



**REPORT FOR
SELECT COMMITTEE ON PUBLIC ACCOUNTS OF THE 5TH MPUMALANGA PROVINCIAL LEGISLATURE:
MPUMALANGA PROVINCIAL LEGISLATURE (2016/17)**

1. INTRODUCTION

The Select Committee on Public Accounts (SCOPA) hereinafter referred to as the Committee, examined the Annual Report of the Mpumalanga Provincial Legislature; hereinafter referred to as the Legislature, which includes the Annual Financial Statements, the report of the Auditor-General, the report of the Accounting Officer and performance information.

The Committee sent preliminary questions to the Legislature and received responses which were subsequently presented during the hearing. This transparent process of engagement was aimed at assisting and guiding the Legislature on areas that require improvement and monitoring.

The Committee discharged its mandate of ensuring prudent financial management over the reports of the Legislature.

2. COMMITTEE PROCEDURES

The Committee met on 08 May 2018 to deliberate on the above reports. Meetings of the Committee were open sessions for the public, including the media, as required by Standing Rule 123 and section 118 (1) (b) of the Constitution of the Republic of South Africa, Act No. 108 of 1996.

A. PROGRESS REPORT ON IMPLEMENTATION OF PREVIOUS SCOPA RESOLUTIONS 2015/16

NO.	RESOLUTION	PROGRESS BY MPULEG 30 APRIL 2018
3.1.2. (i)	The Accounting Officer must ensure that the compliance register is effectively implemented	<p>A Compliance register is being implemented whereby all the Divisions/Sections report on a monthly basis to the extent of compliance to the applicable Acts, Regulations and Policies.</p> <p>There are strict monitoring of compliance by Management. Annexure A was submitted to the Committee.</p>
(ii)	The Accounting Officer must ensure that unauthorised, irregular, fruitless and wasteful expenditure and other loses are prevented, and appropriate steps are taken where such expenditure has occurred as required by section 7(e) of the FMPPLA.	<p>A compliance checklist has been implemented to assist in preventing the unauthorized, fruitless, wasteful and irregular expenditure.</p> <p>Where it is found that the employee acted with negligence, appropriate actions are taken against such official/s.</p>
(iii)	The Accounting Officer must ensure that an effective record management system with fire and conservation measures is developed and effectively implemented.	<p>The records of the Legislature are stored in a secure and safe environment.</p> <p>Due to limited space, the Management resolved that a decentralized filing system be implemented.</p>
4.1. (i)	The Accounting Officer must recover all monies due to the Legislature.	<p>The monies due to the Legislature are being recovered from the relevant officials and MPLs. The balance on the debtors amount as at 31 March 2017 was R1 732 151. 00 and the debtors balance as at 31 March 2018 was R723 290 .47.</p>

(ii)	The Accounting Officer must ensure that section 7(e) of FMPPLA is adhered to.	In cases of unauthorized, fruitless and wasteful expenditure, the Accounting Officer investigates the causes and appropriate steps are taken.
7.1. (i)	The Accounting Officer must ensure that full and proper records of the financial affairs of the legislature are kept as required by section 7(b) of FMPPFA	The Legislature is in full compliance with section 7(b) of the FMPPLA.
	The Accounting Officer must provide the Committee with a progress report on the outcomes of the two (02) outstanding cases as per commitment	The progress on the disciplinary cases has been submitted to the Office of the Speaker where it is receiving attention.
(ii)	The Accounting Officer must submit a report detailing final expenditure on the five (05) cases completed and the report must clearly provide a description of the ef cases with the names of implicated officials, amounts spent on investigations, prosecution, witnesses and salaries paid to the officials while on suspension.	The report on the cost for cases has been submitted to the Office of the Speaker.

COMMITTEE COMMENTS AND OBSERVATIONS

The Committee noted with concern that the outstanding cases are not finalised and the Legislature is spending a huge amount of money on them. It was resolved that the Secretary should provide the information as submitted to the Office of the Speaker regarding disciplinary cases, to the Committee as well. The information regarding the progress report on the progress made on disciplinary cases and the final report detailing the final expenditure were not submitted to the Committee as it was resolved.

3. COMMITTEE FINDINGS AND RECOMMENDATIONS

3.1. IRREGULAR EXPENDITURE

The Committee has noted that the Auditor General found that the Legislature disclosed an amount of R 8 683 440.00 of irregular expenditure that was incurred in the 2016/17 financial year which was still under investigation by the end of the financial year under review. In the current financial year under review the Legislature incurred irregular expenditure to the amount of R 4 614 080.00 as a result of non-compliance with SCM regulations. At the end of the financial year 2016/17 the Legislature had a closing balance of R 11 109 252.00 irregular expenditure because an amount of R 3 550 275.00 was investigated and condoned; whilst an amount of R 109 803.00 was written off as indicated on note 32 of the annual report. A material finding on procurement management was also raised by the Auditor General against the Legislature.

