



General Audit Chamber  
Algemene Rekenkamer

JUNE  
2022

**Compliance Audit:**

# Financial Statements 2020 Sint Maarten





General Audit Chamber

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Algemene Rekenkamer

*This document is an English translation of the original Dutch language report entitled: "Rechtmatigheidsonderzoek: Jaarrekening 2020 van het Land". In the event of textual contradictions or any other differences, the original Dutch text prevails.*

**June 2022**

General Audit Chamber, Juancho Yrausquin Blvd #10, units 4 & 5.

## PREFACE

We present our audit of the Government's 2020 Financial Statements with this report. This marks the fourth financial statement submitted by the government in less than half a year. With its presentation, the government is up to date in terms of financial statements. Mainly because the financial statements are a financial report, they constitute the pre-eminent means of accountability for evaluating the government's performance (primarily the financial component).

The balance sheet and the profit and loss statement for that particular year are included in the financial statement. Explanatory notes supplement these. These statements are supposed to be linked to the accounting records, which are connected to the accounting entries, such as invoices, receipts, and bank statements. The last 10 financial statements submitted by the Government of St. Maarten exhibit insufficient attention to auditable financial management; resulting in either an adverse opinion or disclaimer of opinion. After the transition to Country status, structural and long-term legal compliance errors and deficiencies remain. With the anticipated implementation of the Country packages, we hope that the financial management will improve in the coming years.

In effect, proper financial management leads to, among other things, the efficient use of taxpayer's funds, increased public confidence in the Government, higher tax revenues, improved compliance, reduced risk of corruption, lower financial dependence on the Kingdom and the elimination of (temporary) higher financial supervision.

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## SUMMARY

As part of our legal responsibility, we audited the 2020 Financial Statements. By expressing our findings and opinions, we seek to contribute to orderly and verifiable financial management to ensure that public funds are spent in a legitimate, efficient and effective manner.

The 2020 Financial Statements include irregularities and shortcomings. Expenditures were made without corresponding funds being budgeted, and revenues were not realized or were less than budgeted. Accordingly, we conclude that the 2020 Financial Statements do not present a true and fair representation of the financial position as of December 31, 2020, and income and expenses for 2020.

These 2020 Financial Statements were due on September 1, 2021. We received the 2020 Financial Statements on November 4, 2021. By law, we report to the Parliament within six weeks after receiving SOAB's report. The report from SOAB was received on May 6, 2022. As of which, our legal deadline started. We presented this report to the Parliament within the six-week legal deadline.

In our opinion, the SOAB correctly issued an adverse audit opinion as to the financial legitimacy of the financial statements 2020 (lawfulness). Both the 2020 National Budget and the 2020 Financial Statements lack the information required by the National Accountability Ordinance ([NAO](#)). Until the National Budget is prepared in accordance with the NAO, the Budget cannot serve as a standard for the Financial Statements.

With the submission of the fourth set of financial statements in less than six months, there is progress in catching up. However, material, and structural quality improvement remain absent. Furthermore, even though we, the General Audit Chamber, consistently meet our legal deadline for reporting, the required draft national ordinances for adopting the financial statements are still not forthcoming (with that, Parliament's opportunity to decide on the granting of discharge).

## DISCHARGE

We advise the Parliament regarding granting or refusing discharge. Granting or refusing discharge is the final step in the budget cycle and implies that the Parliament either agrees or denies approval of the financial management performed by the Ministers.

Considering the implementation plans and execution of the pending Country Packages on the element related to systematically improving financial management, we recommend that Parliament grants discharge for the fiscal year 2020. However, we anticipate identifying improvements in financial management in 2022. We also observe that presenting four financial statements in the past year should not result in granting discharge being a formality. Catching up was necessary; however, the failure to improve quality means that it is impossible to facilitate Parliament with vital information required to evaluate the adequacy of the financial management of one or more Ministers.

We recommend Parliament issue a discharge, noting that the Government should consider the following issues:

1. Ensure that the draft national ordinance for adopting the Financial Statements is presented to Parliament within one month of the publication of the General Audit Chamber's report;
2. Structurally facilitate the Parliament by providing policy information in the financial statements. Without clear information, it is impossible to check whether the expenditure of public funds is legitimate and effective and whether policy intentions are achieved;
3. Fully comply with the stipulations of the National Accountability Ordinance; and
4. Hold the relevant minister responsible when accountability information is not forthcoming.



