



REPORT 7 OF 2016
SELECT COMMITTEE ON PUBLIC ACCOUNTS OF THE 5TH MPUMALANGA PROVINCIAL LEGISLATURE:
DEPARTMENT OF CULTURE, SPORT AND RECREATION (2014/15)

1. INTRODUCTION

The Select Committee on Public Accounts (SCOPA) hereinafter referred to as a Committee, examined the annual report of the Department of Culture, Sport and Recreation; hereinafter referred to as the Department, which includes the financial statements, report of the Auditor-General, report of the Accounting Officer and performance information.

The Committee sent preliminary questions to the Department and received responses which were subsequently presented during a hearing. 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 report of the Department.

2. COMMITTEE PROCEDURES

The Committee met on 20 May 2016 to deliberate on the reports contained in the Annual Report of the Department. Meetings of the Committee are 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 THE IMPLEMENTATION OF HOUSE RESOLUTIONS 2013/14 FINANCIAL YEAR

NUMBER	RESOLUTION	PROGRESS REPORTED	STATUS
3.1	(i)The Executive Authority must consider taking disciplinary actions against the Accounting Officer for contravening Section 40(1) (a) of the PFMA.	Compliance with Section 40(1) The irregular expenditure recognised originate from non-compliance with CIDB by the implementing agent. The appointment of service providers	Closed

		<p>for infrastructure projects by implementing agent is a statutory arrangement and they do not provide client department with procurement documents for review. From the above it follows that the non-compliance cannot be attributed to the Accounting Officer of the client department. Therefore the initiation of the disciplinary process against the Accounting Officer of the client department on the bases of the custody of funding has no legal merits. Any legal recourse flowing from the non-compliance must be referred to the responsible party. The department recognised the irregular expenditure as per recommendation of the auditors of the implementing agent. The Auditor General was satisfied with the fact that the department implemented the recommendation.</p>	
	<p>(ii) The Executive Authority must consider taking disciplinary actions against the Accounting Officer for contravening Section 38(1) (c) (ii) and (g) of the PFMA.</p>	<p>The department has interacted with the implementing agent on the matter and it was agreed that the internal controls around appointment of service providers be improved and certificate of compliance shall be issued.</p> <p>The department is satisfied with the control mechanisms implemented to address the problem and therefore custody of funding cannot be applied as the bases for initiating disciplinary</p>	<p>On-going</p>

		process.	
3.2.1	(i) The Executive Authority must ensure that the Accounting Officer fill all vacant funded positions by 24 August 2015.	The department has submitted list of critical posts for approval to be filled in compliance with the conditions of the moratorium of filling of vacant posts.	Closed
3.3.1	(i) The Executive Authority must consider taking disciplinary actions against the Accounting Officer for contravening Section 38(1) (c) (ii) of the PFMA.	The department has interacted with the implementing agent on the matter and it was agreed that the internal controls around appointment of service providers be improved and certificate of compliance shall be issued. The department is satisfied with the control mechanisms implemented to address the problem and therefore custody of funding cannot be applied as the bases for initiating disciplinary process.	Closed
	(ii) The Accounting Officer must furnish the Committee with the outcomes of the investigation in progress.	The Shared Service (Internal Audit) Unit is currently investigating the matter as per request of the Legislature. The report will be submitted as soon as possible once the Internal Audit has finalised the investigation.	On-going

4.1.1	(i) The Executive Authority must consider taking disciplinary actions against the Accounting Officer for failure to monitor controls to ensure proper implementation of the overall process of reporting which resulted in non-compliance with legislations.	The department has updated register of irregular expenditure and submit reports to Provincial Treasury and Auditor General as required by Treasury Regulations and prescribed reporting framework.	Closed
	(ii) The Accounting Officer must ensure that all vacant positions are filled, especially Senior Management positions and or critical positions by 24 July 2015.	The department submitted consolidated list of critical posts to be filled to the Office of Director General for approval. The posts will be filled as soon as the approval is granted. The post of Accounting Officer and Manager- Infrastructure have been appointed	Closed
	(iii) The Accounting Officer must ensure that oversight is effectively exercised regarding matters of compliance with laws and regulations and ensure that measures are taken against officials who fail to adhere to this.	The department has introduced systems of checks to improve the whole control environment of the department to address the compliance shortfalls identified during the audit processes.	Closed
4.2.1	(i) The Executive Authority must ensure that the Accounting Officer fills all vacant funded positions by 24 July 2015.	The department submitted consolidated list of critical posts to be filled to the Office of Director General for approval. The posts will be filled as soon as the approval is granted. The post of Accounting Officer and Manager- Infrastructure has been appointed.	Closed

