



REPORT 4 OF 2017
SELECT COMMITTEE ON PUBLIC ACCOUNTS OF THE 5TH MPUMALANGA PROVINCIAL LEGISLATURE:
DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS (2015/16)

1. INTRODUCTION

The Constitution of the Republic of South Africa, Act 108 of 1996 empowers Provincial Legislatures to establish mechanisms to maintain oversight on provincial executive authority and organs of state. The Legislature through its Standing Rules and Orders has established the Select Committee on Public Accounts (SCOPA) hereinafter referred to as a Committee, and entrusted it with the responsibility to conduct financial scrutiny and examination of all financial statements and reports of the Auditor-General tabled before the House.

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

The Committee discharged its mandate of ensuring prudent financial management over the reports of the Department and wish to report as follows;

2. COMMITTEE PROCEDURES

The Committee met on the 10 February 2017 and considered the report on the 19 May 2017. Meeting of the Committee are open sessions for the public including the media as required by section 118 (1) (b) of the Constitution of the Republic of South Africa, Act No. 108 of 1996 read with the Standing Rules and Orders of the Mpumalanga Provincial Legislature, 2013.

The department responded to various questions posed by the Committee during the hearing.

**A. PROGRESS REPORT ON THE IMPLEMENTATION OF HOUSE RESOLUTIONS
2014/15 FINANCIAL YEAR**

NO.	RESOLUTION	PROGRESS AS ON 11 AUGUST 2016	STATUS
3.1	<p>The department must develop a local government oversight model for the province that will assist municipalities to achieve clean audits</p>	<p>Through the Intervention Plan emanating from the analysis of audit outcomes for 2015/16 financial year, the Department has identified areas of intervention led by different Forums / Task Teams which are inclusive of COGTA, Provincial Treasury, Office of the Premier, SALGA and District Municipalities with an objective of assisting Municipalities to improve their audit outcomes for 2016/17 financial year.</p> <p>The Task Teams / Forums will meet on quarterly basis to assess progress on the implementation of proposed improvement plans and Municipal Audit Action Plans amongst others.</p>	<p>Not implemented.</p> <p><i>The Local Government Oversight Model must be developed to guide common practice and set norms and standards for section 79 and 80 Committees. A progress will be required by May 2017</i></p>
3.2	<p>The Accounting Officer must develop a plan on how the department will improve audit outcomes at local government level in the province and submit report to the Legislature by 30 November 2016</p>	<p>The Department together with the Provincial Treasury will establish a task team which is inclusive of SALGA and District Municipalities to monitor and enforce implementation of the following;</p> <ul style="list-style-type: none"> a. <i>Approved audit action plans (Internal and External audits) implementation.</i> b. <i>Establishment of Risk Management Committees and resolutions implementation</i> c. <i>Establishment of Audit Committee and resolutions implementation</i> d. <i>MPACs resolutions</i> e. <i>Internal Audit recommendations and follow up audits thereof</i> f. <i>Any other oversight structures</i> 	<p>Closed</p>

		<i>resolutions within the Municipality</i>	
3.2	The Department to provide progress report regarding litigations	<p>STEMASHAN SPHEPHELO VS MEC & HOD R24 708 000.00</p> <p>On 09 March 2016 matter postponed to a future date- Plaintiff failed to put matter down for adequate court dates for trial. In May 2016 Plaintiff filed Request for Extra Documents and Defendants replied. Await new court date.</p> <p>AFRICAN GAZA CHURCH/TIBONELENI PRIMARY SCHOOL, THE MEC COGTA AND EDUCATION AND MPAKENI TRIBAL AUTHORITY: R39 000.00</p> <p>On 16 February 2016 Rescission of Judgment granted in favor of Defendants. (Warrant of Execution no more in effect). Hearing of exception postponed on 18 May 2016 due to the unavailability of Counsel for Plaintiff. Await new court date.</p> <p>THWALA AND 3 OTHERS V/S MEC COGTA AND MBOMBELA MUNICIPALITY R944 000</p> <p>On 01 August 2016 matter was removed form Roll by Plaintiff. Date for round table conference is 19/01/2017.</p>	Closed
3.3	The Accounting Officer	The Department working together with the	closed

	must monitor the litigations and ensure that the best interest of the department is upheld.	State Attorneys monitor the litigations on regular basis with an objective of ensuring that the best interest of the Department is upheld.	
3.4	The Accounting Officer must make a follow up with the SIU on the outcomes and finalisation of the Water for All project matters	The report on the investigation of Water for All projects has not been made available by the SIU. The Department has received communication from the SIU that such a report will be sent directly to the office of the President. However, should a copy be received by the Department, it will be made available to the Committee.	Ongoing The MEC must request the Premier to write to Presidency and request that the matter be expedited and closed to enable the department to cleared it from its books.