# 1 OUR AUDIT

## 1.1 Basis and scope of the audit

Examining the Government's Financial Statements is one of our core tasks.<sup>1</sup> With our report, we facilitate Parliament by providing information on the financial management conducted for (in this case) fiscal year 2020. Parliament uses our report in its decision on whether to grant or refuse a discharge.

## 1.2 The audit questions

In this report, we answer the following audit questions:

1. Do the Government's 2020 Financial Statements provide a true representation of the financial position as of December 31, 2020<sup>2</sup>, and the income and expenses of the [collective sector](#) for the period January 1 to December 31, 2020?<sup>3</sup>
2. Are the 2020 Financial Statements prepared in accordance with the relevant regulations?
3. Were the income, expenditures, and balance sheet changes drafted according to the approved 2020 National Budget<sup>4</sup> and other regulatory requirements?
4. Did the ministers provide an orderly and verifiable (auditable) financial management in 2020?

## 1.3 Reading guide

- Chapter 2: Reliability and content of the 2020 Financial Statements;
- Chapter 3: Are income and expenditures legally compliant?
- Chapter 4: Was there orderly and verifiable financial management?

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<sup>1</sup> Article 23 of the National Ordinance General Audit Chamber and article 53, third paragraph of the NAO.

<sup>2</sup> Article 2 NAO.

<sup>3</sup> The Government and institutions that administer social assistance: benefits that are collectively funded and available to everyone.

<sup>4</sup> Article 23, second paragraph, National Ordinance General Audit Chamber Sint Maarten.

## 2 THE FINANCIAL STATEMENTS

Each minister is responsible for submitting all financial information to the Minister of finance timely and comprehensively.<sup>5</sup> The financial statements are accurate, complete, and sufficient to evaluate the financial management performed by Ministers.<sup>6</sup>

### 2.1 Were the financial statements presented on time?

The 2020 Financial Statements need to be prepared before September 1, 2021.<sup>7</sup> The [Committee for Financial Supervision](#) (Cft) receives the Financial Statements (in draft or otherwise) no later than August 31.<sup>8</sup> We received the 2020 Financial Statements on November 4, 2021, "only" two months late, marking an improvement over previous years.<sup>9</sup> After receiving SOAB's report on May 6, 2022, we submitted our report to the Parliament within the legal deadline of six weeks.

### 2.2 What is the result for 2020?

The fiscal year 2020 shows a loss of ANG 181 million. The budget estimated an overall negative result of ANG 234 million.<sup>10</sup> The difference of ANG 53 million is mainly attributable to higher revenues (ANG 49 million) and lower costs (ANG 4 million). The 2020 National Budget was [amended](#)<sup>11</sup> to reflect the progression of COVID-19 and the extension of the Stimulus Program (SSRP) through the fiscal year 2020. Moreover, to satisfy the requirement to reduce the benefits for political authorities, the [Pension Regulation for Political Authorities](#) (Redundancy Pay) was scaled back.

We reported in 2018 on the [redundancy pay for political authorities](#), who are entitled to a monthly allowance of minimum ANG 13,000 to a maximum of ANG 21,000 for up to two years after leaving office. This arrangement was reduced from two years to one year with the budget amendment to satisfy (in part) the requirement of reducing the employment benefits of political authorities in exchange for liquidity support. However, our recommendation to introduce a mandatory job search for former political authorities was not incorporated. The purpose, surely, should be to ensure that individuals move on from redundancy pay as quickly as possible to save public money.

### 2.3 Deviation from the Kingdom Act Financial Supervision

The budget has to be balanced.<sup>12</sup> In exceptional circumstances, deviation from that rule is possible.<sup>13</sup> In a [letter](#) dated March 27, 2020, the Kingdom Council of Ministers agreed to waive the budget standard because of the pandemic. This means that St. Maarten was permitted to submit a budget deficit of up to ANG 185.5 million for 2020.<sup>14</sup> The budget (after amendment) included a negative result of ANG 234 million.

#### 2.3.1 The budget and accountability process

The General Audit Chamber's [website](#) provides an explanation of the budget process. In that context, we observe the following. In its advice on the budget amendment dated November 23, 2020, the Cft states<sup>15</sup>:

*"The budget amendment reveals a deficit of approximately ANG 275 million for fiscal year 2020 which fails to comply with article 15, paragraph 1 (a) of the Kingdom Act on Financial Supervision.*

<sup>5</sup> Article 52, first and second paragraphs of the NAO.