	(ii) The Executive Authority must consider taking disciplinary actions against the Accounting Officer for failure to fully implement House Resolutions.	The irregular expenditure was raised during audit of the implementing agent after the Annual Financial Statements were submitted. Therefore it follows that officials who prepare Annual Financial Statements were not reasonably aware of the prevailing circumstances as at the time when the reports were submitted. The department is satisfied with the controls measures put in place to avoid recurrence of the similar accounting events.	Closed
4.3.1	(i) The Executive Authority must consider taking disciplinary actions against the Accounting Officer for failure to effectively and fully implement management corrective action plans.	The department has specific financial delegation developed in line with the PFMA of 1999 and Treasury Regulations.	On-going
	(ii) The Accounting Officer must furnish the Committee with a copy of the delegation of financial authority policy.	The copy of the financial delegation was submitted to the Committee	Closed
4.4.1	(i) The Accounting Officer must ensure that Phase 1 of the corporate governance of Information and Communication Technology Policy Framework in South Africa Public Service (CGICTPF) is effectively implemented.	The department has complied with the Phase of the Corporate Governance Information Technology Policy Framework (CGICTPF). The IT Steering Committee has been established and IT officer has been appointed and delegated with the duties.	Closed
5.1.1	(i) The Accounting Officer must	The department has paid all invoices	Closed

	develop an effective system to ensure that all invoices are timely received and processed prior to financial year end.	accrued for the year 2013/14. Some of the invoices relate to infrastructure and invoices issued for the months of	
	(ii) The Accounting Officer must ensure that the Department pay all money owing as required by Section 38(1) (f) of the PFMA.	The department has put controls in place to ensure timely processing of payments for service providers and stakeholders. The submission logs or registers are being maintained to monitor compliance with the 30 days period.	Closed
5.2.1	(i) The Accounting Officer must ensure that appropriated funds are spent for intended purpose.	The department has improved financial management systems and controls in place to ensure that budget are applied for the purpose for which they were intended for statutory reports are submitted to Provincial Treasury.	Closed
6.1.1	(i) The Accounting Officer must ensure that all measures and remedial plans put in place are effectively implemented.	The Remedial Action Plans of Auditor General have been formulated and approved and filed with Provincial Treasury.	On-going
	(ii) The Accounting Officer must ensure that recommendations made by the Auditor General and Internal Audit are implemented.	The SCOPA resolutions have been implemented in full.	On-going

(B) COMPLIANCE WITH LAWS AND REGULATIONS

3.1 HUMAN RESOURCE MANAGEMENT

The Committee has noted that the Auditor General found that funded vacant posts were not filled within 12 months, as per the requirement by Public Service Regulation 1/VII/C.1A.2. The Committee required the Accounting Officer to indicate the challenges encountered by the

Accounting Officer during 2014/15 financial year that prevented the implementation of SCOPA resolution on monitoring controls within the department in order to ensure the implementation of reporting processes during the past three consecutive years.

The Committee further sought reasons that led to failure to implement measures and systems to ensure compliance with laws and regulations and internal control for the past two consecutive years and to also indicate the measures put in place to prevent the finding from recurring.

The Accounting Officer reported that there were no challenges encountered except that the Provincial Government took a decision to defer recruitment processes to achieve efficiency and effectiveness as far human capital management is concerned. The Accounting Officer further reported that recruitment processes were finalised and awaiting cabinet approval unfortunately the moratorium was announced.

The Accounting Officer informed the Committee no failure occurred in terms of implementing measures to comply with laws, regulations and internal controls as far as human capital management is concerned, however the recruitment processes are subjected to further adjudication or oversight by the Executive and it was the case in this regard. With regard to the measures put in place, the Accounting Officer reported that the moratorium on filling of posts was implemented with provisions to deal with special cases and at the same time exemption was granted to departments dealing essential services. The Accounting Officer went on to report that the department made submissions for approval to fill critical posts which were unfortunately deferred until further notice.