Based on the above findings the Committee required clarity on why the Accounting Officer procured Goods and Services with the transaction value above the R 1 00 000.00 threshold as prescribed by the SCM policy without inviting competitive bidding processes, as required by the SCM regulations.

A detailed list of all goods and services procured without inviting competitive bidding processes in the 2015/16 financial year was also required with full details reflecting the name of the company, company number, service procured, value reason for non-compliance.

The Committee further noted that the Accounting Officer failed to provide sufficient and appropriate audit evidence that all awards were made in accordance with the legislative requirements and a procurement process that is fair, equitable and relevant SCM processes. He also failed to advertise bids for the required minimum period, as required by SCM regulation 6(8) (a) (ii) issued in terms of the FMPPLA.

The Committee required the Accounting Officer to provide a list of all bids that were not advertised as required by prescripts in the 2015/16 financial year; and further explained why designated goods were procured from suppliers who had not submitted a declaration on local production and content, as required by the preferential procurement regulation.

Based on the findings and questions posed by the Committee, the Accounting Officer reported that the estimated cost of the service was less than R1 000 000.00; hence, the Institution could not procure the service through the competitive bidding process and the quotations received were less than R1 000 000.00. A request for a proposal for Sound, Stage and Broadcasting for the 2017 SOPA event was advertised in the Website and printed media for prospective suppliers to submit their proposals. After an evaluation process was concluded, the winning service provider was then awarded a contract of R774 950.00 which is below the R1 000 000.00 threshold for the competitive bidding process.

The Accounting Officer further reported that the reasons for the deviation was as a result of the Premier's speech during SOPA 2017 which took longer than anticipated which resulted to the extension of the broadcasting time of the event. This could not have been foreseen at the time of sourcing quotations, hence the exceeded amount paid to the supplier as results of the approved deviation.

The Accounting Officer mentioned to the Committee that, related information was available; however, some of it was not filed in the tender files. Part of the deviation emanated from Taking Legislature to the People (TLP) in 2016 at Standerton as a result of the addition on the scope of work emanating from the Premier's directive to meet and engage with farmers. The additional scope of work did not form part of the concept document, specifications document and briefing session.

Therefore, the normal procurement process could not be followed as the directive was communicated during the week of the TLP, and the scope of work of the appointed service provider was extended in the form of deviation processes. The event was well planned and captured in the concept document and all the services were initially procured based on the concept document.

The Committee noted that there is no proper tendering system within the Institution.

Regarding the failure to advertise bids for the required minimum period, as required by SCM regulation 6(8) (a) (ii) issued in terms of the FMPPLA. The Accounting Officer mentioned to the Committee that the internal audit service was previously co-sourced; however, a decision was taken that the internal audit service should be outsourced in order to avoid a vacuum where the institution operated without internal auditors a decision was then taken to advertised a tender of internal audit services but for a shorter period and have the deviation approved by the Accounting Officer.

The Accounting Officer further mentioned that, Preferential Procurement Regulation (PPR) paragraph 9(1) of 2011, states that “an organ of state must, in the case of designated sectors, where in the award of tenders local production and content **is of critical importance**, advertise such tenders with a specific tendering condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered. The reason why declaration of local production and content was not obtained is because in the management view, the PP Regulation 9(1) **is** only applicable when procuring the designated sector product which is of **critical importance** whereby such goods are not linked to the core mandate of the Legislature.

3.1.1. Recommendations

The Committee recommend that the House resolve that;

- (i) The Accounting Officer must ensure that the compliance register is effectively implemented; especially since the same matter was raised by the Auditor General with the Legislature in the previous financial year 2015/16.
- (ii) The Accounting Officer must ensure that there is proper tendering system and the procurement policy is correctly adhered to and effectively implemented.
- (iii) The Accounting Officer must take disciplinary action against official/s that are responsible for the irregular expenditure amounting to R 4 614 080.00 as a result of non-compliance with SCM regulations.

- (iv) The Accounting Officer must provide sufficient and appropriate audit evidence that all awards were made in accordance with the legislative requirements and a procurement process that is fair, equitable and relevant SCM processes.
- (v) The Executive Authority must take disciplinary action against the Accounting Officer for failing to advertise bids for the required minimum period as required by SCM regulation 6(8) (a) (ii) issued in terms of the FMPPLA.
- (vi) The Executive Authority must expedite the conclusion of all disciplinary cases amicably. This will curtail protracted and costly legal wrangles. It will further ensure stability in the senior management of the Legislature.

4. FRUITLESS AND WASTEFUL EXPENDITURE

The Committee has noted that the Auditor General found that in the 2016/17 financial year the Legislature disclosed an amount of R 8 790.00 on fruitless and wasteful expenditure. In the prior financial year 2015/16 the Legislature had a balance of R 70 727.00 of which R 65 169.00 was condoned, R 12 750.00 was paid during the year and R 5 923.00 was written off. The balance of R 8 790.00 relating to financial year 2016/17 is said to still be awaiting condonation by the Legislature.