3. COMMITTEE FINDINGS AND RECOMMENDATIONS

3.1 AUDIT ACTION PLAN FOR 2015/16 FINANCIAL YEAR

The Committee required that the Department provide progress report on the implementation of the audit sustaining action plan for 2014/15 AGSA audit outcome. The Accounting Officer indicated that department has implemented the audit action plans for both the internal audit and AGSA emanating from the 2013/14 financial year. The recommendations of the audit committee and the Portfolio Committee were implemented which assisted to strengthen the control environment. The department also conducts self-audit to ensure that identified internal control deficiencies are eliminated prior to the audit process. The department management also monitors the implementation of audit actions plans and risk mitigating plans.

3.3.1 CLEAN AUDIT

The Committee commends the department of COGTA for being able to sustain the clean audit opinion during the period under review. The Committee wanted to know how did the Department managed to obtain clean audit opinions for three years in succession. The Accounting Officer indicated that the Department continued with the practice of developing a credible audit action plans at the end of each audit project with management monitoring implementation on daily basis. The developed internal control

measures and policies are respected, enforced and adhered to by all staff members. All risk areas identified by the Internal audit Unit, Audit committee, External Auditors and Oversight bodies are Incorporated into the Departmental risk register and mitigating factors monitored on regular basis through the risk management committee.

The Committee required that Department share its strategies to achieve clean opinions and plans in place that will ensure that the 18 municipalities achieve clean audit opinions. The Committee was informed that the Department working together with the Department of Finance encourages all 18 Municipalities in the Province to develop and implement credible audit action plans to address issues raised by the Auditor General.

The Department has further analyzed the Local Government Audit Outcome for 2015/16 financial year and identified areas of interventions with the intention of improving the Audit Outcomes for 2016/17 financial year. The Intervention Plan will be implemented by the Joint Stakeholders which include, CoGTA, Provincial Treasury, OTP, SALGA and District Municipalities.

The Committee was further informed that the as part of Intervention Plan emanating from the analysis of audit outcomes for 2015/16 financial year, the Department has established Task Teams which are inclusive of CoGTA, Provincial Treasury, Office of the Premier, SALGA and District to focus on the identified areas of intervention per Municipality. The Committee noted the plans in place to assist municipalities and insisted that the Department must put more efforts that will ensure that the 18municipalities obtains clean audit outcomes in future. The Committee commended the Department for achieving a clean audit and further emphasized that the department must put measures that will ensure that municipalities obtains clean audits.

3.1.2 RECOMMENDATIONS

The Committee recommends that the House resolve that:

- (i) The Accounting Officer must assist all municipalities to develop credible audit action plans and systems to monitor and evaluate implementation of the audit action plans.
- (ii) The Executive Authority must ensure that Accounting Officer develops a strategy that will monitor the performance of municipalities

4. ACCRUALS

The Committee has noted that the Auditor General has found that department has accruals of R1 390 000.00 which translates to a decrease of R112 000.00 i.e. 8% in contrast to the prior year where were **R1 502 000.00** in the 2015/16 financial year. The Committee wanted what has led to the accruals of **R1 390 000.00** during the period under review. The department indicated that it incurred accruals of **R1 390 000.00** in the 2015/16 financial year due to the opening of the House of Traditional Leaders which was held on the last day of the financial year as well as contractual obligations.

The Committee wanted to know that the Department has mechanism to further reduce the occurrence of the accruals. The Department indicated that they have mechanism and they had advised the House of Traditional Leaders to hold their opening prior to 20 March each to avoid the accruals. The Department has engaged with some of the standing suppliers affected by the contractual obligations to review their billing dates and adhere to the cut-off dates set by the Department for processing of invoices, especially during the last month of the financial year. The Committee was not happy with the explanation given by department and indicated that the department must have planned properly to avoid accruals and ensured that invoices are paid on time.

4.1 RECOMMENDATION

The Committee recommended that the House resolve that:

- (i) The Accounting Officer must provide a report on progress made in settling the outstanding accruals amounting **R1 390 000.00**.

5. IRREGULAR EXPENDITURE

The Committee has noted that the Auditor General has found that department had the closing balance of R9 699 000.00 is recorded which is inclusive of the R1 419 000.00 irregular expenditure relating to the current financial year. The Annual Report of Department 2015/16 indicates the details of the irregular expenditure have been disclosed.

The Committee enquired whether the investigation has commenced and what the envisaged deadline of the investigation. The Accounting Officer indicated that in 2014 the Office of the Premier requested the Department to enter into a Memorandum of Understanding (MOU) which mandates all Departments to utilise the services of Service Providers appointed by the Office of the Premier. The Department abided by the MOU like any other Departments and most of the litigation matters were handled as such.