The Committee accepted the explanation and the fact that the department gave certainty that it is in a position to deliver on its mandate with the capacity it has.

3.2 INTERNAL AUDIT

The Committee has noted that the Auditor General has found that the Internal Audit function did not assess the operational procedure and monitoring mechanisms relating to all transfers made and received, including transfers in terms of the annual DoRA, as required by Treasury Regulation 3.2.8.

The Committee required the Accounting Officer to indicate when will the assessment of the operational procedure and monitoring mechanism for the effective, efficient and transparent measures relating to transfers in terms of the annual DoRA be finalised, as required by Treasury Regulation 3.2.8. The Committee further enquired whether the Accounting Officer Accounting

Officer did maintain appropriate measures to ensure that transfers and subsidies to entities were applied for their intended purposes, as required by Treasury Regulation 8.4.1.

The Accounting Officer in his response reported that the Shared Service (Internal Audit) Unit compile audit implementation Plan for all departments sharing the function. The implementation plan is approved by the head of the Shared Services Unit and outline the timing and conditions for execution of audit assignments. The audit of transfers and DORA grant as set out per Treasury Regulations forms part of the implementation plan.

The Accounting Officer confirmed that the department does maintain appropriate measures in terms of Treasury Regulations and Section 38 of PFMA that require the beneficiaries to submit confirmation letter for existence of internal control systems and went on to indicate that the department require the organisations to enter into an undertaking to apply the funds for the purpose agreed upon. The beneficiaries are also required to submit audited financial statements of prior year as a prerequisite for obtaining additional funding from the department.

3.2.1 RECOMMENDATIONS

The Committee recommends the House to resolve that:

- (i) The Accounting Officer must ensure that the Audit implementation plan is effectively implemented and exercise continuous monitoring.

3.3. ANNUAL FINANCIAL AND PERFORMANCE MANAGEMENT

The Committee has noted that the Auditor General has found that there was non-compliance with laws and regulation which could have been prevented if compliance was properly reviewed and monitored. Furthermore, the financial information submitted with financial statements for auditing was not adequately reviewed for accuracy and completeness.

The Committee sought reasons which led to failure by the Accounting Officer to prepare and submit accurate and complete financial information in accordance with the prescribed financial reporting framework as per Section 40(1) (a) of the PFMA. The Committee required the Accounting Officer to indicate the persistent challenges that prevented the department from keeping full and proper records of the financial affairs in accordance with any prescribed norms and standards, and to also indicate the measures that have been put in place to ensure that the financial statements are prepared in accordance to the prescribed financial reporting framework and supported by full and proper records.

Contrary to the finding of the Audit General, the Accounting Officer reported there was no failure to submit accurate and complete information as averred by Auditor General. The audit finding flow from the declaration of the liabilities (provision) for the High Altitude and Cultural Hub and the fact that the tailor made AFS Template provide for such liability to be declared. The template has a legal relevance because it is consistent with the legal definition of a liability.

The Accounting Officer further reported that Modified Cash Standards (MCS) as a prescribed legal framework for the recognition and reporting of accounting events are not capable of legal interpretation in some respects. The MSC contradict with the template as it recognise liability only if there is signed contract whereas the template designed by National Treasury provide for recognition of liability where approval for a project has been made but not contracted.

The Accounting Officer confidently reported that the department prepared and submitted accurate and complete Annual Financial Statements and in doing so observe the other legal prescripts to enhance the meaningfulness of the reports at point.

With regard to failure to keep proper records of the department, the Accounting Officer reported that the were no challenges pertaining to safe custody of the records except for problems attached to the Modified Cash Standards (MSC) which is not in harmony with the acts and legal prescripts. In addressing the issue of measures put in place, the Accounting Officer reported that the department escalated the matter to Provincial Treasury, Audit Committee and Internal Audit to look into the Modified Cash Standards (MSC) which attracts polarised legal interpretations.

The Committee raised a serious concern over the disagreements to findings by the Auditor General, in most of the responses.