<sup>6</sup> Article 2 NAO.

<sup>7</sup> Article 52, first paragraph of the NAO.

<sup>8</sup> Article 18 Kingdom Act Financial Supervision.

<sup>9</sup> Email from the secretary general of the Ministry of Finance, November 4, 2021.

<sup>10</sup> Financial Statements 2020, preface. The fourth implementation report reveals a budget deficit of ANG 197 million.

<sup>11</sup> The budget was amended on July 5, 2021, pursuant to AB 2021, no. 27.

<sup>12</sup> Article 15 Kingdom Act Financial Supervision.

<sup>13</sup> Article 25 Kingdom Act Financial Supervision.

<sup>14</sup> Letter of State Secretary for the Interior and Kingdom Relations dated November 13, 2020, reference 2020-0000662554.

<sup>15</sup> Advice pursuant to article 11 for the first 2020 national budget amendment, dated November 23, 2020, with reference: Cft 202000175.



*Furthermore, the estimated budget deficit exceeds the authorized preliminary maximum shortfall (on a cash basis) of ANG 185.5 million in accordance with decisions taken in the Kingdom Council of Ministers on November 13, 2020. Because of insufficient documentation and explanation provided for the estimated income and expenditure in both the operating and the capital accounts, the budget amendment also fails to comply with article 15, paragraph 2 of the Rft.”*

Subsequently, the Cft advises appropriate adjustments should be made, including reconciliation to the authorized deficit of ANG 185.5 million.

In its [response](#) of March 3, 2021 to the fourth implementation report 2020, the Cft states:

*“The deficit is higher than the authorized preliminary maximum deficit authorized by the Kingdom Council of Ministers. The Cft considers the preliminary budget deficit of NAF 197 million acceptable.”*

By way of clarification, Cft explains:<sup>16</sup>

*“Cft did not advise the Kingdom Council of Ministers on the budget deficit presented in the fourth implementation report for 2020. A final opinion by the Cft will be provided to the Kingdom Council of Ministers in its advice on the adoption of the 2020 Financial Statements.”*

In the end, the Financial Statements present a deficit of ANG 181 million, as compared to the authorized deficit of ANG 185.5 million. This means that St. Maarten complies with the decision of the November 13, 2020, issued by the Kingdom Council of Ministers. If the amount of ANG 185.5 million were exceeded, it is possible that the Government would have had to compensate the deficit. Indeed, the Cft indicates:

*“If the shortfall exceeds the maximum authorized deficit, that portion (along with the rest of the shortfall) needs to be compensated pursuant to article 18 of the Rft.”<sup>17</sup>*

This serves to highlight the importance of a timely execution of the financial cycle (timely submission of the financial statements).

Results from the previous year materially impact the subsequent year's budget. Resources will have to be found to cover the deficit in a later budget. Fundamentally, monies used for the purpose of compensation are not available for other policy objectives.

#### **2.4 Do the 2020 Financial Statements present a true and fair representation?**

The financial statements provide a true and fair representation when the data is accurate and complete. It is impossible to form an opinion on the implemented financial policies without adequate disclosures.<sup>18</sup> This is true for the budget, multi-annual, and financial statements. The liability for the cost-of-living supplement of ANG 122 million that will be disbursed in the future was not recorded as a provision in the balance sheet. In our opinion, this is a material reliability error. The liability is, however, disclosed in the balance sheet notes.<sup>19</sup> In addition, we identified several minor reliability errors totaling ANG 13.8 million. Considering the scope of the cumulative errors (ANG 135.8 million), we are issuing an adverse opinion on the 2020 Financial Statements.

The Secretary-General of the Ministry of Finance indicates that he and SOAB shared a different view and that the presentation as a ‘non-disclosed obligation in the balance sheet’ is adequate.<sup>20</sup> This has been a recurring theme in the annual accounts of recent years. We will discuss with SOAB and Government the duration allowance in more detail.

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<sup>16</sup> Response of Committee for Financial Supervision dated June 7, 2022, to questions regarding the advisory process for the 2020 National Budget.

<sup>17</sup> Article 18, paragraph 3 Kingdom Act on Financial Supervision: If a deficit is identified in the operating budget, the committee will specify the measures to be taken to compensate for the deficit.

<sup>18</sup> Article 2 NAO.

<sup>19</sup> Balance sheet comments, C.6.10, Off-balance sheet rights and liabilities.