The following lists of cases were done by the CA Joint Venture and Analytical Risk Management (Service Providers appointed by the Office of the Premier):

Bakgaitla ba Mocha baPhopolo Traditional Community & 1 other vs the Premier & 6 others: Paid: R568 080.30 + R27 125.16 (May 2016); R527.48 (June 2016); R6488.31 (November/ December 2016). **Gija Thompson Nkuna vs the Premier 7 others:** R79 898.49 **Zandi (ERS) (Pty) Ltd vs Hydrotek International (Pty) Ltd, the Department & 1 other:** R133 559.86.

The Committee wanted to know the mechanism did the Department had put in place to ensure that the investigations expedited. In litigation matters, the department indicated that they are in consultations with the relevant Service Provider (private firm of attorneys appointed by the Office of the Premier) were held to ensure the necessary court documents are done and to adhere to court time frames and any subsequent court hearings.

The Committee also established the corrective measures did the Department put in place to ensure that the irregular expenditure does not recur during the current financial year. In cases where the Department considers participation, relevant bid documents, appointment letters and contract documents are requested from the Contracting Department, prior to seeking approval.

5.1 RECOMMENDATIONS

The Committee recommends the House to resolve that:

- (i) The Executive Authority must provide a progress report on the investigation on irregular expenditure and measures taken to accordingly regulate the expenditure.

6. STATEMENT OF CONTINGENT LIABILITIES AS AT 31 MARCH 2016

The Committee has noted that the Auditor General has found that department had litigations amounting to R57 891 000.00.

The Department indicated that there was progress in the **Stemashan Sphephelo vs MEC & HOD** matter with the liability of R24 708 000.00 and with a counterclaim of R12 942 018.63. The Department has also reported that on 09 March 2016 the matter was postponed to a future date- Plaintiff failed to put matter down for adequate court dates for trial. In May 2016 Plaintiff filed Request for Extra Documents and Defendants replied. The Department also awaits approval as per Treasury Regulations 12.2 from the Office of the State Attorney, on a possible settlement amount to expedite the matter.

The Committee was further informed that there is progress in the **African Gaza Church/Tiboneleni Primary School, the MEC & 2 others**, the matter with the liability in the amount of R39 000.00. It was mentioned that on the 16 February 2016 Rescission of Judgment granted in favor of Defendants. (Warrant of Execution no more in effect). The court acknowledged it does not have jurisdiction to entertain the matter. Hearing of exception was postponed on 18 May 2016 due to the

unavailability of Counsel for Plaintiff. The Department awaits new court date and final instructions from Department of Education on necessity to pursue matter further.

The Committee asked why the Department is not exploring other less costly measures to deal with the aforementioned claims against it without undergoing through the litigation processes to prevent incurring more cost against itself. The Department indicated that on the case of Stemashan Sphephelo vs MEC & HOD, the Department awaits approval as per Treasury Regulations 12.2 from the Office of the State Attorney, on a possible settlement amount to expedite the matter. On the matter of African Gaza Church/Tiboleni Primary School, the MEC & 2 others, the Department awaits final instructions from Department of Education on necessity to pursue matter further.

6. 1 RECOMMENDATIONS

The Committee recommends that the House to resolve that:

- (i) The Accounting Officer must expedite the litigations and provide the Committee with a progress report.

7. OTHER REPORTS

The Committee noted that the Auditor General has reported that an investigation is being conducted by the special investigation unit (SIU) into alleged irregularities with the department in respect of the WATER FOR ALL flagship projects. The AGSA further stated that there are 61 investigations that are being conducted by the Office of the Premier.

The Committee wanted to know whether the SIU investigation on Water for All flagship been finalized and what were the findings and the recommendations thereof. The Department indicated that the matters has not been finalised and the Department did not receive any report and / or recommendations from the Presidency.

7.1 RECOMMENDATIONS

The Committee recommends that the House resolve that:

- (i) The Executive Authority (MEC) must through the Premier write to the Presidency and request that the investigation on Water for All flagship Projects be expedited to finality.

8. CONCLUSION

The Committee has satisfied the requirements of the Mpumalanga Provincial Legislature Rules and Orders of conducting oversight over the financial statements of the Cooperative Governance and Traditional Affairs (COGTA).

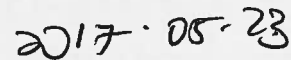
Unless otherwise stated a report detailing progress made in the implementation of all recommendations in this report should be forwarded to the Committee by 30 July 2017 and thereafter on quarterly basis.

9. ADOPTION

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



HON. S I MALAZA
CHAIRPERSON: SCOPA



DATE