3.3.1 Recommendations

The Committee recommends the House to resolve that:

- (i) The Accounting Officer must ensure that accurate and complete financial information is submitted for auditing purposes, in accordance with the prescribed financial reporting framework as per Section 40(1) (a) of the PFMA.
- (ii) The Accounting Officer must provide progress / outcome received from Provincial Treasury, Audit Committee and Internal Audit on the Modified Cash Standards (MSC) matter.

3.4 IRREGULAR EXPENDITURE

The Committee has noted that the Auditor General has found that the department incurred irregular expenditure of R6, 927 000 as a result of conversion of library contractors to permanent positions. This irregular expenditure was identified by the department.

Based on the above finding, the Committee required the Accounting Officer to provide reasons which led to department incurring an irregular expenditure amounting to R6 927 000 and to submit proof that the irregular expenditure was reported to Provincial Treasury and that the register was kept in 2014/15 financial year. The Accounting Officer further enquired on the disciplinary measures taken against the transgressor (s) as required by Treasury Regulation 9.1.3.

The Committee required the Accounting Officer to provide a progress report on the investigations conducted on Irregular expenditure as incurred in the 2013/14 financial year. The Committee also required the Accounting Officer to indicate the amount which has been recovered by the Accounting Officer from the irregular expenditure as per Treasury Regulation 9.1.4 and to indicate the measures put in place to ensure that the finding does not recur.

Contrary to the findings of the Auditor General, the Accounting Officer reported that he (AO) did not allow the irregular expenditure to be incurred and went on to indicate that the irregular expenditure was incurred after contract workers were converted to permanent posts without approved organogram and budget. The expenditure was incurred after Human Resource Manager and Programme Manager facilitated the capturing and approvals of the conversion without credible legal source references. The Committee was informed that the irregular expenditure was reported to Provincial Treasury and Auditor General as required by prescripts.

In response to the question of disciplinary actions taken against those at fault, the Accounting Officer reported that the two managers who facilitated the conversions were charged with gross misconduct and dishonesty and have since resigned from the department. With regard to the investigations, the Accounting Officer reported that the investigation was carried out before charges were formulated and disciplinary hearing initiated. The Committee further informed the Committee that the department did not incur material losses as result of the conversions as they relate to Compensation of Employees. The department recovered contributions made for the affected period and paid the allowances forgone as result of the conversion, hence no amount was recovered. The Accounting Officer concluded by reporting that the department has strengthened delegations and ICT controls to prevent recurrence of similar transgressions.

3.4.1 Recommendations

The Committee recommends the House to resolve that:

- (i) The Accounting Officer must provide proof of the disciplinary actions taken against the two dismissed managers and also provide copies of the resignation letters.
- (ii) The Accounting Officer must ensure that the ICT measures put in place are effectively implemented and exercise ongoing control.
- (iii) The Accounting Officer must ensure that all corrective measures and systems put in place are effectively and efficiently implemented.

3.5 FRUITLESS AND WASTEFUL EXPENDITURE

The Committee has noted that the Auditor General has found that during 2012/13 financial year the department incurred a fruitless and wasteful expenditure amounting to R 5 193 000 due to interest on overdue account for the payment of outstanding invoices for the archive building. During SCOPA hearing the department reported to have paid and closed all outstanding payments on archive. The Committee further noted that the department incurred a fruitless and wasteful expenditure of R1 700 000 due to interest charged on the archives building.

The Committee sought reasons which led to failure by the Accounting Officer to comply with Section 38 (c) (ii) and (f) as this matter was once raised in the previous audit report and to indicate when he (AO) became aware of the fruitless and wasteful expenditure. The Committee further required the Accounting Officer to indicate the effective and appropriate steps taken by the Accounting Officer against the official who appears to be responsible for the fruitless and wasteful expenditure.

The Accounting Officer reported that section 38(c) (ii) and (f) of the PFMA was not contravened because the preliminary report submitted to SCOPA was correct then since all invoices regarding Archives were paid and further indicated that the fruitless and wasteful expenditure of R1 700 000 was incurred later due to court order and write off execution to pay interest and penalties that emanated from delayed payments on previous transactions. The delays to pay were as a result of inadequate cash flow.