<sup>20</sup> Reaction by the secretary-general of the Ministry of Finance on the draft report, dated May 17<sup>th</sup>, 2022.

## 2.5 Uncertainties

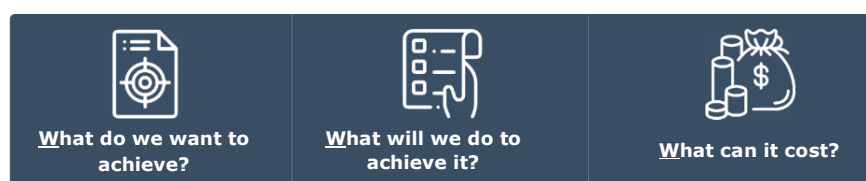
There is insufficient internal verification of the accuracy and completeness of the registration of process outcomes in the procurement of goods and services, granting of subsidies, payment of salaries and levying, and collecting of taxes and fees. Consequently, the accuracy and completeness of the accountability for these matters in the financial statements remain uncertain. Appendix 1 presents all material uncertainties and their associated financial impact.

## 2.6 Have policy intentions been achieved?

Ministers must submit estimates (including explanations) by May 1 to the Minister of Finance.<sup>21</sup> For the policy intentions included in the budget, three W-questions are relevant. For the financial statements, three H-questions are applicable. Figure 1 presents these questions.

Figure 1: the three W- and H-questions

The budget questions:



The questions for the financial statements:



Consistent with previous years, we conclude that the Budget 2020 and the 2020 Financial Statements do not include the required NAO information. Therefore, we cannot determine the extent to which the policy intentions were achieved. If the budget is not prepared in accordance with the NAO, it cannot be used as the standard for the financial statements.

## 2.7 Are the 2020 Financial Statements prepared in accordance with the NAO?

The 2020 Financial Statements do not fully comply with NAO. For instance, not every investment is adequately disclosed in the comments on the capital account, and the statement of income and expenses does not fairly and systematically reflect the nature and scope. The 2020 Financial Statements include all legally required summary template statements. Two summary templates are not (fully) completed (template 12 and 14).

## 2.8 Opinion

### Our Opinion

In our opinion, the 2020 Financial Statements, along with the explanatory memoranda, do not provide a true and fair representation of the financial position and results of operations and have not been prepared in accordance with all the provisions of the NAO.

With regard to the content of the Financial Statements, we believe that improvement is still necessary. As in previous years, the explanation contained in these Financial Statements are inadequate concerning the realization of policy intentions.

<sup>21</sup> Article 34 NAO.

### 3 LEGAL COMPLIANCE OF INCOME AND EXPENSES

In this chapter, we assess whether the income, expenditure, and changes in the balance sheet are in accordance with the 2020 National Budget and other legal regulations. This is known as financial legal compliance.

#### 3.1 Implementation of the 2020 Budget

The Minister of Finance must issue reports on three occasions during a fiscal year regarding budget implementation and -realization.<sup>22</sup> We, as well as the Parliament, did not receive these memoranda for the fiscal year 2020. What we did obtain were the quarterly reports for 2020. Yet we do not regard these as equivalent to the memoranda specified in article 44 of the NAO. For instance, quarterly reports do not address any necessary budget amendments or the impact thereof on the multi-annual budget.

#### 3.2 Compliance errors

There are [compliance errors](#) when income, expenditures, or balance sheet changes do not correspond to the National Budget or any other statutory regulation. Table 1 presents total budgetary [overruns and underruns](#) for the Parliament and the ministries.<sup>23</sup>

**Table 1: Total over- and under expenditure**

Parliament and ministries	2020 Overruns (x ANG 1,000)	2020 Underruns (x ANG 1,000)	2019 Overruns (X ANG 1,000)	2019 Underruns (X ANG 1,000)
Parliament	3,134	5,420	4,134	5,580
General Affairs	10,897	18,800	15,417	16,346
Finance	4,575	49,899	10,689	26,355
Justice	6,568	14,055	11,666	12,756
Education, Culture, Youth, and Sport	11,717	11,268	2,496	5,505
Tourism, Economic Affairs, Transportation, and Telecommunication	22,256	11,282	4,465	41,119
Public Housing, Spatial Planning, Environment, and Infrastructure	325	7,293	395	6,015
Public Health, Social Development, and Labor	11,529	6,278	20,173	6,743
<b>Total</b>	<b>71,001</b>	<b>124,295</b>	<b>69,435</b>	<b>120,419</b>

When the overruns are settled against the underruns each other, there is a total net underrun of ANG 53 million in 2020 (2019: ANG 50,9 million). The Government can manage its finances using budget amendments.<sup>24</sup> Impending overruns must – as much as possible – be avoided using timely and appropriate measures.<sup>25</sup>

#### 3.3 Opinion

##### Our Opinion

Income, expenditures, and changes in the balance sheet were not prepared in compliance with the 2020 State Budget and other statutory regulations. We found no apparent improvement compared to previous years.