The Committee requested the Accounting Officer to give clarity on why fruitless and wasteful expenditure amounting to R 8790.00 was incurred; and the amount that has been recovered from the officials who caused the Legislature to incur the fruitless and wasteful. The Committee also requested the Accounting Officer to share with the Committee on how the Auditor General will classify the amount of money recovered by the Institution.

Based on the findings and questions posed by the Committee, the Accounting Officer reported that the fruitless and wasteful expenditures was from interest paid to service providers due to late payment and payment to hotels where Members and employees did not check into.

The process of determining whether the responsible official/MPL is liable for these expenditures were not yet finalised at the end of 31 March 2017; hence, it was disclosed as fruitless and wasteful expenditure.

The Accounting Officer further reported an amount R12 750.00 that has been received from the officials who caused the Legislature to incur the fruitless and wasteful expenditure; and when the money is recovered it is classified as receipts.

4.1. Recommendations

The Committee recommend that the House resolve that;

- (i) The Accounting Officer must ensure that unauthorised, irregular and fruitless and wasteful expenditure and other losses are prevented, and appropriate steps are taken where such expenditure has occurred as required by Section 7(e) of FMPPLA.
- (ii) The Accounting Officer must finalise the cases of responsible officials/MPLs that are liable for expenditures that were not finalised at the end 31 March 2017; hence, disclosed as fruitless and wasteful expenditure.

5. INTERNAL CONTROLS

The Committee has noted the Auditor General finding that the Legislature Management did not adequately implement effective record-keeping system for SCM, as evidenced from the additional information submitted during the audit process to resolve audit findings. This is indicative of a weakness around the maintenance of supporting documentation. The Auditor General noted that Management of the did not ensure that compliance with applicable laws and regulations were adequately monitored due to poor internal control in SCM, which resulted in contradictory evidence submitted to the auditors during the audit process. The Committee further noted that the Auditor General indicated that the Accounting Officer made a commitment to be strict on the approval of deviations to ensure that only valid deviations were approved. However, the Auditor General still identified deviations which were not in line with the SCM regulations.

Based on the above findings, the Committee sought clarity on why did the Accounting Officer fail to ensure that Management of the Legislature monitor compliance with applicable laws and appropriately implemented effective controls on record keeping for the SCM function.

In response, the Accounting Officer mentioned that controls were implemented; however, there were weaknesses on making follow ups to verify that each file is complete with all the relevant tender documents. The Legislature has developed and implemented a checklist to ensure that all the relevant documents are filled with information in each tender file. The Accounting Officer further reported that the Legislature is monitoring applicable laws, however, the reasons for deviations were valid and they are not an indication of poor planning. The Legislature implements consequence management and institute disciplinary processes as part of consequence management.

The Committee has further noted that the Auditor General has found that the Legislature instituted an investigation at the end of the 2014/15 financial year based on an allegation of possible financial misconduct. The Accounting Officer indicated that the investigation was completed and internal disciplinary processes were initiated, the report thereof has been submitted to the Office of the Speaker for scrutiny and to be finalised with the assistance of the Legal Section, the report will however be submitted to the Committee.

5.1. Recommendations

The Committee recommend that the House resolve that;

- (i) The Accounting Officer must ensure that Management of the Legislature complies with applicable laws and regulations to adequately monitor internal controls in the SCM to ensure that relevant evidence is submitted to auditors during the audit process.
- (ii) The Accounting Officer must submit a report of the investigation that was completed and internal disciplinary processes that were initiated on all cases.

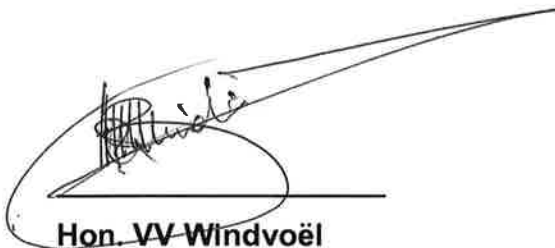
6. CONCLUSION

The Committee has satisfied the requirements of the Mpumalanga Provincial Legislature Rules and Orders of conducting oversight over the financial statements of the Legislature. The Chairperson would like to thank Members of the Committee for their active participation and constructive contributions during the deliberations with the Legislature and further thank the Auditor General, Provincial Treasury and Committee Support Staff for assisting the Committee in executing its mandate.

Unless specified differently, progress on all resolutions must be submitted to the Committee by 10 June 2018 and on a quarterly basis afterwards.

7. ADOPTION

The Select Committee on Public Accounts recommends that the House adopt this report and its recommendations as House Resolutions.



Hon. VV Windvoël

29/05/2018
Date

**Chairperson: Select Committee on Public Accounts
Mpumalanga Provincial Legislature**