The Accounting Officer informed the Committee that he (AO) became aware of the R1, 700 000 after High Court order issued on the 10th November 2014. The Department have an effective internal control system in place to prevent fruitless and wasteful expenditure however in this

regard the Department was bound to comply with the court order to prevent the implementation of the write off execution.

The Committee accepted the explanation by the department and is of the view that all payments related to the Archives building are exhausted.

4. AUDIT COMMITTEE REPORT

The Committee has noted that the Auditor General has found that the Audit Committee Report raised concern on the following areas:

- i. Delay in the implementation of agreed management corrective action plans to address identified control weaknesses.
- ii. Review of the implementation of the Corporate Governance Information and Communication Technology (CGICT) indicated areas where ongoing assessment would be required.
- iii. Review of quarterly performance information indicated areas where ongoing assessment would be required.
- iv. Documentation of formal and comprehensive policies and procedure was identified as an area where ongoing assessment would be required
- v. Inconsistencies in reported performance information between the APP and the Quarterly reports are an area where attention would be required.

The Committee required the Accounting Officer to provide the reasons which led to failure to implement corrective action plans within stipulated time frame and to also provide reasons which led to failure to develop, approve and review policies and procedures relating to delegations of financial authority within the department. The Committee further required the Accounting Officer to provide a detailed plan of action to address all the issues raised by the Audit Committee including ICT.

The Accounting Officer reported that he (AO) did not fail to implement the corrective measures but Audit Committee identified weaknesses which must be improved as a matter of urgency. The weaknesses were based on risk assessments on certain areas of operations of the department. The department has implemented control mechanisms and is currently working with the relevant stakeholders to address other processes handled outside the department. With regards to reviewing policies, the Accounting Officer reported that the department did not fail to develop, approve and review policies and procedures because the financial delegations

are made in terms of PFMA, Treasury Regulations and other legislative prescripts. The Accounting Officer further reported that an ICT official has been appointed to deal specifically with ICT related matters in the department. Currently most of the ICT good governance aspects were achieved as follows:

- ICT Governance Champion was appointed to co-ordinate good governance matters in the department.
- ICT Steering Committee was formally established to deal with ICT related issues at a strategic level.
- The ICT Steering Committee meet on regular basis to discuss ICT strategic objectives of the department.
- The Top Management of the department is currently working on Business Continuity Plan which will be approved by no later than 30 November 2015

4. 1 Recommendations

The Committee recommends that the House to resolve that:

- (i) The Accounting Officer must provide the Committee with a report of the implementation of the Business Continuity Plan.
- (ii) The Accounting Officer must ensure that all corrective measures and systems put in place are effectively and efficiently implemented.

5. REPORT OF THE ACCOUNTING OFFICER

5.1 Under spending

The Committee has noted that the Auditor General has found that at the end of the financial year under review the department was allocated a budget of R443 576 000 and spent R411 103 000, which constitute 92.7%, and underspent by R32 473 000.

Programme expenditures are as follows:

- Administration underspent by R1 024 000 or 1.2%
- Cultural Affairs underspent by R1 561 000 or 1.5%
- Library and Archives underspent R23 938 000 or 15%
- Sport and Recreation underspent R5 950 000 or 8.2%

The Committee sought reasons which led to failure by the Accounting Officer to spend the entire allocated budget as per recommendation and to also indicate the impact the under spending had on the overall performance of the department and on service delivery. The Committee further required the Accounting Officer to share the corrective measures or systems put in place to avert under spending and make sure that the budget allocation is well spent at the end of the current financial year and lastly required a copy of the supporting documents on projects or funds that were rolled over.

The Accounting Officer provided the following explanation to the Committee:

- **Administration**

The under spending attributable to invoices submitted at year end and savings on compensation of employee for posts not filled.

- **Cultural affairs**

The under spending attributable to invoices for goods and services, transfers and capital projects submitted at year end and savings on compensation of employee for posts not filled at year end.

- **Library & Archive services**

The under spending was attributable to invoices for goods and services for Library books and ICT services, office furniture and machinery and equipment for Archive Services.

- **Sports and Recreation**

The under spending attributable to transfers not made to Mpumalanga Sport Confederation and Loskop Marathon. In addition construction of Combo Courts was carried forward to the new year of 2015/16 and therefore the funds were not utilized. Other invoices relate to goods and services and furniture submitted at year end.