<sup>22</sup> Article 44, first paragraph NAO.

<sup>23</sup> 2020 Financial Statements of the Government of Sint Maarten, Summary Template 18.

<sup>24</sup> Article 44, of the NAO requires that interim reports and the opportunity for submitting budget amendments take place at three times during the year: on May 15, August 15 and November 15.

<sup>25</sup> Article 48, first paragraph NAO.

## 4 FINANCIAL MANAGEMENT

This report section discusses our findings regarding [orderly and verifiable \(auditable\) financial management](#).

### 4.1 The shortcomings

[Deficiencies](#) or shortcomings (risks to the accuracy and completeness of the financial statements) adversely influence a statement of unqualified opinion. Deficiencies occur in all ministries. Table 2 lists the top 5 serious (and long-standing) deficiencies.

**Table 2: Overview of serious and long-term shortcomings**

No.	Deficiency (since October 10, 2010)	Description
1	Wages and Salaries	Inadequate structure and functioning of internal procedures.
2	Goods and services	Inadequate structure and functioning of internal procedures and lack of audit information.
3	Tax revenue	The settlement of suspense accounts is not transparent, and there is inadequate internal control of refunds.
4	Cost of social services	Inadequate structure and functioning of internal procedures and lack of adequate audit information.
5	Scholarships, grants, and transfers	Inadequate structure and functioning and the lack of adequate audit information.

There are inadequate internal audit procedures in every ministry. The result is [material uncertainties](#) that significantly impact the financial statements.

### 4.2 Opinion

#### Our opinion

Catching up on the delivery of the 2020 Financial Statements by the Government sets the groundwork for possible structural improvement toward meeting legal deadlines. As for the recently submitted Financial Statements over 2017 to 2020, we observe a lack of quality improvement. The anticipated implementation of the Country Packages, in this regard, is intended to introduce systematic reform over the coming years.

## APPENDIX 1: IDENTIFIED UNCERTAINTIES IN THE FINANCIAL STATEMENTS BY LINE ITEM

Line Item	Scope in ANG x 1 million	Uncertainty in ANG x 1 million	Magnitude in %
<b>BALANCE SHEET</b>			
Tangible fixed assets	168	0	N/A
Shareholdings	384	265	69
Long-term receivables	35	29	83
Current assets	195	57	30
Equity capital	294	294	100
Provisions	10	0	N/A
Short-term debt	331	239	72
<b>Total balance sheet</b>	<b>1,417</b>	<b>884</b>	<b>62</b>
<b>INCOME</b>			
Taxes	304	NQ	N/A
Licenses	12	NQ	N/A
Concession, fees, and contributions from entities	41	0	N/A
Contributions and grants received	9	0	N/A
Other income	22	22	100
<b>Total income</b>	<b>388</b>	<b>22</b>	<b>6</b>
<b>EXPENDITURE</b>			
Personnel	197	NQ	N/A
Goods and services	113	NQ	N/A
Social provisions	35	NQ	N/A
Subsidies and transfers	176	86	49
Scholarships	3	0	N/A
Asset write-offs	19	0	N/A
Depreciation	10	0	N/A
Allocation to / release of provisions	2	0	N/A
Interest	13	0	N/A
<b>Total expenditure</b>	<b>568</b>	<b>86</b>	<b>15</b>
<b>Total expenditure and income</b>	<b>956</b>	<b>108</b>	<b>11</b>
<b>Total balance sheet, expenditure, and income</b>	<b>2,373</b>	<b>992</b>	<b>42</b>

NQ = not quantifiable; N/A= not applicable

According to SOAB's audit opinion of the 2020 Financial Statements, the total identified reliability uncertainties for 2020 amount to ANG 1.6 billion. This is understood to include the number of items for which the scope of the uncertainties cannot be quantified. Because of the unquantifiable nature thereof, we have excluded these items from the summary. Only the quantifiable uncertainties are included in the overview.



General Audit Chamber

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Algemene Rekenkamer