the payroll to other charges. That's why we are asking if we can see them to sort this out before it comes to Parliament.

Hon Sogavare: You need to correct us. Can you move funds from other line items to emoluments but not from emoluments?

Mr Chairman: There needs to be a review under the Financial Instructions Regulation.

Hon Sogavare: Are there no Finance officials in here?

Mr Chairman: It shows there is no commitment from them. On day one the PS said this is a credible budget, but this is the third day of hearing and we are now seeing that this is no longer a credible budget. That is the bottom line.

Hon Sogavare: That's the point we need to make.

Hon Soalaio: I think that's why we were telling them it would be good if these concerns are reflected in the budget because that should allow them to plan again. After the bids are rejected you re-look at your plans again and reprioritized them.

Hon Olavae: It has always been our practice of doing things in the last minute. We only give our submission to the Ministry of Finance may be in October or November.

I think it would be good if we put our time forward. May be we should start organizing ourselves by June. Every submission should be given to the Ministry of Finance or Development Planning by the month of June each year so that there is enough time to negotiate your programs and projects with these two ministries if there

is any discrepancy that is found. Finding discrepancies at the earliest possible time can enable you to correct them.

Right now it is the last minute and so even though you want to make any adjustments, it is not possible.

Mr Chairman: That's an important point. I think the time line in terms of budget preparation has been raised in previous PAC deliberations, and I think this concern already appeared on past report. What we need to do now is find ways or mechanisms to regulate it so that it is used as a fallback instead of last minute preparation.

But the comment you made Michael in regards to the hard work you did to the projects that you submitted to the Budget Unit is a very good point. Because if you know you have a ceiling you would work towards that ceiling instead of you working your guts out, put together all the different priorities and objectives together only to find at the end of the day it is rejected. And because it is rejected all the hard work you put into making the bids, all the good intentions of the department are just wasted. That is a very good suggestion by the Ministry of Justice. I think it is the first time for me to hear a suggestion like that from a department, and so it's a very valuable contribution from the department. It will definitely go down in the report.

But on behalf of the members, I would like to thank you Permanent Secretary and your officials for coming along this morning for your budget brief clarifying some of the issues and also raising the shortfalls in your budget. Once again thank.