The Accounting Officer confidently informed the Committee that there was no adverse impact on service delivery as a result of the underspending since the monies unspent will be rollover. The Committee could not accept that failure to provide service to communities such as construction of Combo Courts was regarded as having no impact by the accounting officer.

5.1.1 Recommendations

The Committee recommends the House to resolve that:

- (i) The Executive Authority must consider taking disciplinary actions against the Accounting Officer for underspending the budget of the department.
- (ii) Executive Authority must consider taking disciplinary actions against the Accounting Officer for contravening Section 38(1) (f) of the PFMA.
- (iii) The Accounting Officer must develop an effective system to ensure that all invoices are timely received and processed prior to financial year end.

5.2 Virements / Rollovers

The Committee has noted that the following virements per programme were recorded on the year under review:

- Programme 1: Administration has been allocated a total budget of **R79 173 000** and spent **R78 240 000** or **98.8% (R933 000)**. According to page 11 of the AR 2014/15, an amount of R1million has been shifted to defray expenditure on programme 3 and
- On programme 2: Cultural Affairs has been allocated a final budget of **R122 178 000** and spent **R120 617 000** or **98.7% (R1 500 000)**. According to page 11 of the AR 2014/15 and amount of **R550 000** has been shifted from the programme to defray expenditure on programme 3 and 4.
- Programme 3: Library and Archive Services has been allocated **R167 748 000** and spent to **R143 810 000** or **85.7% (R23 900 000)**. Furthermore, page 11 of the AR 2014/15 reveals an amount of **R890 000** has been shifted from programme 1 and 2 to defray cost on the programme.
- Programme 4: Sports and Recreation has been allocated a budget of **R72 442 000** and spent **R66 492 000** or **91.8% (R5 900 000)**. An amount of **R660 000** shown on page 11 of the AR 2014/15, has been shifted from programme 1 and 2 to defray cost on the programme.

The Committee required the Accounting Officer to provide proof that Virements were reported to the Executive Authority and the Provincial Treasury as required by Section 43(1) of the PFMA

and to also submit proof that a report was compiled and submitted to the Executive Authority and the Provincial Treasury stipulating containing details of how savings will be utilised within the main division, as required by Section 43(3) of the PFMA.

The Accounting Officer informed the Committee that the virements were reported to the Executive Authority and the Provincial Treasury as required by Section 43(1) of the PFMA and a copy of the letter was attached as Annexure 4 of the submission. The Accounting Officer further informed the Committee that details of how savings were utilised were provided to effect the virement as per section 43(3) of the PFMA and proof was attached as annexure 5 to the responses.

5.2.1 Recommendations

The Committee recommends the House to resolve that:

(i) The Accounting Officer must ensure that appropriated funds are spent for the sole intended purpose.

6. OTHER REPORT (S)

6.1 Investigations

The Committee has noted that the Auditor General has found that an internal investigation was conducted into the appointment of service providers for the installation of combo courts in the 2013-14 financial year. There was a lack of technical specifications on the tender adverts, which resulted in non-compliance during the evaluation and adjudication of the bid.

The Committee required the Accounting Officer to indicate as to when an Infrastructure Unit will be established in the Department that will deal with technical specifications and monitoring of infrastructure implementation.

The Accounting Officer informed the Committee that an experienced Infrastructure Manager has been appointed to oversee construction and maintenance projects.

6.1.1 Recommendations

The Committee recommend the House to resolve that:

(i) The Accounting Officer must provide the Committee with a copy of the appointment letter of the Infrastructure Manager.

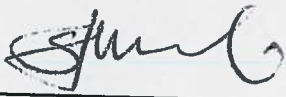
7. CONCLUSION

The Committee has satisfied the requirements of the Mpumalanga Provincial Legislature Rules and Orders of conducting oversight over the financial statements of the Department of Culture, Sport and Recreation.

Unless specified differently, progress on all resolutions must be submitted to the Committee by 30 October 2016 and on a quarterly basis afterwards.

8. ADOPTION

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



Hon. Si Malaza
Chairperson
Select Committee on Public Accounts
Mpumalanga Provincial Legislature

11/08/2016

Date